

03 March 2022

The Hon Nicole Manison MLA
Minister for Agribusiness and Aquaculture
GPO Box 3721
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BY EMAIL: minister.manison@nt.gov.au

Dear Minister

Changes to NT Animal Protection Act 2018

On behalf of the RSPCA Australia and RSPCA Darwin, we write to express concern with the Northern Territory (NT) Government's intention to amend the *Animal Protection Act 2018* (the Act), which we believe will result in less protection for multiple animal species. We are also disappointed that neither proper public consultation nor engagement of the animal welfare sector was undertaken in the decision-making process for this change.

Specifically, the RSPCA objects to the intended change to the Act to limit the definition of "animal" because such a decision would:

1. Fail to recognise animal welfare science

Our primary concern is that the government has overlooked contemporary animal welfare science by deciding to reduce the definition of the term "animal" in the Act and revert to its prior definition under the *Animal Welfare Act 1999*. This definition fails to include any live non-human sentient creature and will result in unacceptable and extremely poor animal welfare in the NT.

RSPCA strongly recommends against this change because it would be a serious regression that denies multiple animal species –namely wild fish, cephalopods, and crustaceans— protection under law. Through the public consultation process in 2018, RSPCA and many other organisations supported the inclusion of these animals which were recommended by the Social Policy Committee and subsequently supported into law by the Legislative Assembly. There is ample evidence demonstrating the sentience and welfare needs of these animals and we would be happy to provide this to support an informed decision on this matter.

We are concerned with the government's intent to address the welfare of these animals as part of an unscheduled review of the NT's *Fisheries Act 1988* for numerous reasons. Firstly, the purpose of the *Fisheries Act 1988* is for resource management and not animal welfare which subordinates the important priority of animal welfare in terms of legal reform and focus on enforcement. Secondly, any

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animal welfare provisions incorporated into the Fisheries Act are unlikely to be as comprehensive as the Animal Protection Act; and finally, the review process may be delayed which will result in these sentient animals having no legal protection.

The RSPCA recommends that the NT mirror the majority of Australian state/territory jurisdictions by retaining these species in the definition of “animal” in the *Animal Protection Act (2018)* and implement industry best practice standards into the Fisheries Act to support animal welfare and industry. Furthermore, we recommend that Fisheries Officers should be gazetted under the NT’s Animal Protection Act and that any regulations pertaining to fish be included under the Act’s supporting regulations, as any other regulation relating to an “animal,” and as defined under the Act. It is worth noting that there are no precedents in other jurisdictions of fishing practices posing a risk of prosecution. Therefore, the risk of prosecution associated with standard fishing practices is low.

In addition, when the Act passed parliament in 2018, the NT Government announced it had provided a grant to Amateur Fisherman’s Association of the NT (AFANT) to develop a code of practice to specifically cover recreational fishing activities undertaken in the Territory. Given the NT’s total commercial and recreational catch of aquatic organisms each year exceeds 500,000 (Matthews et al, 2019) this represents significant animal welfare risk. Denying these species protection under animal welfare legislation will most certainly result in poor animal welfare and is likely to reflect poorly on the Territory.

Modern animal welfare legislation should be designed to achieve:

- standards that reflect principles of good animal welfare, contemporary scientific knowledge and community expectations
- consistent animal welfare policies embedded within and across all tiers of government
- broad recognition of animal sentience and awareness of appropriate duties of care to animals within the community, business, government and industry
- a robust and proactive compliance and enforcement framework that deters cruel behaviour towards animals and encourages conduct that produces high standards of animal welfare.

2. Foster inconsistency

The RSPCA supports a national approach to animal welfare legislation, and we strongly recommend harmonisation of animal welfare legislation across jurisdictions. This is because key outcomes and core components of model animal welfare legislation are common to all Australian states and territories, and national consistency in policy, education and enforcement are more likely to achieve these outcomes.

The NT is inconsistent with the majority of other Australian jurisdictions where aquatic animals are included and therefore, protected under animal welfare legislation (excluding WA and SA). The RSPCA advocates for uniform protection

under state and territory animal welfare legislation because scientific evidence shows that aquatic animals are sentient beings, capable of experiencing pain and suffering. Therefore, we recommend that the NT government retain the existing definition of “animal” to cover all bony fish, cartilaginous fish (e.g., sharks and rays), crustaceans (e.g. crabs, lobsters and prawns) and cephalopods (squid and octopuses), irrespective of whether they are in captivity, to protect animal welfare and help achieve national consistency.

Excluding wild aquatic animals from the definition would also create inconsistency with other species covered by the Act, i.e., acts of cruelty affecting feral animals or domestic animals are equally recognised. Therefore, to remove wild fish under the definition of animal is unfounded and will add an additional layer of complexity to the legislation and its execution for the NT's Animal Welfare Officers and Courts.

3. Risk industry reputation and sustainability

The decision to exclude aquatic animals from the Act risks the reputation and sustainability of the NT's tourism and recreational fishing industries, as well as its aquaculture and wild-caught fishing industries.

Animal welfare is an increasingly prominent issue to both domestic and international communities. Australia and its states and territories remain under scrutiny by well-informed and socially conscious consumers and international markets and our animal welfare laws are already rated poorly on a global scale (World Animal Protection, 2020; Voiceless, 2020). Many countries already recognise fish, cephalopods, and crustaceans as sentient animals (such as Canada, New Zealand, and the United Kingdom) and protect their welfare under law. As mentioned above, most Australian states and territories also now provide more expansive protection to aquatic animals. Therefore, should the proposed change be implemented, this inconsistency could damage the NT's market competitiveness and sustainability credentials over time.

The RSPCA recommends that the NT Government retain the welfare requirements of fish, cephalopods, and crustaceans in NT's *Animal Protection Act (2018)*. This is the most responsible action to protect these animals and local industry.

4. Result in a lost opportunity

Overall, if the intended changes to the Act are implemented, NT will have lost an important and timely opportunity to improve its animal welfare legislation, to genuinely protect animals and to acknowledge animal sentience. Given the time it has taken between passing the Act (2018) and the development and implementation of supporting Animal Protection Regulations (timing on this remains unclear), RSPCA recommends that NT's *Animal Protection Act (2018)* should reflect contemporary scientific evidence; include fish, cephalopods and crustaceans; and align with the majority of other Australian states and territories. A decision against this will further subordinate NT's animal welfare legislation and be detrimental to animals.

Moreover, the lack of recognition of animal sentience in the Act is also a lost opportunity for the NT to improve legislature and better reflect community expectations that animals are not just property, but experience feelings. The Australian Capital Territory have already legislated sentience and Victoria has a stated policy to include sentience in its new laws.

In closing, the RSPCA remains committed to working constructively and collaboratively with the NT government and your department on animal welfare legislative reforms that adopt best practice, contemporary animal welfare science and better reflect community expectations. With this sentiment in mind, we would welcome the opportunity to contribute to a more collaborative and democratic decision-making process on the intended changes to the Act to ensure better animal welfare outcomes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Mussell'.

Richard Mussell
Chief Executive Officer
RSPCA Australia

A handwritten signature in blue ink, appearing to read 'Danny Moore'.

Danny Moore
Chair
RSPCA Darwin

CC: All Cabinet Ministers

References

World Animal Protection (2020). "Animal Protection Index (API) 2020". <https://api.worldanimalprotection.org/country/australia>

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Matthews S R. Penny S. S and Steffe A. (2019). A Survey of Recreational Fishing in the Greater Darwin Area 2015. Northern Territory Government, Australia. Fishery Report No 121. (p25)