

Department of Agriculture, Fisheries and Forestry

Animal Welfare Branch

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Thursday 9 March 2023

To whom it may concern

Re: RSPCA Submission on the proposed Inspector-General of Animal Welfare

Thank you for the opportunity to provide feedback on the *Inspector-General of Animal Welfare: Consultation Paper* (the Consultation Paper) prepared by the Department of Agriculture, Fisheries and Forestry (the Department).

Animal welfare is an increasingly important issue for Australians. Our research into consumer sentiment on animal welfare indicates that between 2018 and 2022, concern has increased across a broad range of issues spanning livestock; wildlife; companion animals; animals used for sport and entertainment; research animals; and introduced animal species¹. It also showed that 78% of respondents reported that animal welfare is “extremely important” or “very important” to them. Similarly, research from Roy Morgan (2022) highlighted that 98% of Australians consider animal welfare important and 80% support more government action to improve animal welfare.²

The RSPCA acknowledges the Federal Government’s provision of funding to establish an Inspector-General of Animal Welfare and Live Animal Exports (IGAWLAE) in its October 2022 Federal Budget and commends this demonstration of national leadership to improve animal welfare in Australia. We are pleased that the Federal Government recognises that society’s expectations are changing, and that the Government is seen as being highly responsible for improving animal welfare.³

However, we are disappointed that the proposed scope of an IGAWLAE as outlined in the Consultation Paper is limited to live export animals. Limiting the scope in this way, means other animal welfare issues under Commonwealth remit that require greater leadership, oversight, scrutiny, transparency, accountability and reporting will continue to be overlooked. Therefore, the proposal will not deliver on what we understand the Labor Government’s intentions to be in improving animal welfare and standards in Australia.

We outline our concerns in detail and respond to the specific questions asked in the Consultation Paper in this submission. The RSPCA trusts that this will be an iterative process and strongly urges the Government and the Department to take a more lateral approach to improving animal welfare. We look forward to continuing to be part of the process to improve the lives of all animals, including, but not limited to animals who are exported.

In the meantime, the RSPCA continues to reiterate the need for an independent statutory authority, such as an Independent Commission for Animal Welfare. We understand that this is out of scope of this submission and look forward to continuing discussions on this matter.

We remain committed to working constructively and collaboratively to improve animal welfare, and welcome the opportunity to meet to discuss this submission.

Yours sincerely

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RSPCA Submission on the proposed Inspector-General of Animal Welfare

1. Establishment of an IGAWLAE

1.1. Role of the current IGLAE

The RSPCA recommends changes to the model of the current office of the IGLAE to further support animal welfare, bolster independence and expand the scope of investigations to allow for greater interrogation of individual journeys and cases. The current IGLAE does not have specific animal welfare expertise and therefore, although is tasked with considering welfare of animals in relation to the reviews undertaken, the scope of the role does not allow for specific investigations into animal welfare. The current IGLAE role is therefore hamstrung as it cannot investigate individual journeys or cases. Expanding the function to enable review of specific journeys and cases is vital in identifying and addressing issues within the trade that lead to negative animal welfare impacts, as well as making recommendations to mitigate the continuation of such issues.

In addition, the current office of the IGLAE is supported by staff employed by the Department. Therefore, the current IGLAE staff cannot be considered truly independent of the remit of the Department to support Australia's agriculture sector.

The RSPCA agrees that there is a significant need for the continued focus on improving transparency, accountability and impartiality in Australia's live export regulatory framework, and support the sustained focus on this. However, without expanding the focus to animal welfare issues of national significance additional to live export, the proposal to expand the current IGLAE to create a IGAWLAE will not provide the additional level of independent oversight that is greatly needed to improve animal welfare in Australia.

2. Considerations for the establishment of an IGAWLAE

2.1. Opportunity to improve the welfare of more Australian animals

Given the Federal Government's commitment to improving animal welfare, there are significant opportunities to provide national leadership and oversight of a broader array of animals. This includes wildlife, aquatic animals, introduced species, animals used for research, sport and recreation, and other animals who are imported and exported. Limiting the scope of the new Inspector-General role to livestock exports only, will limit opportunities to improve the welfare of animals inherent to other regulatory and policy arenas under federal remit. That is, additional animal welfare issues under Commonwealth remit that require independent oversight, scrutiny, transparency, accountability, and performance measures and reporting will continue to be overlooked.

2.2. Scope of the IGAWLAE

The scope of the IGAWLAE office should include all federal regulatory matters that relate to animals. We acknowledge that Constitutional limitations exist given the Australian Constitution prescribes state and territory jurisdictions as responsible for animal care and protection legislation. We understand this has shaped the Commonwealth's responsibilities for animal welfare in relation to international trade and treaties which has primarily encompassed live export, quarantine and wildlife protection. However, the Commonwealth has substantially more scope to improve animal welfare than it has traditionally done.

Significant opportunity exists for the Federal Government to improve animal welfare nationally and better support and harmonise animal welfare across states and territories. This opportunity can be realised by expanding the function of the proposed IGAWLAE to include reviews and reporting on the performance of functions and exercise of powers to include existing federal policy arenas that have direct implications for animals. This could include the oversight of animal welfare standards (or codes), operations and non-compliance pertaining to the:

- management and protection of native animals (including the welfare of kangaroos killed for commercial purposes);
- management of introduced animals;
- humane treatment of animals used for research on Australian Government land; and
- import and export of all animals and animal products (including export abattoirs, and including the live export of all animals such as horses and companion animals).

There are inherent risks and challenges to animal welfare in each of these policy areas. Because animals are sentient^{4,5}, there is significant need for additional oversight of any federal departments and regulatory structures that involve animals. Therefore, the RSPCA calls for the new, or expanded, Inspector-General role to oversee regulatory actions, and review the performance of functions and exercise of powers of all relevant departments, not just the Department of Agriculture.

2.3. Animal Welfare Standards and Guidelines

The IGAWLAE should also provide independent, national oversight on the implementation of Australia's animal welfare standards. Australia currently lacks harmonised and consistent animal welfare legislation across state and territory jurisdictions. While state and territory jurisdictions are responsible for implementing animal welfare standards, an additional function of the IGAWLAE should be to provide national oversight by monitoring the development, and tracking and reporting on the implementation of standards by jurisdiction. This would assist the government in addressing the current lack of timeliness, and inconsistent implementation of animal welfare standards.

All Australian states and territories agreed in 2005 that voluntary Model Codes of Practice for animal welfare should be updated and transitioned to nationally consistent Animal Welfare Standards and Guidelines⁶. However, only six Model Codes have been updated into Standards and Guidelines, and implementation in states/territory legislation has been inconsistent. For example, the cattle, sheep and saleyard standards have seen delays in implementation across all states and territories; Australia's poultry standards were in review for more than seven years and are still yet to be endorsed by state/territory governments in 2023; and the pig standards' literature review was conducted in 2018 with no further progress to date. Such inconsistencies in animal welfare standards have inhibited industry progress towards higher animal welfare outcomes, positioning Australia as a global laggard in animal welfare. This has caused significant public concern for Australians as well as international communities and trading partners.

Therefore, including the function of monitoring, reviewing and reporting on implementation across state and territory jurisdictions into the role of the IGAWLAE would add significant value. It would foster greater transparency and accountability for animal welfare at state/territory and federal levels of government. It would also foster community trust and improve the sentiment of key global trading partners that value high animal welfare, such as the United Kingdom and the European Union.

2.4. Animal welfare incident reports in export-registered abattoirs

Greater transparency and accountability are needed in Australian export-registered abattoirs. The need for additional scrutiny was highlighted in the Senate in late 2022, whereby the Department tabled a report that detailed 631 animal welfare incident reports from export-registered abattoirs in 2020 and 2021⁷. This report came to light under Senate Orders and highlights deficiencies in the current regulatory framework that need to be addressed. Therefore, including the review of export-registered abattoirs under the role of the IGAWLAE is recommended.

The IGAWLAE should review equivalent regulatory functions to those of live animal exports in all export-registered abattoirs. Specifically, the IGAWLAE should review the Department's assessment and approval process for registered establishments, as well as its compliance regime, related contact with state and territory enforcement agencies, process for reporting breaches, and adequacy of existing animal welfare standards in registered establishments.

3. Response to questions in the Consultation Paper

What animal welfare objectives related to livestock exports would be most valuable and why?

We have listed additional animal welfare objectives related to live export in order of our recommended priority:

3.1. Improved management of non-compliance

The IGAWLE needs to have the authority to go beyond investigating government processes and be able to audit individual assessments. The IGAWLAE's remit should include the authority to investigate individual cases and perform spot audits and checks on assessment of non-compliance in relation to animal welfare. This would facilitate more immediate and decisive action with regard to the powers of the Department to manage non-compliance.

3.2. Animal welfare indicators and data collection

The IGAWLAE should review the Department's exercise of powers and performance on the development of animal welfare indicators, data collection, monitoring and reporting functions. Animal welfare indicators and data collection at each point of the export supply chain is imperative to evidence how the welfare of animals is being impacted throughout the live export trade, and regulatory effectiveness. These indicators should be collected by exporters and monitored and reported on by the Department as part of the regulatory framework. The IGAWLAE must be able to assess such reports on a systematic and individual basis to assess individual journeys and long-term trends.

The RSPCA is concerned by the current lack of actual animal welfare data through the live export supply chain. There are numerous performance-based animal welfare indicators across the supply chain that should be required to be collected and reported on within the live export regulatory framework to measure the impact of animal welfare. A list of potential indicators that could form the basis of such a reporting system is provided in Appendix A. We have previously provided this list in feedback regarding the Department's review of the Export Supply Chain Assurance System (ESCAS).

3.3. Information transparency

The RSPCA continues to be concerned by the lack of transparency on the regulation of live export. This lack of transparency spans access to data and voyage information, animal welfare science, as well as a lack of procedural transparency on how the severity of reported regulatory breaches are evaluated and enforced. In our experience, the Department has traditionally utilised issues of privacy and confidentiality to mask what we consider potential breaches of animal welfare regulations within live export.

Therefore, we would like to see these issues scrutinised. The IGAWLAE should review the department's processes and outcomes of Freedom of Information (FOIs) requests. Specifically, analysis on the number of FOIs requests lodged, the decision-making process for rejecting/accepting requests, and the rationale behind each decision would highlight areas for improvement regarding the regulator's level of responsiveness, timeliness and impartiality.

We understand that the *Export Control Act 2020* restricts the disclosure of what is considered protected information. The term "protected information" is defined in section 12 of the Act to mean "information obtained under, or in accordance with" the *Export Control Act 2020*. Our experience is that this provision applies to industry information collected by the Department in its role as regulator of livestock exports. However, the Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021 amended the Export Control (Miscellaneous) Rules 2021 in December 2021 by including a new section 3-1. With effect from 8 December 2021, section 3-1 provides as follows:

- i. The Secretary may publish, or otherwise disclose, protected information if:
 - (a) it does not include personal information about any individual; or
 - (b) all personal information about an individual included in the protected information is de-identified.

In addition, real time monitoring and the ability to audit incidences and general journey data must be within the remit of the IGAWLE. An objective of the Government and industry must be to have systems in place to allow for real time monitoring of animal welfare. The current reported inability to do so (e.g. barriers to placing CCTV on ships etc) should be scrutinised by the IGAWLE. Such oversight would provide greater assurance to the Australian public and maintain a greater degree of accountability across the live export supply chain.

3.4. Independent Observers (IOs)

Australia's IO Program was implemented to provide the Department with "information to assist with effective regulation of the livestock export trade..."⁸. However, the RSPCA is concerned that the IO Program has been significantly diminished. The IO Program was paused throughout the COVID-19 pandemic and has not been sufficiently resumed, with IOs only allowed onboard 11 of the 78 eligible live export voyages between May and December 2022 due to "insufficient space" ⁹. Furthermore, the department reviews and edits IO reports for quality assurance before publishing a summary from each report. This highlights the conflicting priorities as referred to in the 2018 Moss Review¹⁰, where government departments that are tasked with promoting the productivity and efficiency of animal use industries and also expected to consider animal welfare.

Therefore, the IGAWLAE should review the Department's exercise of powers and functions in overseeing the IO Program and ensuring it is fit for purpose. For example, IOs are only required on voyages over 31 days, when arguably, IOs should be onboard all live export voyages to provide a consistent and adequate level of independent observation. Specifically, the IGAWLAE should review the Department's communication to exporters about the program, reporting function on exporters including/avoiding IOs onboard, its compliance regime, as well as its IO report auditing, discrepancies between IO and vet reports, editing and publishing functions. Furthermore, the IGAWLAE should review the skillset and role of the IOs and consider whether they should have greater training and awareness of specific animal welfare indicator.

What other objectives related to livestock exports could be considered within the scope of the IGAWLAE's work?

3.5. Assurance of the effectiveness of Australia's regulatory framework and capabilities

It is critically important that the IGAWLAE can validate whether the regulatory framework in place is robust enough to identify risks to animal welfare at all parts of the supply chain. The Inspector-General must be able to go beyond reviewing the performance of the department and the information available to "livestock export officials" and must be able to access information from industry that may not currently be reported under the current regulatory framework. This would allow the IGAWLAE to verify that there is sufficient reporting requirements and transparency of data that would identify both individual and systematic issues in the livestock export supply chain.

3.6. Improved traceability

Traceability is a vital component of animal welfare that should be included under the IGAWLAE's objectives. There are several deficiencies within Australia's live export regulatory framework relating to traceability that expose animals to the risk of poor welfare. For example, not all livestock animals can be traced through the supply chain because sheep and goats cannot be individually identified or traced. There is little requirement for exporters to monitor and report on critical control points where traceability issues may occur, and insufficient requirements for control and traceability under the Export Supply Chain Assurance Scheme (ESCAS) which is likely enabling leakage from the supply chain and other issues.

There is a problem with the intended control and traceability of the ESCAS, whereby, issues are not immediately identified, nor able to be actioned due to the length of time taken to obtain and assess data. We are concerned by the lack of timeliness on the provision of information regarding the regulation of live export including traceability and would like to see the IGAWLAE review the effectiveness of current regulations with regard to tracing livestock from point of loading through to point of slaughter at destination countries.

What animal welfare information related to livestock exports would be valuable to be included in reports to the Parliament?

3.7. Recommended reports to Parliament

Reports to Parliament must go beyond animal mortality incidents. The live export industry frequently quotes decreased mortality rates as an indicator of improved animal welfare. Yet mortality is widely criticised as being an extreme measure that indicates significant issues across the sheep population onboard and overlooks the multiple, serious animal welfare issues that preceded death. For this reason, greater detail must be reported to Parliament. The RSPCA recommends that the following should be reported to Parliament:

- Animal welfare incident reports throughout the export supply chain from point of sourcing animals through to slaughter as destination and enforcement measures and outcomes.
- Aggregated reports on animal welfare indicators (see Appendix A).
- Stunning rates at importing country's facilities (in terms of the percentage of exported animals of each species who are stunned).
- Investment from industry and research bodies on animal welfare research including the value, rationale, and outcome in favour of animal welfare or industry productivity or profitability.

What animal welfare information related to livestock exports would be valuable to be published on the department's website?

3.8. Recommended animal welfare information for the Department's website

The Department's website should be fully transparent with the only concession being the redaction of names to ensure privacy. The RSPCA would like to see the following information reported periodically, ideally every six months to increase transparency. Reporting on this information would be an easy way for the government and live export industry to show the Australian community change over time:

- Verification process for live export auditors, as well as the names of accredited audit companies and the names of the exporters that have engaged each audit company, the date that accreditation and performance was verified, and the results.
- Live export voyage data including data from all data loggers, location of data loggers for each voyage.
- Assessment of animal welfare indicators (see Appendix A).
- Full IO reports (names only redacted).
- Number of animals deemed not fit to load at all relevant points of the supply chain.
- Veterinary assessment reports from Australian Accredited Veterinarians.
- Record of ESCAS and Australian Standards for the Export of Livestock (ASEL) breaches including the company name of those exporters in breach.
- The number of animals stunned and number of abattoirs that are stunning animals prior to slaughter by country are useful measures to monitor animal welfare. Specifically, the number of animals that are exported and killed overseas needs to be documented, as well the proportion of these animals that are being stunned vs unstunned prior to slaughter, and the estimate proportion of leakage from supply chains.

4. Structure of an IGAWLAE and inclusion of additional animal welfare expertise

The RSPCA strongly recommends that the office of the IGAWLAE requires a broader animal welfare focus than just live animal exports, as outlined above. What is critically important for the role and any associated roles is independence from the Minister and the Department. There must be a clear remit for those working as Inspector-Generals (or Deputies as suggested in the Consultation Paper) to be completely independent from the relevant Government Department it oversees, and from the industry it is related to.

We are pleased to see that experience and credentials in animal welfare have been recognised as an important skillset for the office of the IGAWLAE. Considering the objectives of the IGAWLAE, the type of experience, skills and capabilities most desirable in recruiting animal welfare expertise/staff into the office would include:

4.1. Practical experience

This should span practical experience working directly with animals or research in animal welfare science. Experience should demonstrate a depth of understanding about animal welfare challenges in Australia. Experience in public policy and governance would also be advantageous. Independence from animal-use industries is also vital.

4.2. Relevant qualifications

It is vital that staff have animal welfare qualifications. Undergraduate or post-graduate qualifications in one or more of the following should also be required: agricultural science, animal law, or veterinary science.

5. Appendix A

ANIMAL WELFARE INDICATORS¹¹

- LIVE EXPORT SUPPLY CHAIN

Land transport

- Injury (including lameness)
- Mortality
- Heat stress / panting
- Time off water
- Handling / competence
- Electric prod use
- Stocking density
- Truck/facility maintenance

Registered premises

- Injury
- Disease / coughing
- Mortality
- Pregnancy
- (Heat) stress/panting/teeth grinding
- Temperature/humidity/wet bulb temperature
- Time off water
- Handling / competence
- Body condition score
- Electric prod use
- Time spent standing, lying, defecating
- Time spent eating, drinking, ruminating
- Stocking density
- Facility maintenance

Slaughter

- Vocalisations
- Tripping/slipping
- Electric prod use
- Handling / competence
- Restraint
- Effectiveness of stun
- Effectiveness/timeliness of stick
- Facility maintenance
- Rate of stunned versus unstunned slaughter

Sea transport

- Injury
- Disease / Health issues / treatment history
- Mortality
- Pregnancy
- Pen condition / pad moisture / dag accumulation
- Heat stress / panting
- Temperature / humidity / wet bulb temperature
- Handling / competence
- Body condition score
- Stocking density
- Facility maintenance
- Rough seas

Feedlot

- Injury
- Disease / coughing
- Mortality
- (Heat) stress/panting/teeth grinding
- Temperature/humidity/wet bulb temperature
- Handling / competence
- Body condition score
- Electric prod use
- Time spent standing, lying, defecating
- Time spent eating, drinking, ruminating
- Stocking density
- Abortion
- Facility maintenance

Slaughter

- Vocalisations
- Tripping/slipping
- Electric prod use
- Handling / competence
- Restraint
- Effectiveness of stun
- Effectiveness/timeliness of stick
- Facility maintenance

6. References

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