

19 June 2018

Mr Philip Moss AM
Department of Agriculture and Water Resources
GPO Box 858
CANBERRA ACT 2601

BY EMAIL: lae.review@agriculture.gov.au

Dear Mr Moss

Review of live animal exports regulatory capability and culture

Thank you for the opportunity to comment on the review of the regulatory capability and culture of the Department of Agriculture and Water Resources in regulating live animal exports.

RSPCA Australia has worked closely with the Department of Agriculture over many years on animal welfare issues within the live export trade. While our interactions with Departmental officers have been mainly positive, it is safe to say we have been left perpetually frustrated by the lack of action and apparent constraints on their ability to respond effectively to serious animal welfare problems brought to their attention. This is not a criticism of individuals but of current governance structures for animal welfare policy and regulation. Through our years of dealing with the Department, it has become abundantly clear to us that officers charged with regulating animal welfare standards operate within a bureaucratic framework that fundamentally constrains what they can do to effectively protect animal welfare, fulfil their regulatory responsibilities, and meet community expectations.

When regulatory responsibilities for protecting animal welfare are placed within the same bureaucratic structure as that which is responsible for promoting and expanding trade and industry productivity, it gives rise to an inherent institutional conflict of interest. We acknowledge attempts by the Department to separate and compartmentalise these competing functions internally, but the weight of evidence demonstrates that this has failed.

The RSPCA strongly believes the time has come for animal welfare to be given the priority the Australian community expects with the establishment of a statutory office dedicated to the protection and promotion of animal welfare at the federal level. Structural reform of this nature is the only way to effectively address the inherent conflicts at the core of the current regulatory regime. A truly independent statutory office will be of benefit not only to animals and the community but also the broader livestock industry as it would help to rebuild community trust and confidence in the regulatory framework and put the industry on a more sustainable footing for the future. We also note this proposal is consistent with recommendations made by the Australian Productivity Commission in its 2016 *Inquiry Report 79 - The Regulation of Australian Agriculture*.

RSPCA Australia

ABN 99 668 654 249
ACN 163 614 668

P 02 6282 8300
F 02 6282 8311
E rspca@rspca.org.au
W rspca.org.au

PO Box 265
Deakin West ACT 2600





This Review provides a rare opportunity for investigation, analysis, reflection, and reform. We trust our attached submission will be of assistance in this process and we look forward to meeting you to discuss it in further detail shortly.

Yours sincerely,

A handwritten signature in black ink that reads "Bidda Jones". The signature is written in a cursive style with a large initial 'B'.

Dr Bidda Jones
Chief Science and Strategy Officer
RSPCA Australia



RSPCA AUSTRALIA SUBMISSION

**REVIEW OF LIVE EXPORT REGULATION
CULTURE AND CAPABILITY**

19 June 2018

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RSPCA recommendations

Recommendation 1

Establish an independent statutory office dedicated to the protection and promotion of animal welfare.

Recommendation 2

Regulate the Australian Standards for the Export of Livestock through the enactment of the *Export Control (Australian Standards for the Export of Livestock) Regulations*.

Recommendation 3

Develop and implement more sophisticated and scientifically valid measures of animal welfare to underpin the Department's approach to satisfying its regulatory obligations to ensure the health and welfare of exported animals.

Recommendation 4

Increase the rigour of reportable mortality event investigations to ensure process leads to reformative recommendations to prevent repeat incidents.

Recommendation 5

Require independent observers with appropriate qualifications and training in animal health and welfare and auditing to accompany every live export consignment, and improve the training of AAV's and accredited stock persons.

Recommendation 6

Review jurisdictional and operational arrangements between the Department and relevant state authorities with a view to granting state and territory authorities greater access to the live export supply chain to facilitate the application of state animal welfare legislation.

Recommendation 7

Department to instigate periodic review of industry R&D reports with a view to implementing key recommendations.

Introduction

Animal welfare is an increasingly important issue for the Australian public. This has been made abundantly clear by unprecedented community responses to prominent televised cases of animal cruelty, including within the greyhound racing industry in 2016 and in a successive cases of cruel handling and slaughter practices within the live export trade over the past decade. Australian politicians frequently report receiving more correspondence from constituents on animal welfare issues than on any other issue. But despite the high level of community interest, animal welfare policy and regulatory services have failed to receive a commensurate level of investment and resourcing from government. While this criticism can be levelled at all tiers of government, the neglect of animal welfare services is perhaps most apparent at the federal level. This is despite the fact that the Commonwealth Government has relatively limited - but no less important - jurisdictional responsibilities for animal welfare compared to that of the States and Territories. Under Constitutional arrangements, the Commonwealth Government only has direct responsibility for animal welfare when it is relevant to international trade, including in the live animal export trade, the wildlife trade, and the treatment of animals at export abattoirs. By far the most significant of these in terms of risks to animal welfare and community interest is the live export trade.

RSPCA Australia has worked closely with the Department of Agriculture and Water Resources (the Department) over many years on animal welfare issues within the live export trade. While our interactions with Departmental officers have been mostly positive, we have been left perpetually frustrated by the lack of action and apparent constraints on their ability to respond effectively to serious animal welfare problems brought to their attention. This is not a criticism of individuals but of current governance structures for animal welfare policy and regulation that has created a culture of regulatory impotence. Through years of dealing with the Department, it has become abundantly clear to us that officers charged with regulating animal welfare standards operate within a bureaucratic framework that fundamentally constrains what they can do to effectively protect animal welfare and fulfil their regulatory responsibilities in accordance with community expectations.

This submission addresses all points of the Review's Terms of Reference under the four headings of Structures, Culture, Powers, and Process and Practice.

1. Structures (terms of reference 5)

We feel it appropriate to begin our submission by commenting on the current governance structures for animal welfare policy and regulation because this is in our view the primary cause of the regulatory failings identified below.

a) The meaning of animal welfare

To assess the adequacy of governance arrangements for animal welfare it is important to first set out what the concept of animal welfare actually means from a scientific and policy perspective. Leading animal welfare scientist Professor Donald Broom defines animal welfare in the following way: 'The welfare of an individual is its state as regards its attempts to cope with its environment.'¹ This state can be measured scientifically using a number of indicators. Welfare will be poor, Broom explains, if there is difficulty in coping or failure to cope. The World Organisation for Animal Health (the OIE) has drawn on Broom's approach to defining the construct of animal welfare but goes into further explanatory detail:

¹ Donald Broom, 'Indicators of Poor Welfare' (1986) 142 *British Veterinary Journal* 524.

Animal welfare means how an animal is coping with the conditions in which it lives. An animal is in a good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear, and distress. Good animal welfare requires disease prevention and veterinary treatment, appropriate shelter, management, nutrition, humane handling and humane slaughter/killing. Animal welfare refers to the state of the animal; the treatment that an animal receives is covered by other terms such as animal care, animal husbandry, and humane treatment.²

Australia's former national strategy on animal welfare, the *Australian Animal Welfare Strategy*, adopted the OIE's definition. It is important to note that this definition encompasses *both* the animal's physical state in terms of its basic health and biological functioning, as well as its mental state in regards to how it feels and subjectively processes the environment in which it is in and the external stimuli to which it is subjected. Basic measures of animal health alone are not sufficient to determine an animal's state of welfare. This is because an animal can be in a good state of health despite being in a poor state of welfare, as Professor Broom explains:

There are many circumstances where behavioural or physiological coping mechanisms are activated, indicating that welfare is poor, but the animal's health remains good. These include: situations where the coping mechanisms are successful, such as when body temperature is maintained despite extreme ambient temperatures; circumstances where failure to cope has consequences for psychological, but not physical stability, such as in the development of non-injurious pathological behaviours; and where detrimental effects upon physical stability are compensated for by management practices, such as the routine use of antibiotics.³

Practical examples of this may include animals farmed in intensive confinement conditions, such as layer hens in conventional battery cages, or pigs in sow stalls. While the animals may perform physically in the sense of continuing to lay eggs or produce body mass, their welfare cannot be described as good due to the extreme confinement and inability to express innate behaviours. Likewise, various invasive husbandry procedures performed without pain relief, such as tail docking, teeth clipping, beak trimming, dehorning, mulesing etc., may not disrupt an animal's ongoing health and biological functioning, but they are nevertheless extremely painful to the animal and may cause the animal a significant degree of fear and distress while the procedure is being carried out.

Accordingly, animal health may be described as a necessary component of good animal welfare, but it does not of itself equate to good animal welfare. Animal welfare is a broader concept.

Having an understanding of the true meaning of animal welfare and its interrelationship with health is very important in the context of live animal export regulation as the primary legislative instruments, including the *Export Control Act 1982* (Cth), *Export Control (Animals) Order 2004* (Cth), and the *Australian Standards for the Export of Livestock 2011* (the ASEL), all impose obligations on the regulator and exporters for the 'health and welfare of livestock' (emphasis added). This is a deliberate legislative delineation in acknowledgement of the different meanings behind each of these terms.

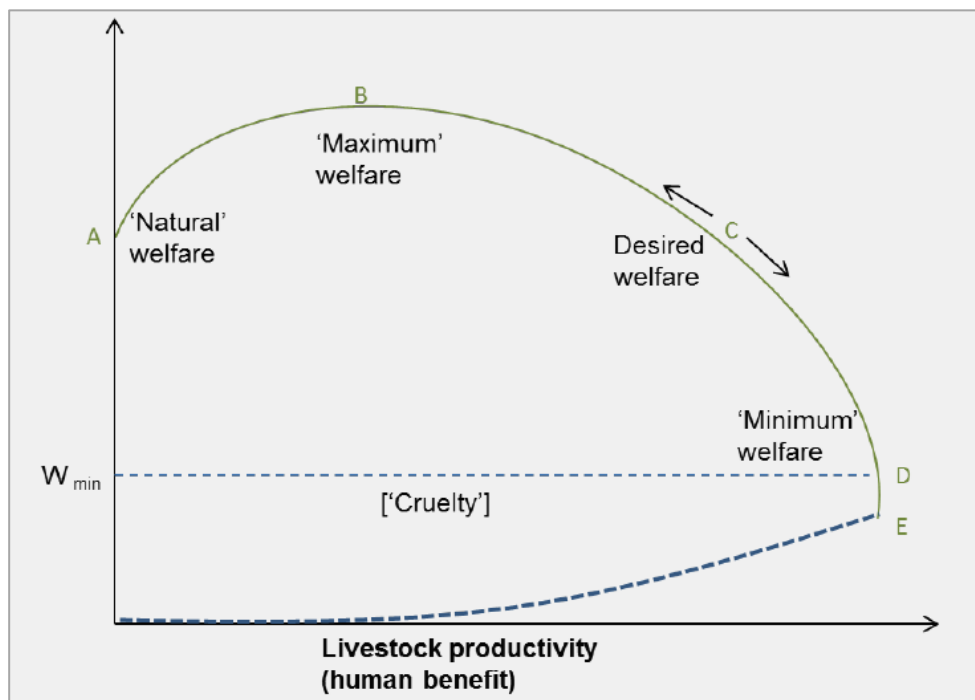
² World Organisation for Animal Health, *Terrestrial Animal Health Code*, 12th ed. (2011).

³ Donald Broom, 'Animal Welfare: Future Knowledge, Attitudes and Solutions' (Paper presented at AAWS *International Animal Welfare Conference*, 31 August - 3 September 2008) 6.

b) How animal welfare is valued under market conditions

The relationship between health and welfare is also significant for the way animal welfare is valued under market conditions. Within an economic context, livestock are valued by their productivity.⁴ The economically rational producer will ensure that inputs for welfare are limited to the extent they contribute to productivity gains and overall higher returns. There are of course examples of where inputs to improve productivity complement animal welfare. Obvious ones include the provision of adequate food and water to ensure animals have sufficient nutrients to produce or in safeguarding animals against disease or predation. Another example may be found in ensuring low-stress handling and slaughter practices so as to avoid bruising and to improve meat quality.⁵ These examples largely relate to the basic health and functioning domain of animal welfare. When many farming systems and practices are assessed against other welfare indicators, particularly those relating to the animal's affective or mental state, the relationship is not as complimentary and productivity gains are often realised at the *expense* of animal welfare. To illustrate this dynamic, agricultural economist Professor John McInerney developed the following graph in Figure 1, which depicts what he refers to as the 'Welfare-Productivity Frontier.'⁶

Figure 1 Relationship between productivity and welfare



The graph depicts a generalised relationship between animal welfare (on the vertical axis) and productivity (on the horizontal axis) within a commercial farming context, understood as the rate of output (eggs, milk, wool, meat etc.) per input (costs of feed, medications, labour, infrastructure etc.). McInerney explains that while there is often a mutually beneficial relationship between welfare and productivity at lower

⁴ John McInerney, *Animal Welfare, Economics and Policy: A Report on a Study Undertaken for the Farm and Animal Health Economics Division of DEFRA* (2004)

<www.archive.defra.gov.uk/evidence/economics/foodfarm/reports/documents/animalwelfare.pdf> 2-3.

⁵ United Nations Food and Agriculture Organisation and Humane Society International, *Guidelines For Humane Handling, Transport and Slaughter of Livestock* (2001)

<<http://www.fao.org/docrep/003/x6909e/x6909e00.htm#Contents>>.

⁶ Above n 4.

levels of output, as the size, efficiency, and intensity of the production system increases, welfare begins to decline.⁷ Point A on the graph represents animals in the state of nature. As humans start to make use of animals providing feed, housing, and protection from predators and disease, both welfare and productivity increase as depicted at point B. However, as the biological potential of the animal is exploited further through the application of industrial methods of production including higher stocking densities, confinement systems, more invasive procedures etc., welfare begins to decline. Eventually a point is reached (depicted at point E) where animals are pushed to their biological limits, beyond which they die or become unprofitable by some other means. McInerney postulates that point D on the graph represents minimum standards of welfare currently set by law, while point C represents what may be a state of 'appropriate' or 'desired' welfare for society to aim towards.⁸

The welfare-productivity trade-off is often played out in determining stocking densities in intensive farming operations and in live animal exports. While higher stocking densities may result in higher mortalities and overall reductions in individual welfare, the economic productivity of the system as a whole is greater as the increased production returns from the higher number of animals is greater than the loss caused by the increased mortalities.

c) Implications for current governance and policy framework

What this demonstrates is that animal welfare and industry productivity goals are often in a state of conflict. This basic practical reality has important implications for determining appropriate governance structures for the development and administration of animal welfare law and policy. Put simply, when policy decisions on where to draw the line between these competing factors are placed in the hands of Agriculture Ministers and Departments of Agriculture, the balance is struck consistently in favour of industry productivity goals.

Agriculture Ministers and Departments of Agriculture exist to serve agricultural constituencies. Their performance is measured by how well Australia's primary industries perform under the term of their governance, policy direction, services, and regulation. The structure of their reward system inevitably leads them to prioritise measurable industry productivity goals over the less determinate, amorphous public interest in animal welfare. Under this framework, the concept of animal welfare is reduced to the basic health and functioning of the animal and is only given weight when it makes a positive contribution to productivity goals. If a proposed animal welfare measure conflicts with productivity goals it is dismissed or severely compromised.

This is borne out in the history of live animal export regulation by the Department of Agriculture and Water Resources. The Department has historically assessed animal welfare based on how many animals die on the voyages. Mortality rates are not a scientifically valid measure of animal welfare, except to indicate that animals have died. Measuring welfare requires a complex and multi-faceted approach, a fact acknowledged by the live export industry's research and development arm, Livecorp, through its research projects to determine how best to assess animal welfare.⁹ Despite routine high mortality voyages, the Department has failed to make significant changes to on-board conditions for many years. The minimum space allowances set by the ASEL, which afford a 50 kg sheep just 0.315m² in pen space, have not changed since 1978, despite numerous reviews, research and development reports, peer-reviewed scientific

⁷ Ibid, 18-20.

⁸ Ibid, 20.

⁹ See for instance, projects LIVE.222 *Developing alternative methods of measuring animal welfare on ships* <https://www.mla.com.au/research-and-development/search-rd-reports/final-report-details/Live-Export/Developing-alternative-methods-of-measuring-animal-welfare-on-ships/614> and W.LIV.3032 *Development and assessment of livestock welfare indicators* <http://www.livecorp.com.au/LC/files/41/4183eb87-54b5-4e4e-b564-eb08b3a235ed.pdf>

evidence, and stakeholder and public submissions suggesting they should. This is because stocking densities have a direct correlation with exporter profit margins.¹⁰ Any reduction in stocking density is a reduction in returns for exporters so they have vigorously objected to any proposed reductions over the years and time and time again the Department has acquiesced to their demands.¹¹

When regulatory responsibilities for protecting animal welfare are placed within the same bureaucratic structure as that which is responsible for promoting and expanding trade and industry productivity, it gives rise to an inherent institutional conflict of interest. We acknowledge attempts by the Department to separate and compartmentalise these competing functions internally, but the weight of evidence demonstrates that this has failed to adequately manage the conflict in practice.

The Secretary of the Department pointed to this internal separation in the recent Senate Estimates hearings on 24 May 2018 when asked by Senator Lisa Singh whether the Department suffered from a conflict of interest in its role in regulating animal welfare standards:

Senator SINGH: I understand that. I'm just trying to understand the role here of Mr Quinlivan, as you are the regulator. Isn't there an inherent conflict of interest between your independence as the regulator and as, as you said just previously, your requirements as public servants to implement government policy and therefore be responsible to the minister of the day?

Mr Quinlivan: I think if you wanted decisions to be made independently of government policy then you would need a different law, and the parliament could make such a law, but it hasn't. If your point—which I know is made regularly—is that there is a conflict between our dual roles as a facilitator of trade and a regulator of animal welfare outcomes, which might be seen to be reducing or inhibiting trade—I know that claim's been made—

Senator SINGH: That's not the claim exactly that I made.

Mr Quinlivan: I know that, but I'm just saying that that's a potential conflict that has been made. We do have those functions in different parts of the department. I delegate my authorities in this area to the leader of the live export program—at present, Dr Clegg—and she makes those decisions to deliver on the regulatory requirements, without reference to what it means for facilitating trade.¹²

However, Dr Clegg had only just finished answering a question in which she referred directly to the consequences for the live export trade of implementing recommendation 4 of the McCarthy Review in revising the Heat Stress Risk Assessment model from one based on mortalities to one based on animal welfare:

Senator RHIANNON: I want to ask about the McCarthy review and one of its recommendations, particularly in light of the Australian Veterinary Association submission. They made a submission

¹⁰ See for instance, LiveCorp's submission to the *Australian Productivity Commission Inquiry into the Regulation of Australian Agriculture 2016* which stated that a 10% reduction in stocking density would equate to a 35-100% reduction in profits.

¹¹ See for instance, 2008 Federal Court application by the live export industry against the Department challenging a decision by AQIS to reduce stocking densities by 10-15%. The application claimed the industry 'will suffer significant adverse impact on its business due to the decision, in that it will be forced to reduce stocking density on export voyages, thereby reducing the overall profitability of its business.' AQIS subsequently withdrew the order to reduce stocking densities.

¹² Senate Estimates Hansard, Rural and Regional Affairs and Transport Committee, 24 May 2018, p.86 (emphasis added).

to the review. Their submission talks about the thermoregulatory physiology of sheep and how that indicates that sheep on live export voyages to the Middle East from May to October remain susceptible to heat stress and death. I'm sure you're aware of that. The AVA recommend that sheep should not be on voyages in those months from May to October. My question is: Dr McCarthy did not recommend any suspension during this period, and the department supports his recommendation. Can you help me reconcile the reason for the different conclusions here? Did Dr McCarthy make any new discoveries about the physiology of sheep that the AVA has missed? There is clearly a disjunct here.

Dr Clegg: I'd say that it's a difference between different scientists and opinions. The heat stress risk assessment model takes into account the weather in the countries of destination. By making sure that the ventilation on the vessels is compliant with the model, that it is delivering the ventilation that the shipowner claims it is, and by ensuring that the stocking densities are well managed, the heat stress risk assessment model should work. I do understand the AVA's point that there is always going to be a temperature at which sheep can't thermoregulate. But to suspend the entire trade from May to October on the probability of some sheep dying on some voyages is quite a step. Therefore part of the actions of the department are to review the conclusion that Dr McCarthy has come to with his risk assessment level. Implementing his proposal of a 75 per cent—I don't want to say it's a threshold, before death—but he has asked that the heat stress risk assessment be based on the probability of animals experiencing heat stress. That is a very, very significant reduction in the number of sheep that could be exported, which would lead to the closure of the trade in the summer months, and that isn't what he ended up recommending. He didn't recommend that.¹³

It is clear in Dr Clegg's response that she is cognisant of the implications for the live export trade in the event that certain regulatory decisions are made to ensure animal welfare outcomes are met. Dr Clegg's response is consistent with responses we have received from the Department over many years in explaining their reluctance to impose stronger animal welfare standards, conditions on export permits, and sanctions on offending exporters.

While Dr Clegg may be in a separate unit to those dealing directly with agriculture policy and the promotion of trade and market access, she is nevertheless answerable to the same chain of command. The same can be said for the Office of the Australian Chief Veterinary Officer (the ACVO). This is not an independent statutory office but simply another position within the bureaucratic structure of the Department. While the ACVO is often held out to be an authority on animal welfare by Government, the ACVO's overarching objective is 'to mitigate threats to the Australian economy, and the productivity of Australia's animal-dependent industries, by supporting and enhancing trade and market access for animals and animal products, and representing the Australian Government on animal health issues of national interest.'¹⁴

Significant decisions that have potential political ramifications will invariably be elevated up the chain. Ultimately, the Secretary of the Department will have some bearing on such decisions, and Department Secretaries are arguably the most conscious of government policy as they are directly accountable to the responsible Minister.

As this exchange at the recent Senate Estimates hearing demonstrates, the Secretary takes Government policy into account when carrying out regulatory responsibilities:

¹³ Ibid, p.81 (emphasis added).

¹⁴ Department of Agriculture and Water Resources, *Australian Chief Veterinary Officer (ACVO)*, 9 June 2016 <http://www.agriculture.gov.au/animal/health/acvo>

Senator McCARTHY: Can I go back to you, Mr Quinlivan. How do you as secretary satisfy your regulatory responsibilities to ensure the travel arrangements are adequate for the animals' welfare if you're simply relying on models and indicators based on mortality?

Mr Quinlivan: If you're asking how we are exercising our regulatory responsibility now, with the knowledge we've been discussing, I would say that we have a number of different objectives that we are trying to satisfy. The first is the one you've just mentioned. The second is that as public servants we are required to take into account government policy, which is to support continuation of the live export trade. The third one is that under administrative law we have an obligation to act in a reasonable manner. What we are proposing to do or will do in response to the McCarthy inquiry is to embark on a process over the next couple of months to further develop the animal welfare model that Dr McCarthy has proposed and to give affected parties an opportunity to comment and contribute to the refinement of that model. Then, when we have made a tentative decision on what model we're going to introduce to deliver the animal welfare outcomes we have been discussing, we will be conducting a regulatory impact statement. At the end of that process we will be adopting that outcome. In the interim we're applying new stocking densities and the new conditions that we've been discussing to manage the risk of heat stress over that interim period.¹⁵

Mr Quinlivan is of course correct in saying that public servants are required to take into account government policy. However, the situation is less clear when that policy may be contrary to the law the public servant is tasked with upholding. In such circumstances, a responsible regulator must act according to law and advise the Government of why it is not possible to implement its policy. The onus then falls to the Government of the day to attempt to change the law through the proper legislative process to more clearly reflect its policy. We are concerned that when it comes to the regulation of live animal exports, it is government policy that is prevailing over the rule of law. This concern was further raised in Senate Estimates in the following exchange:

Senator SINGH: Okay, because there does appear to me to be an inherent conflict of interest. After the department undertakes its work to develop a different animal welfare model, it might find that it will adversely affect the live export trade and possibly result in the necessity for the trade to be shut down. In that case, how would you put that to government, when you are implementing government policy? Can you see that conflict of interest?

Mr Quinlivan: We would provide that advice to the government and we would at that point essentially be telling them that we thought this was the responsible thing for us to do as a regulator. If the government wished for a different outcome in those circumstances, we would be telling them that they would need to use the various legal avenues they've got for directing us to act in a different way. There are such avenues. Mr Sanson-Fisher [the Department's General Counsel] can tell you about those if you'd like to know the detail, but that's the kind of succession of logic and decision-making that I would see occurring in the scenario you're talking about.¹⁶

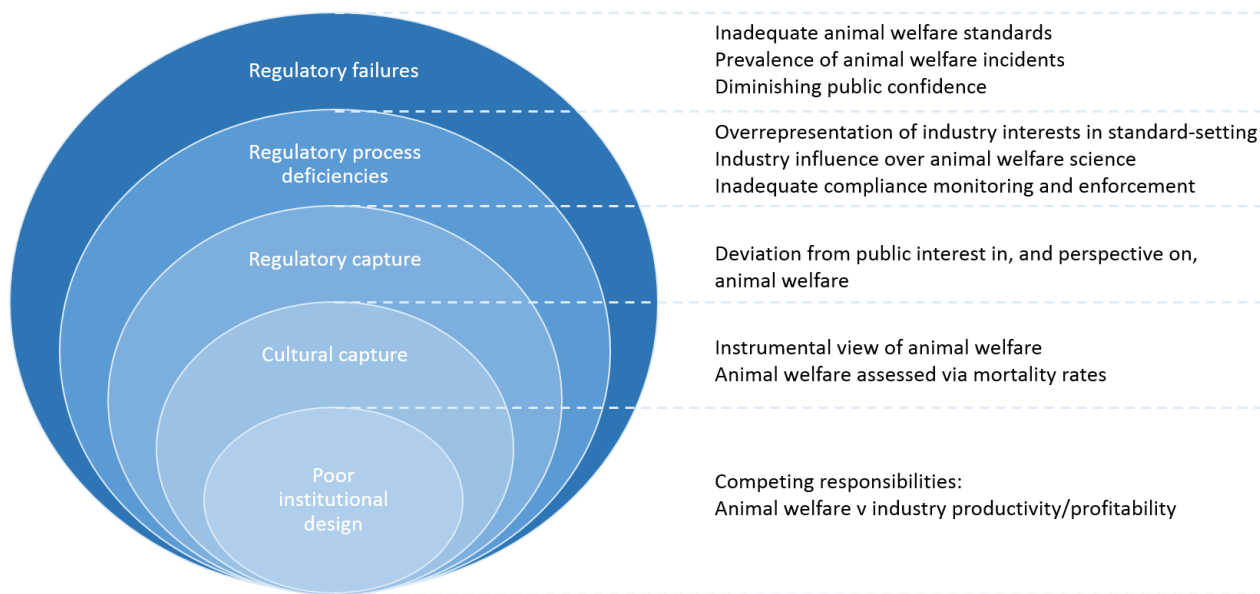
Unfortunately, Mr Sanson-Fisher was not asked to expand on what the 'various legal avenues' were for the Government to effectively direct the regulator to act contrary to how a responsible regulator would otherwise act, but the notion that such legal avenues exist is concerning to us. It appears that the Government policy of the day can dictate to the regulator how it performs its regulatory duties under law. This would be the antithesis to the principle of an independent regulator.

¹⁵ Above n 12, p.83 (emphasis added).

¹⁶ Ibid, p.86 (emphasis added).

It is our view that when the cumulative effect of the Minister’s influence, the industry’s influence, and the structure of the Department’s governance is considered in light of the consistent and sustained regulatory failures over time within the live export trade, a clear case of regulatory capture is established. The Department has been administering the live animal export regulatory regime in a way that has consistently deviated from the public’s interest in animal welfare, which the regulation was designed to serve. Figure 1 below provides an overview of the stages of this capture process.

Figure 1: Causal relationship between stages of capture process in the regulation of animal welfare within the Department of Agriculture and Water Resources¹⁷



d) Structural reform is required

It is well accepted that the design of a government institution can influence its predisposition to capture. Poor agency design has been found to be a key contributor to capture, particularly when an agency is tasked with pursuing two conflicting objectives.¹⁸ This is certainly not uncommon. Government departments - especially large conglomerate ‘super departments’ - are often delegated with responsibilities that may at times give rise to tensions and conflicts. The classic example is an agency that has the dual role of both promoting an industry, in terms of its growth and productivity, while at the same time regulating the industry to serve a public interest, such as human safety, consumer protection, environmental conservation or animal welfare.

¹⁷ Adapted from Jed Goodfellow, ‘Regulatory Capture and the Welfare of Farm Animals in Australia’ in Steven White and Deborah Cao (eds) *Animal Law and Welfare: International Perspectives*, Springer (2016).

¹⁸ See, R Crowley, ‘The Design of Government Policy Agencies: Do We Learn From Experience?’ (1982) 1 *The Canadian Journal of Regional Science* 103; Richard Baldwin and Christopher Walker, ‘The Separation of Policy and Operations in Organisations: A New South Wales Case Study’ (1995) 54:2 *Australian Journal of Public Administration* 184, 187; Eric Biber, ‘Too Many Things to Do: How to Deal With the Dysfunctions of Multiple-Goal Agencies’ (2009) 33 *Harvard Environmental Law Review* 1; Rachel Barkow, ‘Insulating Agencies: Avoiding Capture Through Institutional Design’ (2010) 89 *Texas Law Review* 15.

However, acting as both ‘industry cheerleader’ and ‘industry policeman’ does not of itself create a conflict. Regulation may serve the interests of industry in creating a fair and stable environment in which to do business, and in guarding against external risks. Equally, industry productivity may in turn serve the public interest in terms of increased economic prosperity and rates of employment, and cheaper products and services for consumers. Where the difficulties arise is in the nature of the relationship between the perceived conflicting responsibilities, especially as their respective importance is considered against the backdrop of the agency’s overarching mission. If one objective is unduly prioritised over another it can affect agency performance with regard to the subordinate responsibility. Professor Eric Biber has noted that agencies will systematically underperform on secondary goals that conflict with the achievement of the agencies’ primary goals.¹⁹ In particular, agencies will pursue short term economic goals that are easy to measure at the expense of more elusive social goals in the public interest.²⁰

It is our view that this hypothesis provides an accurate depiction of the dilemmas faced by the Department of Agriculture and Water Resources. The Department has systematically underperform on its secondary goal of protecting animal welfare as this has conflicted with the Department’s primary goal of promoting the trade’s productivity and profitability.

As discussed above, attempts to manage the competing responsibilities through internal unit separation and compartmentalisation have failed. This is because the live export regulation unit is still exposed to the conflicting interests through a chain of command committed to promoting the competing responsibility. It is clear that the regulation of animal welfare standards within the live export trade requires protection from these conflicting interests. It is our view that the most effective way to deliver this protection is through statutory structural reform.

The RSPCA strongly believes the time has come for animal welfare to be given the priority the Australian community expects with the establishment of a statutory office dedicated to the protection and promotion of animal welfare. We note that many of Australia’s various Commissions, Authorities and Offices were historically born out of similar circumstances involving some form of major regulatory failure or incident. And, based on a similar rationale as that presented here, they were established to better protect and prioritise the neglected issue of public importance, whether it was consumer, environmental, or human rights protection, improved financial regulation, industrial relations etc.

The form a statutory office of animal welfare would take is a matter that would require careful consideration and would depend largely on nature of its intended functions. In our view the most important condition would be to ensure the office is established through an Act of Parliament so that its independence is protected.

We note the Australian Productivity Commission recently recommended the establishment of an ‘Australian Commission for Animal Welfare’ in its 2016 *Inquiry Report No.79 - The Regulation of Australian Agriculture*. It recommended the Animal Welfare Commission be responsible for managing the development of national animal welfare standards, commissioning necessary animal welfare research, and publicly assessing the effectiveness of live export regulation, among other things.²¹ The Productivity Commission believed the establishment of an Animal Welfare Commission would create many benefits for the community, government, and industry, including greater national consistency in animal welfare standards and regulation, a more proactive approach to identifying and dealing with animal welfare issues before they become major incidents, and increased community confidence in government and livestock

¹⁹ Eric Biber, ‘Too Many Things to Do: How to Deal With the Dysfunctions of Multiple-Goal Agencies’ (2009) 33 *Harvard Environmental Law Review* 1, 13.

²⁰ Ibid.

²¹ Australian Productivity Commission, *Inquiry Report No.79 - The Regulation of Australian Agriculture* 2016, chp 5.

industries. The RSPCA supports the Productivity Commission's recommendations and the rationale and analysis behind them.

We note that point 5 of the Terms of Reference includes assessing whether an 'Inspector-General for Livestock Exports' would provide superior oversight of the regulator. While an Inspector-General model would be a welcomed improvement, it is our strong view that such a model must be framed as an Inspector-General for Animal Welfare. If the Inspector-General model was to be recommended, its sole mandate should be promoting animal welfare, including monitoring the performance of the Department in regulating the trade and improving animal welfare outcomes, providing advice to Government on animal welfare matters within the trade, and publishing reports on such matters.

Without substantial structural reform in the form of a statutory office dedicated to animal welfare, it is our strong view that animal welfare regulatory responsibilities will continue to be neglected by the Department of Agriculture. This will only lead to further decline in community confidence in both Government and the broader livestock industry.

Recommendation 1

Establish an independent statutory office dedicated to the protection and promotion of animal welfare.

2. Culture (terms of reference 6 and 9)

The Department fails to maintain an effective regulatory culture that delivers on animal welfare standards. The Department's conception of animal welfare and how it is measured is not consistent with current scientific understanding and fails to maintain any perspective on community expectations regarding acceptable standards of animal welfare. It is our view that the Department as a whole does not manifest a commitment to protecting and promoting animal welfare. Rather, it conceptualises animal welfare more as a problem to be overcome, and the Department's role is to assist industry in that process.

This approach to animal welfare is largely a product of the Department's primary purpose and objectives, as discussed above. The Department is a facilitator of agricultural trade. Animal welfare may be a condition of that trade, but it is considered a second order issue that is not to interfere too much with the efficient and profitable operation of the trade. Previous inquiries have noted evidence that such objectives are not only adopted by senior level bureaucrats in Canberra but also affects field officers. The 2011 Farmer Review into the live export trade reported evidence that regional AQIS officers experienced 'difficulty separating their role as facilitators of exports from their responsibility as regulators'.²² This overriding trade-facilitating purpose causes Departmental officers to identify more with the commercial purpose and goals of the live export industry than with their regulatory duties to protect animal welfare.

This can also result in a form of 'cultural capture' - a process by which 'those in charge of the relevant state entity internalise, as if by osmosis, the objectives, interests and perception of reality of the vested

²² Bill Farmer, *Independent Review of Australia's Live Animal Export Trade* (2012) Australian Government 35.

interest they are meant to regulate.²³ Factors that induce the capture of cultural norms include common backgrounds and experience between industry representatives and regulators, and an industry with a social purpose with which the regulators identify.²⁴ This can create difficulties in the policy formulation process because, as Professor James Kwak explains, ‘when people identify with groups or adopt ideas...it is considerably harder for those people to identify the sources of their choices,’ and they are not open to ‘rational argument about the public interest.’²⁵ Alternative viewpoints can become difficult for the regulator to conceptualise, and a form of ‘unconscious bias’ towards the interests and demands of the regulated industry may emerge.²⁶ This can also lead regulators to underappreciate risks within the environment they are regulating as their views are partial to one perception of reality.²⁷

This explanation of cultural capture accurately describes our experiences in dealing with the Department on animal welfare matters over many years. Departmental officers consistently adopt the same views and perspectives as the live export industry on key animal welfare matters within the trade. This has led to significant frustration on the part of RSPCA science and policy officers who often come away from meetings with Departmental officers with the feeling that they ‘just don’t get it.’ A prime example includes the Department’s acceptance of mortality rates as a measure of animal welfare. Assessing animal welfare via mortality rates has never had a scientific basis. The RSPCA has protested consistently about this for many years yet the Department has simply deferred the matter to the industry and its R&D body, LiveCorp. While LiveCorp has produced dozens of R&D reports on improving animal welfare, the industry has a long history of ignoring the recommendations because they inevitably involve increased costs. The Department has done little over the years to compel the industry to act on this research and implement improved welfare measures despite the fact that it has a regulatory obligation to ensure travel arrangements are adequate for the animals’ health and welfare.

The same can be said for the Department’s approach to assessing and managing risks to animal welfare. It has been willing to accept the industry’s ‘HotStuff’ Heat Stress Risk Assessment model which is based on a threshold of 2% probability of 5% mortality. This threshold completely underappreciates the risks to animal welfare especially during the Northern summer period, and is not consistent with the Department’s regulatory responsibilities to ensure animal welfare. Despite this model forming an integral part of the regulatory framework for approving live export consignments, it is privately owned and operated by Meat and Livestock Australia and LiveCorp, and is therefore not subject to independent or public scrutiny. Again, the RSPCA has complained consistently about the inadequacies of this risk assessment model but our concerns have been ignored. Evidently, our viewpoint was difficult for the Department to conceptualise and officers formed, what we would describe as an ‘unconscious bias’ toward the views and interests of the live export industry.

Our experiences in dealing with the Department are also reflected in the analysis of Departments of Agriculture conducted by Dr Jed Goodfellow in 2015.²⁸ Goodfellow (who now works in our office as a Senior Policy Officer) interviewed executive level regulators responsible for the administration of animal welfare law in each jurisdiction of the country, including state, territory, and federal. Despite being responsible

²³ William Buitter, ‘Central Banks and Financial Crises’ (Paper presented at the Federal Reserve Bank of Kansas City Economic Policy Symposium, Jackson Hole, Wyoming, 21-23 August 2008) 495, 601.

²⁴ Lawrence Baxter, ‘“Capture” in Financial Regulation: Can We Channel it Toward the Common Good?’ (2011) 21 *Cornell Journal of Law and Public Policy* 175, 182-3.

²⁵ James Kwak, ‘Cultural Capture and the Financial Crisis’ in Daniel Carpenter and David Moss (eds) *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (Cambridge University Press, 2013) 98.

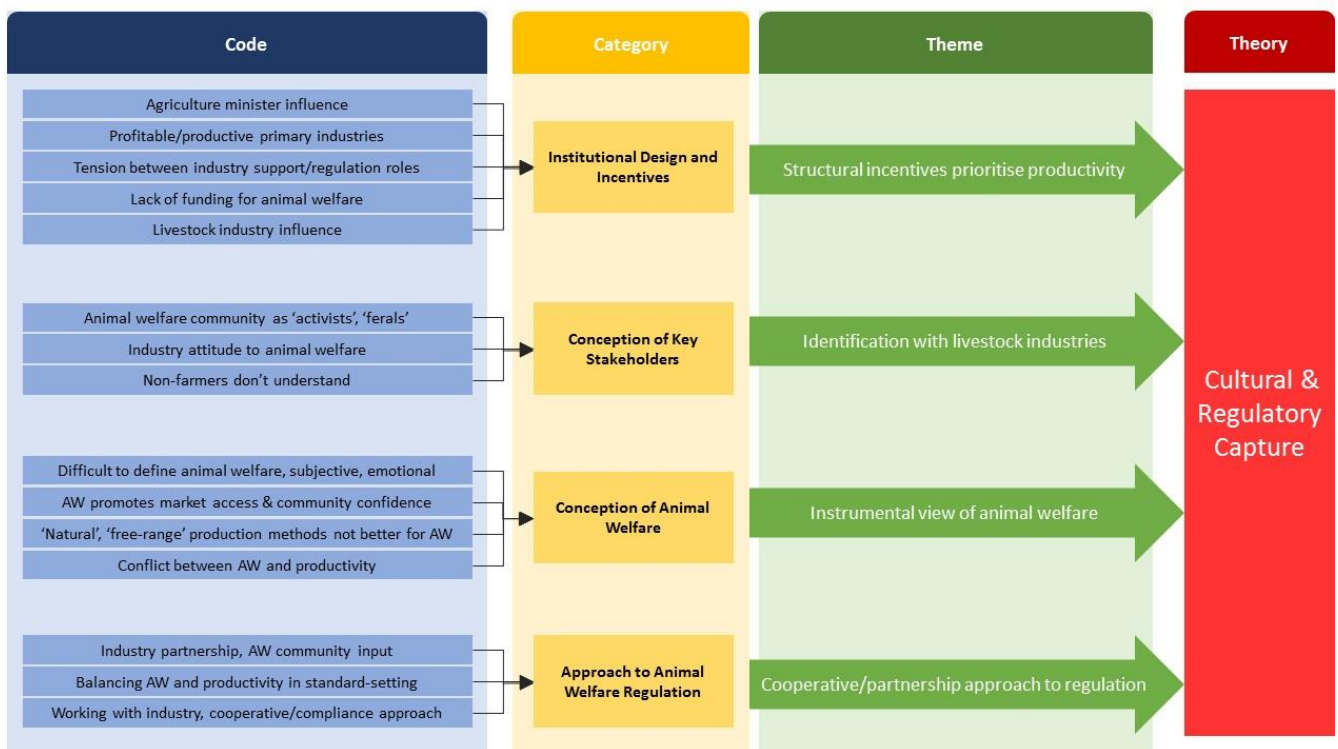
²⁶ Stephen Lippmann, ‘Public Airwaves, Private Interests: Competing Visions and Ideological Capture in the Regulation of US Broadcasting, 1920-1934’ (2005) 14 *Research in Political Sociology* 111, 120-121.

²⁷ Brett McDonnell and Daniel Schwarcz, ‘Regulatory Contrarians’ (2011) 89 *North Carolina Law Review* 1629, 1637.

²⁸ Jed Goodfellow, ‘Animal Welfare Regulation in the Australian Agricultural Sector: A Legitimacy Maximising Analysis’ PhD thesis, Macquarie University, 2015.

for animal welfare regulation, all regulators interviewed had difficulty in defining what animal welfare was, variously describing it as a complex concept that was ‘emotional’ and ‘subjective.’ They also viewed the role of animal welfare regulation in predominately instrumental terms - that is, they believed the role of protecting animal welfare within livestock industries was to facilitate market access, increase productivity, and to improve consumer confidence. There was no identified purpose for protecting animal welfare beyond these instrumental benefits. The research also found that the regulators identified far more strongly with the views and perspectives of livestock industry representatives than with animal protection stakeholders, believing the former to be more credible and knowledgeable, and the latter as lacking in relevant experience. Goodfellow’s data analysis map on these and other issues is presented in Figure 2 below.

Figure 2: Interview data analysis



Such cultural dynamics significantly impede the Department’s ability to objectively assess and respond to evolving community expectations on animal welfare. To our knowledge, the last time the Department conducted research on community attitudes and expectations relating to animal welfare was over 10 years ago when ABARES was tasked with conducting an animal welfare stakeholder analysis in 2005 and 2006 to inform the development of the *Australian Animal Welfare Strategy*.²⁹ In contrast, the European Commission conducts a periodic ‘Eurobarometre’ on European attitudes to animal welfare - the latest survey published in 2016.³⁰

It is strongly recommended that the Australian Government adopt a similar periodic public survey on attitudes to animal welfare to inform the development of animal welfare policy and standards, and to ensure that animal welfare regulators like the Department of Agriculture maintain some perspective on

²⁹ See, Mazur, Nicole, Cecily Maller, Heather Aslin and Robert Kancans, *Australian Animal Welfare Strategy Stakeholder Analysis Phases 1-4* (2006) Bureau of Rural Services, Australian Government.

³⁰ European Commission, ‘Attitudes of Europeans towards Animal Welfare’ Special Eurobarometer 442, 2016.

community expectations when performing regulatory functions. Such research will also be of significant value to livestock industries in enabling them to keep abreast of, and to respond to, changes in community attitudes over time.

The current culture of the Department of Agriculture is not conducive to fostering a strong commitment to delivering on animal welfare standards, or community expectations. This is primarily a product of the structural deficiencies identified above. The RSPCA believes that the establishment of a statutory office dedicated to the promotion of animal welfare would significantly enhance the regulatory culture of the Department by increasing accountability and transparency on animal welfare regulatory performance. An animal welfare office would also be a suitable entity for commissioning the sort of periodic attitudinal research required to maintain perspective on community expectations to rebuild public trust in the Government's role as a regulator of animal welfare standards.

3. Powers (terms of reference 1)

It is evident that the current live export regulatory framework does not provide the Department with an adequate range of regulatory tools with which to respond to the myriad forms of non-compliance seen within the live export trade. One of the core limitations of the framework is that it is based solely on a licensing regime. The ASEL are merely conditions placed on an exporter's licence under the *Australian Meat and Livestock Industry Act 1997* (Cth) (the AMLI Act). They are not regulated standards. Non-compliance with ASEL is therefore not an offence in itself, but a breach of the exporter's licence conditions, sanction for which is restricted to suspending or revoking the licence, which is rarely if ever imposed for a breach of the ASEL.

The ASEL are also mentioned under the *Export Control (Animals) Order 2004* (Cth) (the Animals Order), but again, they do not take the form of regulated standards. Rather, compliance with ASEL is simply a condition of granting an export permit under s.1A.30 and approving an export arrangement under s.1A.05. Therefore, breaching the ASEL is not an offence in itself but simply a factor that will be considered by the Department the next time the exporter applies for an export permit and in the continued approval of the exporter's export arrangement.

The other limitation of this licensing-based approach is that it restricts the Department's jurisdiction to the exporter. The AMLI Act and Animals Order only impose conditions for compliance with ASEL on the exporter, not other parties within the live export supply chain such as transporters, stock handlers at the port, or the ship's master. While s.5.3(2) of the ASEL states that once loading begins the master of the vessel assumes overall responsibility for the management and care of the livestock, there is no jurisdictional nexus with the AMLI Act or Animals Order as the conditions for compliance with ASEL under these legislative instruments attach to the exporter alone.

This approach to regulating animal welfare standards within the live trade is indicative of the Department's overriding trade-facilitating objective. Animal welfare is a condition of the trade but the regulatory framework has been designed in such a way as to enable animal welfare incidents to be managed on an ongoing basis without stopping or even impeding trade, or for that matter, adequately penalising non-compliance.

The RSPCA believes that the ASEL should be prescribed as regulations under the Export Control Act - as the *Export Control (Australian Standards for the Export of Livestock) Regulations* - with appropriate penalties for non-compliance. This would afford the ASEL the equivalent legal status of the national

standards for the welfare of livestock at the state and territory level.³¹ These standards are not simply adopted as licence conditions that only apply to the licensee but as prescribed regulations, applicable to all who have responsibility for and interactions with relevant livestock, and non-compliance is an offence.

Regulating the ASEL in this way would mean that Department officers could more effectively enforce the standards. Observed breaches of the ASEL could be met with on-the-spot infringement notices and major breaches could result in prosecution under the ASEL Regulation. In order to regulate the ASEL in this way they would need to be re-drafted to more clearly set out which party bears responsibility for animal welfare at what particular point in the export process. This could be a recommendation that is made to the current ASEL Review Technical Advisory Committee and Reference Group.

It is important to note that this proposal is not made *in place of* the current licencing regime, but *in addition to it*. Compliance with the ASEL should still be a condition of the exporter's licence under the AMLI Act and a condition of granting an export permit under the Animals Order.

Recommendation 2

Regulate the *Australian Standards for the Export of Livestock* through the enactment of the *Export Control (Australian Standards for the Export of Livestock) Regulations*.

4. Process and practice (terms of reference 2, 3, 4, 7, 8)

a) Process for determining regulatory conditions

The Department's process for determining what regulatory conditions should apply to live export consignments does not appear to be supported by a sufficient scientific evidence base. Mortality rates on equivalent past consignments appear to be the main criteria used by the Department to apply additional conditions like reduced stocking densities above those recommended by the *HotStuff* Heat Stress Risk Assessment software. Past mortality rates on similar voyages are not an adequate means by which to conclude that the travel arrangements are adequate for the animals' health and welfare. More sophisticated and scientifically valid measures of welfare must be adopted by the Department as a matter of urgency.

Recommendation 3

Develop and implement more sophisticated and scientifically valid measures of animal welfare to underpin the Department's approach to satisfying its regulatory obligations to ensure the health and welfare of exported animals.

³¹ See for example, *Animal Care and Protection Regulations 2012* (Qld), Sch 3 regulating the *Australian Animal Welfare Standards and Guidelines for the Land Transport of Livestock 2012*.

b) Process for investigating reportable mortality events

We are concerned about the Department's approach to investigating reportable mortality events and the robustness of the process. It would appear that due to the relatively routine nature of reportable mortality events (25 in the past five years equating to one every few months³²), investigations into their cause have also become routine in nature rather than a reformative. The main outcome of such investigations is simply to recommend additional conditions on the relevant exporter's next consignment.

We note in recent Senate Estimates hearings that the Department appeared to concede that it did not always interview the Australian Government Accredited Vet (AAV) as part of the investigation, which we would consider a basic and fundamental component of such investigations:

Senator McCARTHY: Mr Quinlivan, could you please outline the department's approach to investigating reportable mortality events?

Mr Quinlivan: I'll defer to my colleagues on that.

Dr Clegg: The approach we take for investigating mortality events is set out in the front of all of our reports that we put on the website. What we do is get the results back—the voyage reports—and we look through the application and the heat stress risk assessment, if that was relevant, for the particular consignment. Depending on what the issue is with the mortality event, we might ask for the lab test results, if they were relevant, if there was an outbreak of disease. *We do our best to interview the AAV who was on the voyage.*³³

We also note incidents in which significant discrepancies in mortality figures have been recorded by the exporter and accepted by the Department with seemingly little scrutiny. In July 2016, an Emanuel Exports vessel recorded a 2.51% mortality rate with 1,741 sheep dying. However, it was later revealed that 1,286 sheep were actually unaccounted for so the Department retrospectively amended the mortality report to note that the 'mortality rate for this voyage is likely to be closer to 4.36 per cent.'³⁴

The process for investigating reportable mortality events requires far greater rigour with a view to such investigations leading to real reform and change to prevent like-events occurring repeatedly.

Recommendation 4

Increase the rigour of reportable mortality event investigations to ensure process leads to reformative recommendations to prevent repeat incidents.

c) Requisite skills and capabilities

It is abundantly clear that the current model where AAVs have to juggle two roles and have two 'masters' is untenable. It is not possible for an AAV to be employed by the export company and be beholden to the

³² Department of Agriculture and Water Resources, Investigations into Mortalities, 10 April 2018:

<http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/regulatory-framework/compliance-investigations/investigations-mortalities>

³³ Senate Estimates Hansard, Rural and Regional Affairs and Transport Committee, 24 May 2018, p.67 (emphasis added).

³⁴ Mortality Investigation report 65 Sheep exported by sea to Qatar, Kuwait, the United Arab Emirates and Oman in July 2016 (amended January 2018).

ship's master, at the same time as being required to act independently of their employer and report to the Department on compliance with ASEL.

To overcome the inherent conflict of the current system, in addition to the vet and stockpersons, each vessel must also carry an independent observer with appropriate animal welfare and auditing skills, to monitor and assess the welfare of animals and compliance with ASEL during the voyage. This person should be a vet or an otherwise qualified animal scientist with competencies in assessing animal welfare and auditing.

All existing AAVs should be required to undergo training to familiarise them with any changes to existing standards. Steps should also be taken to ensure that all new veterinarians are accompanied by an existing AAV when undertaking their first voyage.

When it comes to monitoring the day-to-day outcomes during the voyage, the Department must ensure that staff involved in receiving daily and end-of-voyage reports have the skills to be able to review these reports and act on information in them. In order to do this, it is advised that such staff have travelled on a vessel and have received appropriate training.

This was also noted by Dr McCarthy in his review:

the reporting and feedback of the IO [Intendent Observer] must be actively received by someone who knows something about live exporting and converts the information into something constructive, and/or takes action about any observed discrepancies (e.g. wool length).³⁵

Recommendation 5

Require independent observers with appropriate qualifications and training in animal health and welfare and auditing to accompany every live export consignment, and improve the training of AAV's and accredited stock persons.

d) Effectiveness of interaction with relevant State and Territory authorities

We have received reports over the years that state authorities have from time to time been frustrated in their attempts to take a more active role in monitoring animal welfare within the live export supply chain by Departmental field officers claiming that live exports is their jurisdictional domain. This is despite the ASEL clearly stating that state animal welfare law applies to exporters and others within the trade's supply chain.³⁶

This tension has come to a head in more recent times between the Department and the WA Department of Primary Industries and Regional Development, as the following evidence at Senate Estimates shows:

Senator McCARTHY: Does the department work closely with your WA counterparts with regard to sharing information to improve the regulation of the live export trade?

³⁵ Michael McCarthy, *Independent Review of Conditions for the Export of Sheep to the Middle East During the Northern Hemisphere Summer, 2018* p.23-24.

³⁶ See for instance, Section 6.2, Australian Position Statement on the Export of Livestock, *Australian Standards for the Export of Livestock (Version 2.3) 2011*.
14 Standard 1.1, *Australian Standards for the Export of Livestock (Version 2.3) 2011*.

Mr Quinlivan: I think it would be fair to say we've had an interesting relationship with the WA department over the last month or so. We have cooperated and sought to share information where we could. We have been—I will choose my words carefully here—disappointed by some of the material that the WA department has produced. Their observations about the loading of the *Maysora*, particularly, were not consistent with the observations of our departmental vet on the vessel, and they were written in a very florid way which we thought did not accurately represent the situation at the time. As you're probably aware, the WA minister has written a few letters indicating that WA is looking at legal options to assert its rights over vessels that have valid Commonwealth export approvals. So we have been sharing information and there has been good informal contact, but there's obviously been some political tension between the WA and Commonwealth governments or ministers which has slightly affected the working relationship. I can describe it that way.³⁷

There is a need to more clearly set out the jurisdictional and operational responsibilities of State and Federal authorities with a view to allowing State authorities greater access to assess compliance with state law and to take appropriate action as required.

Recommendation 6

Review jurisdictional and operational arrangements between the Department and relevant state authorities with a view to granting state and territory authorities greater access to the live export supply chain to facilitate the application of state animal welfare legislation.

e) Failure to implement previous recommendations

Through our involvement in a number of review processes in recent years, the RSPCA has noted multiple occasions where proposals to improve animal welfare have not been supported by processes facilitated by the Department, or where recommendations have emerged from these processes but have not been implemented by the Department. We acknowledge that in some of these cases this has been a decision of the Minister for Agriculture - for example, the failure to release the 2013 ASEL Review for public consultation - but in others the decision has rested with the department.

The 2013 ASEL review was initiated in response to the 2011 Farmer Review. At the same time, a separate *Review of the Inspection Regime Prior to Export of Livestock from Fremantle Port* (the Fremantle Review) was also initiated to respond to Farmer Review recommendation 4.³⁸ This review made a number of recommendations, most of which were subsequently referred to the ASEL review (which did not progress).

A key operational recommendation of the Fremantle Review was that 'Animal welfare inspectors who are responsible for the welfare of livestock should have free access throughout the live animal export chain up to and including the point of loading, to ensure compliance with state and territory Animal Welfare Acts'. The report explained that:

In most jurisdictions, State and Territory regulators are currently restricted to conducting inspections/audits based on approval from the exporter. The committee supports a monitoring

³⁷ Ibid, p.102.

³⁸ Bill Farmer, *Independent Review of Australia's Live Animal Export Trade* (2012) Australian Government, p.xxiv.

process that provides assurances that animal welfare standards are being met and found that the opportunities for unhindered access will support these assurances and will complement the overall inspection process.³⁹

To date, it does not appear as though the Department has taken any action to progress this recommendation which could have been facilitated through the export permit process.

The basis for the Fremantle Review was concern over the inspection regime at Fremantle port. For many decades in Fremantle, the individual inspection of livestock as ‘fit to export’, which involves consideration of over 20 separate criteria, has taken place as animals are loaded onto the vessel. This means that unfit animals are transported unnecessarily to (and from) the port, and that they must be identified and drafted out within a few seconds or they will end up on the vessel. In Portland and Adelaide, this inspection takes place at the registered premises. The Fremantle Review recommended that ‘to avoid the unnecessary transport of unsuitable animals, the principle point of inspection should be the registered premises’ (recommendation 5). However no change has been made to the location of this inspection in regards to Fremantle port. ASEL is somewhat ambiguous on where the point of individual inspection should be, but in our view it is within the powers of the Department to require that is conducted at the registered premises. The reason no action has been taken at Fremantle appears to be because the industry has strongly resisted such a change.

In addition to formal reviews, we also note that recommendations from multiple industry R&D reports over the years have not been taken up by the industry. Dr McCarthy commented on this in his recent review of the Northern Summer trade: “the industry has completed a large body of quality R&D, but far too little of it has been picked up and turned into something operational.”⁴⁰ These reports are also provided to the Department yet there has been insufficient action to ensure critical recommendations are implemented through regulatory instruments. The Department prepared a review of industry R&D reports and recommendations in 2012 which provides a useful overview of what recommendations have and have not been implement up until that point in time.⁴¹ We are not aware of an updated version of this document. An updated version should be developed with a view to the Department undertaking a program of implementing key recommendations of the R&D reports. This should be an exercise performed on a periodic basis.

Recommendation 7

Department to instigate periodic review of industry R&D reports with a view to implementing key recommendations.

³⁹ Department of Agriculture, Fisheries and Forestry, *Review of the Inspection Regime Prior to Export of Livestock from Fremantle Port* 2013, p.25.

⁴⁰ Michael McCarthy, *Independent Review of Conditions for the Export of Sheep to the Middle East During the Northern Hemisphere Summer*, 2018 p.36.

⁴¹ Department of Agriculture, Fisheries and Forestry, *Summary of Recommendations from Industry Funded Research into Live Animal Exports*, September 2012.