

REPORT ON PROCEEDINGS BEFORE

**SELECT COMMITTEE ON ANIMAL CRUELTY LAWS IN
NEW SOUTH WALES**

INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

UNCORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 12 February 2020

The Committee met at 9:15

PRESENT

The Hon. Mark Pearson (Chair)
The Hon. Lou Amato (Deputy Chair)
The Hon. Mark Banasiak
Ms Abigail Boyd
The Hon. Sam Farraway
The Hon. Emma Hurst
The Hon. Matthew Mason-Cox
The Hon. Walt Secord
The Hon. Mick Veitch

UNCORRECTED

The CHAIR: Welcome to the first hearing of the Select Committee on Animal Cruelty Laws in New South Wales. The inquiry is examining the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I pay respects to the Elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today we will hear from government officials, legal representatives, animal welfare organisations and industry representatives. Before we commence I would like to make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available.

In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing, so I urge witnesses to be careful about any comments they may make to the media or to others after completing their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take the question on notice and provide an answer within 21 days. I remind everyone here today that committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised here by the inquiry's terms of reference and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to committee members through the committee staff. To aid the audibility of this hearing I remind both committee members and witnesses to speak into the microphones. The room is fitted with induction loops compatible with hearing aid systems and have telecoil receivers. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

BRUCE CHRISTIE, Deputy Director General, Biosecurity and Food Safety, NSW Department of Primary Industries, affirmed and examined

PETER DAY, Director, Compliance & Integrity Systems, NSW Department of Primary Industries, sworn and examined

SCOTT HANSEN, Director General, NSW Department of Primary Industries, sworn and examined

SUZANNE ROBINSON, Director, Animal Welfare, NSW Department of Primary Industries, affirmed and examined

CAMERON WHITESIDE, Detective Inspector & State Crime Rural Coordinator, NSW Police, sworn and examined

The CHAIR: I welcome our witnesses. You may commence with a short statement.

Mr WHITESIDE: The NSW Police Force is the primary authority in enforcing laws that are designed to protect animal cruelty. I am delighted to speak here today as State coordinator of the Rural Crime Prevention team on behalf of the commissioner of police. In the calendar year of 2019 the NSW Police Force recorded 1,001 incidents of animal cruelty. Just over half of these were cruelty to dogs with 544 incidents. Cruelty to cattle, cats and sheep were the following highest, with reports being 78, 73 and 72 respectively. Within the 2019 calendar year the NSW Police Force issued 91 infringements and 127 charges. It should be noted that one charge can be for multiple offences. The NSW Police Force has been supportive of changes to increase penalties and create new offences to be able to combat these abhorrent crimes. The NSW Police Force has appreciated the invitation to work with the Department of Primary Industries, the RSPCA and the Animal Welfare League on these matters. It is not the belief of the NSW Police Force that it should take on animal cruelty as the sole law-enforcement body.

This is primarily because police do not have the expertise in either animal welfare matters nor the use of animals in primary production. For example, my team relies heavily on the RSPCA and the Animal Welfare League in providing industry understanding and subject matter expertise on what is good, bad or illegal in terms of animal husbandry. The NSW Police Force cannot provide the Committee with the historic context of why animal cruelty matters have historically had joint powers with other agencies. However, the position of the NSW Police Force and the collaborative relationships with the RSPCA and Animal Welfare League are invaluable to investigate these crimes. Specialties such as ecological conservation, game hunting, animal husbandry and primary food production are not within the scope of the training of police officers and I do not think that people would expect us to be so. Therefore, as police we rely on the expertise of other authorised enforcement agencies under the Prevention of Cruelty to Animals Act 1979 [POCTAA].

The police work very closely with the RSPCA and the Animal Welfare League NSW to make sure that animal cruelty cases are thoroughly investigated and prosecuted. We also currently work closely with the NSW Department of Primary Industries [DPI] to better ensure penalties for animal cruelty reflect community expectations. My team—the Rural Crime Prevention team—remains highly committed to animal welfare issues, as we are with any other real crime matters. Thank you, Mr Chair.

The CHAIR: Thank you very much. Would anybody else like to give an opening statement? Mr Scott Hansen?

Mr HANSEN: Thank you, Chair. I am conscious of time and I am conscious that you already have our submission in front of you. I might keep it very brief and say that animal welfare in this State is governed under four pieces of legislation: the Prevention of Cruelty to Animals Act, which will be abbreviated to POCTAA for most of the next hour and probably for the next two days for you; the Exhibited Animals Protection Act; the Animal Research Act; as well as the Crimes Act. Those four pieces of legislation are the key tools that we have at our disposal with regard to protecting animal welfare in the State, from a government perspective. That is not to dismiss the industry-led initiatives that are in place, whether they be quality assurance schemes or certification schemes, that are also designed to assist in the protection of animal welfare in this State.

We have four bodies that are responsible for the oversight or the delivery of compliance: the NSW Police Force, whom you have already heard from; obviously, RSPCA; the Animal Welfare League NSW; the Greyhound Integrity Welfare Commission—that acronym is going to get me as well all the time—the Greyhound Welfare and Integrity Commission; and, obviously, NSW DPI with regard to exhibited animals and animals in research.

That framework, of those four pieces of legislation and that group of compliance and enforcement agencies, are the tools at the disposal of the New South Wales people, via the Parliament and its laws, in enforcing and protecting animal welfare within the State. The Government has, obviously, made it clear that it believes that

the pieces of legislation are probably ripe to be reviewed, and for reform in the space around the legislation pieces that cover everything from POCTAA through to exhibited animals and animals in research. We have been working behind the scenes to prepare and get ready for what will be a quite substantive piece of reform in this space, dealing with everything from the compliance arrangements all the way through to the legislative framework that underpins animal welfare.

Obviously, with the way in which this year has started, the "when" for pressing the button on the reform process or the review and reform process of the legislation will be largely determined by when we think communities will be able to turn their attention back to being able to provide meaningful input and to have a meaningful discussion with us on that front, once they recover from what they are currently dealing with—whether it be drought, fires or flood.

The CHAIR: Thank you very much. Would anybody else like to make an initial statement?

The Hon. WALT SECORD: Mr Hansen, is the announcement that you just made—that the Government is considering a major review or a major reform—across all animal welfare issues? You gave the indication that it is going to be a major review. That is news to me. Can you tell us a bit about that?

Mr HANSEN: I do not know if it is news to everyone here because it has, obviously, been mentioned before that the Government has a desire to review the Prevention of Cruelty to Animals Act. That Act is over 40 years old now, and there has been quite a bit of discussion amongst industry, amongst community and with our compliance agencies around what steps we would take to modernise the Act, what we would look to do to bring the Act forward to continue to better reflect both the community's expectations around animal welfare as well as reflect modern knowledge and practices and technologies. So, it is intended to be broad-ranging, similar to the reforms that were done with the Biosecurity Act a number of years ago, which looked to modernise that piece of legislation and bring together many other Acts that provided a bit of a piecemeal approach on biosecurity—to try to do the same with regard to animal welfare.

The Hon. WALT SECORD: It is customary for people who make a submission to a parliamentary inquiry to make some recommendations. I notice that there are no recommendations in your submission. Why were there no recommendations? Are you happy with the status quo? It just stated what the Government is doing at the moment. Why were there no recommendations?

Mr HANSEN: I guess we see this as an opportunity to, firstly, hear from the wide range of participants who are either appearing or making submissions and making recommendations; for this Committee to consider those recommendations and the information that is presented before it; and for the outcomes from the recommendations from this Committee to obviously then be considered by government in terms of the steps forward. The recommendations that we might have with regard to amendment to pieces of legislation that are within our control—we have other pathways for progressing through, not necessarily just relying on inquiries or committees to be able to do so.

The Hon. WALT SECORD: Do you find that having four bodies investigating or examining animal cruelty is a hindrance or a help to your body—the NSW Police Force, the RSPCA, the Animal Welfare League NSW and the Greyhound Welfare and Integrity Commission?

Mr HANSEN: I would say we have not known anything different for a long time. It is what we have been working with and, therefore, it has been the relationships established over a long period of time that have helped make it work and put in place both the relationships, the memorandums of understanding and the operational procedures. It is not a unique situation either—the combination of government agencies, authorised charity organisations to come together with police to provide the compliance framework for animal welfare. In fact, various iterations of this are what is in place across the whole Commonwealth. Each group brings a specialty and a skill set to the table that is unique and, at times, incredibly valuable to our operations.

The Hon. WALT SECORD: Of the four bodies, which one would your organisation interface the most with? Is it the NSW Police Force, the RSPCA, the Animal Welfare League NSW or the Greyhound Welfare and Integrity Commission? Which one would you have the most interaction with?

Mr HANSEN: That will depend on a number of factors but, from my perspective—others might want to reflect differently—it is the NSW Police Force and the RSPCA. That is largely due to the significant volume of activities they both carry out and the resources they have at their disposal in terms of carrying that out.

The Hon. WALT SECORD: Mr Whiteside, in your opening statement you said there were 1,001 incidents in the 2019 calendar year.

Mr WHITESIDE: That is right.

The Hon. WALT SECORD: Is that an increase or decrease? What is the trend on animal cruelty incidents in New South Wales brought to the attention of the NSW Police Force? Is it increasing or decreasing or stabilising?

Mr WHITESIDE: It is consistent with those figures for the last three years, I understand.

The Hon. WALT SECORD: Half of them involve dogs.

Mr WHITESIDE: Yes, that is right.

The Hon. WALT SECORD: Is that family pets or greyhounds? What are you referring to?

Mr WHITESIDE: I cannot give you that breakdown, I am sorry. It would include all of the above, I would suggest.

The Hon. WALT SECORD: When you say "incidents", are they reports or are they matters that come to criminal charges?

Mr WHITESIDE: They are matters that are reported to police that may result in criminal charges, infringements or referral to the other agencies, or no action.

The Hon. WALT SECORD: No action, okay. Thank you.

The Hon. MICK VEITCH: Mr Hansen, what is the time frame of the review of those pieces of legislation you were talking about? In your opening statement you said it has been bumped back a bit because of the catastrophic summer we have all had to endure. The first part of this is a review. When do you expect that review would start and, potentially, be completed?

Mr HANSEN: So I think the Government has made a commitment around introducing new legislation in 2021. This is all part of the announcement they made around the Animal Welfare Action plan, of which a key plank in that is the policy legislative framework underpinning animal welfare. So a commitment to introduce legislative reforms in 2021 is the time frame that has been set.

The Hon. MICK VEITCH: And I am not going to say that I am giving a guarantee or an undertaking but the information obtained from this Committee will inform the Government's decisions around that?

Mr HANSEN: I am sure the Government will consider all the recommendations that come out of this.

The Hon. MICK VEITCH: I am just being cheeky.

Mr HANSEN: But happy to accommodate it. We actually have already gone through a lot of submissions to look for: Are we picking up all the issues that we go out there to talk about? How can we use the material that has been provided, including the evidence that gets provided over the next two days? It is a significant opportunity for us to harness that and to harvest it for the purposes of then setting up the platform for the discussions when we go back out. It will give us the opportunity to say, "Okay, have we captured everything we need to? Who is interested in what, talking about what pieces, and therefore how do we ensure that we tailor the communications, the discussions?"

We are actually are really looking forward. We have already harvested a lot of material and done a lot of cross-checking with the issues that we see out of the written submissions. We are looking forward to following the inquiry over the next two days because it does all help us coalesce a whole lot of information from a whole lot of interested stakeholders, who we know we will be needing to go out and talk to anyway with regards to potential reform.

The Hon. EMMA HURST: Mr Hansen, just in regards to a little bit more in depth about that reform. Both the RSPCA and the Animal Welfare League said in their submissions that they would highly benefit from more funding from the Government. Does the Government have any response to that, or do you have any thoughts in regards to additional funding?

Mr HANSEN: So I guess the amount of money we give to RSPCA and the Animal Welfare League, and I will leave budget issues for the NSW Police for Mr Whiteside to comment on, via a grant to those organisations has been static for a while. Where ever the RSPCA or the Animal Welfare League have come to us and asked or had an issue around resourcing—recently, for example, off the back of the drought we have seen a significant increase in the stock welfare panel and a significant increase in the need for interventions on animal welfare around the State—in response to that we have increased funding to both the RSPCA and the Animal Welfare League.

The Hon. EMMA HURST: Do you know by how much?

Mr HANSEN: I do. I think it is \$650,000 but I will just check by confirmation from someone on either side of me in a second. But it has allowed the RSPCA to put on, for example, another five inspectors, the Animal Welfare League to put on another one inspector. I would like to think that we have a relationship with the two authorised charitable organisations, when they do come to us and say that there is a restriction or some concerns around resourcing, we are able to work with them to accommodate and to adjust.

The Hon. EMMA HURST: Outside of that resourcing one thing that has obviously come up with some of the submissions here is the fact that the RSPCA and the Animal Welfare League specifically still rely hugely for most of their funding on donations. Do you know of any other law enforcement body in Australia that is dependent on donations to be able to enforce criminal law?

Mr HANSEN: As I said, I do not think the situation of having the RSPCA and a charitable organisation delivering compliance on animal welfare is unique to New South Wales.

The Hon. EMMA HURST: There are other bodies that enforce criminal law that are charities, or is it just animal welfare that is enforced by charities?

Mr HANSEN: I could not comment outside the scope of our areas of compliance, but I do know within our areas of compliance, when you look across our other jurisdictions or the other jurisdictions across the country, I think with the exception of the Northern Territory the RSPCA plays a compliance role in every other State. I am sure that in every other State, therefore, it is a combination of both charity and government funding that is mixed in the funding delivery.

The Hon. EMMA HURST: But you are not sure if there is other criminal legislation that is enforced by charities?

Mr HANSEN: There is certainly not in our compliance space, but I could not comment broader in terms of compliance areas.

The CHAIR: Can I ask a follow-up question? If the RSPCA is saying that the total RSPCA's New South Wales inspectorate cost is \$6,233,000 in the last financial year and the Government has given it \$450,000-\$650,000 to the inspectorate, are you aware of any other criminal legislation that is administered, investigated and prosecuted by an authority for which 98 per cent relies on public donation?

The Hon. LOU AMATO: You already answered that question.

The Hon. MARK PEARSON: Out of a total budget of \$70 million.

The Hon. MATTHEW MASON-COX: So it is \$450,000-odd.

The CHAIR: Same thing.

Mr HANSEN: As I said, within our compliance space in New South Wales, no. But, as I said, it is not a unique situation in the animal welfare space across the country. All States and jurisdictions, with the exception of the Northern Territory, utilise the services and the support of the RSPCA in delivery of compliance and enforcement actions. I should also point out that there is an annual grant that we make and we pass through but there is also other funding that is provided to the charity organisation outside of that.

The CHAIR: But that is only in relation to shelters and buildings and things that the RSPCA and the Animal Welfare League want to acquire, but in terms of the inspectorate and enforcement—

Mr HANSEN: That is right, but even our grants are not a fee for service to the RSPCA or the Animal Welfare League. They are a grant that is passed through as an annual grant to the RSPCA and the Animal Welfare League. The service of providing their inspectorate costs is significantly different than the grant amount that we pass through and also significantly different from the grant amount that the New South Wales Government passes through for other purposes for those charities as well. For example, last year the Government provided \$12 million to the RSPCA for facilities and for infrastructure. That is money that would otherwise be funded by donations and revenues.

I guess we are keen to hear out of presentations that you get from both the Animal Welfare League and the RSPCA today about what their forward views are around funding. As I said, the funding grant that we provide as a pass-through has been static for quite some time. It is money that we get provided with to provide across. We recognise the fact that with, for example, the RSPCA the \$424,000 in annual grant that we provide them is only a small piece compared to between \$5.5 million and \$6 million worth of inspectorate costs that they bear. That is how the arrangements have worked to date. These are the kinds of subjects that we are keen to discuss and keen to have fleshed out, both through this hearing and also the reform discussions.

The Hon. EMMA HURST: Does the Government have any sort of view around—you may have seen some submissions—the concern that criminal legislation would have to be fundraised. Predominantly, the money to actually uphold that criminal legislation would have to be fundraised from the public. Does the Government have any concern that it requires that fundraising? Also, if the RSPCA, for whatever reason, at some point was not able to fund raise that \$6 million, is there some kind of contingency plan of the Government to be able to help cover those costs, if that situation was to occur?

Mr HANSEN: Our key focus is about ensuring that there is a trained and capable service there to provide the enforcement of the animal welfare laws within the State. As I have indicated, when we do have a request or when the RSPCA has come forward and said, "Over and above what we have as business as usual, we see an increasing need in these areas—". For example, in this case it would be increasing pressure with drought around providing services.

The Hon. EMMA HURST: If the RSPCA said, "Actually, we feel that the entire enforcement agency issue should be covered by the Government instead of fundraised", would the Government then come to the table and say, "Okay, we would cover all costs for upholding that criminal legislation."

Mr HANSEN: I cannot speak as to what the Government's response or request was. What I can say is the RSPCA has approached us with regards to additional funding required to accommodate increased pressure with drought and we have responded with—I said \$650,000; it is actually \$620,000—\$500,000 to RSPCA and \$120,000 to Animal Welfare League, which, as I said, just provided additional—

The Hon. WALT SECORD: Ms Hurst, do you mind if I reword your question? If the RSPCA and Animal Welfare League were unable to provide investigation, were unable to assist, would DPI and New South Wales police be able to undertake investigations?

Mr HANSEN: The immediate answer is New South Wales police definitely—already authorised officers with regards to the Prevention of Cruelty to Animals Act. DPI currently has no officers that are authorised under POCTAA, but that is a very simple process for the Minister to undertake in terms of authorising officers. So there is that opportunity for scaling. However, having said that, it is not just the number of people; it is also their facilities, their location, the infrastructure that comes behind it. So if they were to turn around tomorrow and not be able to deliver it would leave a hole in the capability to deliver services as per today, but there would be solutions and pathways forward. That would just probably take time.

The Hon. MARK BANASIAK: Mr Hansen, how are those funding figures calculated? Surely you do not just throw a number up in the air and see what sticks. Is it based on a staffing ratio? How did DPI come to the figure of \$424,000 for the RSPCA and \$75,000 for Animal Welfare League? Is there a formula that is used?

Mr HANSEN: No, there is no formula, unless you calculate the formula as being last year's amount given to us by Treasury being this year's amount given to us by Treasury to pass through as the grant to RSPCA and Animal Welfare League. As I said, it is not a fee-for-service grant; so it is not actually tied to this number of inspectors, this number of inspections, this number of compliance. It is literally a grant that is made across to the two charitable organisations. But there is no formula, and I must admit I have asked for any insight from people who go back beyond my period to work out what was the original calculation piece and I am still trying to work that out. Maybe RSPCA might be able to help you with how that number was originally calculated.

The CHAIR: Mr Hansen, the former Minister for Primary Industries Niall Blair stated in the House that the Government wants to keep animal welfare at arm's length. Really is not this whole giving a small amount such as \$420,000, whatever it is, per annum just part of keeping the RSPCA and the Animal Welfare League kind of crippled and lame and incapable of really administering the Prevention of Cruelty to Animals Act?

Mr HANSEN: I would first of all contend that RSPCA is anything but the description you just gave them in terms of their capacity and capability to enforce animal welfare in the State. If we thought that they were incapable, crippled, lame then there would obviously be interventions that we would need to take. However, we do not believe that to be the case. I am happy for you to raise that line of questioning with RSPCA in terms of how they feel about their capacity to do the job that is required of them.

So the grant money that we provide them as a grant that goes through DPI to RSPCA is equally alongside grant money that other agencies within the Government provide them, such as the \$12 million for infrastructure last year. That enables a funding pool of both the donations that are made to them, the revenues that they generate and the grants from government to enable them to provide a range of services that all three of those funding sources are obviously aware of, being activities of RSPCA. We obviously are aware of their compliance and enforcement activities, donors are obviously aware of their compliance and enforcement activities, and their commercial revenues are obviously all channelled through for ensuring and underpinning financial stability for the organisation to do the work that it sells itself and its brand upon being able to do.

The end outcome for government is about the proper and capable enforcing of the three key pieces of legislation, being POCTAA, exhibited animals and animals in research, as well as the Crimes Act. We have not only the NSW Police Force but the two charitable organisations of RSPCA and Animal Welfare League, who come together to deliver that service in this State in much the same way as they come together in other States and jurisdictions to deliver a similar service.

The Hon. MARK BANASIAK: Are there KPIs tied to these grants from DPI? Do you set key performance indicators when you give these grants?

Mr HANSEN: Not key performance indicators, but there are responsibilities spelt out under both the legislation in terms of the reporting that is required, as well as in MOUs that we have both with RSPCA and Animal Welfare League it spells it out and our expectations about how they go about doing the job and how they report progress against the job.

The Hon. MARK BANASIAK: Are you able to provide the Committee copies of those MOUs?

Mr HANSEN: Sure.

The Hon. MARK BANASIAK: But wipe out anything in terms of privacy. It would be good to find out exactly what those contain.

The Hon. MICK VEITCH: Mr Hansen, essentially this is a block grant type of funding. You are the conduit; you do not actually determine the amount, Treasury pays—it goes through DPI to the ACOs essentially?

Mr HANSEN: Yes, it is an annual grant that is made to those two charitable organisations.

The Hon. MICK VEITCH: What role does the MOU play in determining what is the annual block grant amount? Or does it play no role?

Mr HANSEN: No, it plays no role.

The Hon. MICK VEITCH: So funding is not attached to the MOU. It is not a performance-based funding; it is essentially just a block amount of funding provided on an annual basis to the ACOs to assist in their operation.

Mr HANSEN: That is correct. What the MOUs do is give detailed expectations and coverage for the requirements that the two organisations have in being authorised as charitable organisations under the POCTA Act. That Act places obligations on them in terms of what they do, how they go about doing it. The MOUs give effect to how they need to be working in concert with each other and with us in delivering against their obligations under the Act.

Ms ABIGAIL BOYD: Would it be fair to say that historically, looking at the funding model, the Government has put in a certain amount that relies on a certain amount of donations to keep the status quo for the RSPCA, which at the moment is looking at 95 per cent of its funding comes from donations and 5 per cent from government. I suspect from a government perspective it does not make sense to give them more than what they need to carry on on a status quo basis, but is that not hugely risky in terms of—we have already heard that the RSPCA is a source of expertise that other agencies do not have. If they get to a point where they are unable to get the same amount of donations, has the department thought about ensuring that it would ratchet up its contribution to ensure that they could continue?

Mr HANSEN: Yes in that we have probably the largest compliance force on the ground—the NSW Police Force—and it is an immediate option for us in terms of filling gaps. But, as you have heard, expertise is one of the key features that we need to add into this mix and that is where we also have compliance officers that have expertise in this space that could be turned on under POCTAA to be able to fill gaps as well. The relationship and the funding mix has been a longstanding one and, as we have covered, it is historical in terms of where it has come from. We do expect that this subject around compliance and enforcement and what would modern legislation look like to both make more efficient the resources of the organisations in terms of delivering compliance as well as have we got the right settings in place in terms of how we deliver on that as part of the Animal Welfare Action Plan and the reform process that is being considered?

Ms ABIGAIL BOYD: I guess comparing this situation to other types of crimes, and we have crimes against animal cruelty in various provisions, if we were to have a similar situation for any other type of crime—imagine anything from child abuse—the idea that we would rely on an external charity to get donations in order to have the expertise to bring those issues to light and to have them prosecuted would be unacceptable to the community, and yet we allow it for animal cruelty. I understand it might be historical as to why we have done that but is the department thinking about what that looks like in the future?

Mr HANSEN: I guess the degree of comfort that the community can take is the fact that, should those arrangements where the authorised charitable organisations were ever to stop on a particular day because of inability of the charities to deliver, we have again the NSW Police Force as the base rock of compliance activity for this crime and for the crimes under this legislation. So we have the NSW Police Force as the go-to to be able to ensure that the community still has a well-resourced and well-established authority in this space. We also then have the expertise—

The CHAIR: But, Mr Hansen, that is not the case. The community does believe that. The police say it themselves, don't they, Mr Whiteside? Often they will get a call and they say, "We need to refer that to the RSPCA." If what you are saying is true, that we believe that the police have the fundamental, overarching responsibility and power under POCTAA, then we would not need to be here.

Mr HANSEN: But I would say that at the moment they do have the capacity because they do have a well-resourced and well-trained charitable organisation sitting alongside them with technical expertise that they can refer to. If that does not exist then obviously that is not an option for them and they adjust accordingly, as would we with our compliance officers with expertise. There are responses available to the Government through both NSW DPI and through the NSW Police Force to adjust to a future scenario that does not involve charity organisations in their delivery.

The CHAIR: Mr Whiteside, what do you say to that—what Mr Hansen has said about the police?

Mr WHITESIDE: Our relationship with the RSPCA is crucial in addressing animal cruelty in terms of the expertise that it brings to the table. Yes, we have got the capability to investigate crimes. Right from our initial training at the academy, wherever it might be, the police are skilled with the Crimes Act, the Law Enforcement (Powers and Responsibilities) Act [LEPRA] and investigation techniques. Animal cruelty is not unlike—other than charitable organisations—other crimes that we investigate. We also rely heavily on other agencies to assist us with that, like we do the Local Land Services [LLS], DPI and in terms of child abuse with medical practitioners and the like.

Ms ABIGAIL BOYD: But not charities.

Mr WHITESIDE: Yes. I said that—but not charities.

The Hon. WALT SECORD: Detective Inspector Whiteside, take us through what happens when someone calls up to say, "I think one of my neighbours is maltreating his pets, his animals." Take us through what happens when a call like that comes in. Where does it go to? How is it triaged, so to speak? Can you take us through the procedures?

Mr WHITESIDE: It is the same as any other crime or any other incidents in general speaking terms that we receive, whether it be at the front counter, from a call centre, like the Police Assistance Line. That is assessed based upon the seriousness or the need to act immediately. It is also assessed based upon the available evidence that is relayed to us—is that in an admissible form? Have we other information or intelligence to support that or otherwise? And then based upon the current workload in that area it is assessed in terms of a response.

The Hon. WALT SECORD: How do cases get to the RSPCA or to the Animal Welfare League? Do they self-initiate? How does that occur? I am trying to get a demarcation. Is there an overlap? How does that occur?

Mr WHITESIDE: For instance, with the RSPCA, and just on those open source documents, last year in comparison to the police, our reports, as I said, were 1,001, I think, from memory, and they had over 15,000. They have a dedicated call line for that purpose that people ring and can report online for animal cruelty to the RSPCA. We have various different ways of reporting to the police. Ideally the best way is to front up to your local police station and have that one on one conversation and then assess that information and evidence to act.

The Hon. WALT SECORD: Do you find that there is duplication—that you are working on a case, and RSPCA and the Animal Welfare League are working on that case at the same time?

Mr WHITESIDE: That is highly possible and it has happened. But that is negated pretty quickly, especially in terms of my team. I speak to my team. We generally deal with large animals. We will make that phone call to the RSPCA in terms of a response at the earliest opportunity to assess what level response is required and whether they will go instead of us because we have other competing demands and likewise. Those calls flow back the other way also from the Animal Welfare League and RSPCA to us.

The Hon. WALT SECORD: Do you look at their briefs of evidence and things like that or is it a complete silo, separate to you?

Mr WHITESIDE: They have got their own prosecuting capability. However, we do have an MOU between the two of us and we share information in terms of matters before the court. Like I said before, in my opinion it works really well that we rely on their expertise and likewise. For instance, now, on top of the reporting, to increase the capability of taking that report we use the RSPCA inspectors to assist in training in terms of first responding police. In the last 12 months they have travelled around a number of local area commands and police districts to provide that training.

As I speak, this week I am running a rural crime workshop in Lismore where an inspector there is speaking to the technicalities, the evidence and the information in respect of investigating animal cruelty matters, which is crucial, because the people that are before that course or workshop are first responding police that have one-man stations. It removes the unknown in terms of any crime that you are unsure with on how to go about it. If you break down most crimes they are quite simple in terms of the approach, the report, the investigation and the evidence you have to obtain to get the matter before the court. Where this matter is different is it is quite special and quite emotive in terms of the animal. So there is a significant amount of priority that we put on those matters when we can.

The CHAIR: As you said that the police seeks advice and assistance from resources within government departments like DPI or all sorts of authorities or sources, could it not be the case that the police could also source the resource of the RSPCA even if it is not the primary enforcement agency? It still would be able to be a resource to the police if it were the police that had the overarching responsibility for animal protection.

Mr WHITESIDE: We speak to a number of RSPCA. We could also continue to speak to them. However, the fact that they have an enforcement and prosecuting capability is beneficial for the NSW Police Force to address further matters and other diverse crime laws.

The Hon. LOU AMATO: Mr Hansen and everyone, thank you for coming in today. In regards to the RSPCA and the Animal Welfare League, apart from the grants and donations they get, what happens to the internal revenue raising? If they adopt out an animal and you want to go and adopt an animal, there is obviously a fee to be paid—or if you get animals desexed. Do you know what those revenue raising amounts are?

Mr HANSEN: We could find them out. But given the fact that you have them appearing as witnesses later it is probably a good question for them in terms of their different business streams and the revenues otherwise.

The Hon. LOU AMATO: Yes. I just thought obviously they do desexing and rehoming and there is a fee associated with that. I will ask them that question.

Mr WHITESIDE: If I may, those figures are published annually by regulation in the RSPCA financial statement—all of the details, all of that information on an annual basis.

The Hon. LOU AMATO: Thank you for that. I appreciate it.

Mr HANSEN: I add that there are other services they also provide that are not commercial services. At this point in time it is probably worthwhile putting on record our thanks to both the Animal Welfare League who turned up in a number of firegrounds recently with their brand-new, big, mobile operating theatres that they have—the big semis that pull into town that enable mobile operations, housing of animals that have been burnt or injured and treating them.

The Hon. LOU AMATO: Yes. They have done some remarkable work in the fires.

Mr HANSEN: That service, the service of RSPCA and Animal Welfare League across the State over the last 190 days in manning evacuation centres and helping our staff, Mr Whiteside's staff and LLS staff in looking after animals that are brought into evacuation centres out of the fires, even from the northern fire zone we still have over 500 animals in our care that have nowhere to return to at this point in time. We rely on the partnership between our staff, the local community, the RSPCA, the Animal Welfare League and all those. I am not sure if they are captured in their commercial activity, because it is certainly not commercial activity. It is not required under POCTAA, it is just part of the service that they provide in caring for animals.

The Hon. EMMA HURST: I have a follow-up question from what we were talking about before with Mr Whiteside—about the systems regarding the communication between the Animal Welfare League and the police. It has been indicated to me that the RSPCA do not have access to the cop system and the cops do not have access to the RSPCA's system either, so it actually requires them to contact and call each other. In Canada there was a report on Canada's equivalent to the RSPCA. One of the big issues was animal cruelty investigators coming under personal risk when there was only one RSPCA investigator in an area entering a situation that was potentially dangerous.

To put on my old hat as a psychologist, we know that the research shows that people who are violent towards animals are very regularly violent towards humans. I understand the RSPCA will often call the police if they think that that might be the case and they attend with a police officer, but have you heard of situations where—and obviously they would not always have that information available to them—RSPCA officers or Animal Welfare League officers could be at risk where they are attending on their own or do you think that that is a potential risk?

Mr WHITESIDE: I cannot speak to what has happened in terms of the RSPCA. It may have encountered those situations but the relationship, especially in the past two years with the formation of my team—we have enhanced our relationship with the RSPCA and the Animal Welfare League [AWL] to address that very thing and I thank you for your question. If I could speak to stock welfare panels in particular, as well as other similar bases of other matters—other crimes or other incidences we are called to. The assessment of a threat or issues of violence, as you pointed out, crosses a number of crime categories and is quite indicative of a lot research in terms of animals being abused linked to other crimes.

The memorandums of understanding [MOUs] between the RSPCA and the NSW Police Force outlines our role in particular in respect to assessing those threats and providing that information to it. There may have been cases when the RSPCA has not called us. As I said, I cannot speak to those. For example, as Mr Hansen has alluded to, there has been a significant increase in stock welfare panels. Historically, on average, a guess I would say at we have four or five a year, but in recent times it has increased significantly. In the past our rural crime investigators have had a major role in terms of the processing of those operations, to the point now, and our role is primarily a breach of the peace in reducing that risk. That would be no different to us conducting a search warrant where we go through a vigorous risk assessment process to mitigate that risk. There are also—

The Hon. EMMA HURST: You are teaching that to the inspectorates at RSPCA and Animal Welfare League?

Mr WHITESIDE: When you say "teaching it"—we do the risk assessment because, as you alluded to, we have greater holdings in terms of intelligence and history because it crosses a number of crime categories, whether that be drugs, outlaw motorcycle links—all the lot. I just speak to those—not saying that there are those threats but we assess those on that basis. The reality is that if we are going onto a property where a landholder or farmer has significant mental health issues to start with, there are potentially firearms on the property and we are going with the lead agency—in these instances, the RSPCA and the processes of the DPI, Local Land Services [LLS], et cetera—to ultimately potentially remove those animals.

Whatever risks or issues are there at that time are multiplied considerably because of the presence of not only the police, but also enforcement agencies, and we are very mindful of that and doing that better. We have put a lot of significant resources into communication with the heads of RSPCA, DPI and LLS in addressing those. In closing, to answer your question: Yes, we are very mindful of that at every opportunity throughout training and during conversations with the RSPCA and other agencies that might have to go onto a property—they do speak to us. Primarily we are there for a breach of the peace. We might not go to every incident; however, we will provide input where it is justified.

The Hon. EMMA HURST: Mr Hansen, do you have anything to add to that in regards to situations where the RSPCA or the Animal Welfare League may not know if they are going into a dangerous situation? They may not have contact with the police, particularly domestic violence situations and things like that, where you have one RSPCA officer to cover a very large remote or rural area.

Mr HANSEN: Only that it is probably a good question to ask of both organisations with regards to their standing operating procedures. We know that they have copied many of the standard operating procedures from the NSW Police Force in terms of compliance activities, evidence, briefs and so forth. It is probably one to address to both of them. I know that certainly across our compliance groups, we require two people to be present at all times. That is not only for personal safety, but also for evidence collection—

The Hon. EMMA HURST: For the RSPCA?

Mr HANSEN: No, across the rest of our compliance activities across DPI. I cannot comment on what the operating procedures are for the RSPCA or Animal Welfare League, but it would not be unusual to have a situation where they require two for compliance activities. But that is something to ask them.

The Hon. SAM FARRAWAY: Mr Hansen, I want to go back to the NSW Animal Welfare Action Plan. Obviously it needs to be very outcomes-focused and I was wondering if you could touch on what you want to achieve out of that and what some of the goals are in that plan that you think the department and the Government need to achieve through that plan?

Mr HANSEN: Thank you for the question. There were six goals outlined by the Minister when the plan was outlined. We have spent a lot of time here talking about the modernising policy and legislation framework—implementing companion animal breeding practice reforms; improving effectiveness of compliance and enforcement efforts, which is another key topic for this Committee; ensuring sound research and scientific practices are used to develop policy and legislation; engaging with key stakeholders and ensuring all views are respected and considered in developing policy and legislation; and investing in our systems and processes to make sure we have best in class.

The Hon. SAM FARRAWAY: Part of the action plan is the Animal Welfare Advisory Council. Is that in place now or is that something that will be introduced under the plan?

Mr HANSEN: That is in place now, but it would be fair to say that under those six headings, in a couple of those areas, comes, "How do you put this all together in a more coherent fashion?". At the moment there are four pieces of legislation, but let us put the Crimes Act off to one side for the moment. There are three specific animal welfare pieces of legislation. Under those pieces of legislation sit the regulations. Under the regulations are various codes. In some cases they are national standards and guidelines and in other cases they are State-based codes. They then have various consultative groups, committees and bodies that provide advice on these specific activities within those codes, within those regulations.

I think everyone agrees that there could be a much simpler way in which to bring all this together. A lot of what we find ourselves needing to address is leaning on a link between an underpinning piece of legislative power, out through some regulation, back to some code that is in development, through to some advisory body and then to compliance officers in the field. A key piece of this reform is how we make this a more modern piece of legislation so that it is simpler for everyone to understand what needs to be delivered, how it needs to be delivered and what the expectations of both community and the Government are, in terms of legislative framework.

The Hon. SAM FARRAWAY: The expectation would be that the advisory council would work very closely to advance and progress the six goals of the sound of these reforms or under the welfare action plan?

Mr HANSEN: They will certainly be a key party in the consultation and helping frame up and provide advice to the Minister, with regards to the reforms. But there are so many heavily interested parties in these reforms that there will be numerous sources of advice and information being fed through. Obviously, the advisory committee will be one, but we expect that there will be numerous groups providing advice and helping shepherd through the question of how we make the most of this almost once-in-a-generation opportunity to reform these pieces of legislation.

The Hon. SAM FARRAWAY: The advisory council now—when does it expire? I suppose, the term, if you are saying it is in place now?

Ms ROBINSON: We have just reviewed the council structure. At the moment, actually, we have an expression of interest out for membership to a reinvigorated council, which will be very scientific-expert-based. That is the intent with the structure, moving forward, and then—being able to have reference groups on a needs basis come in under that council for specific issues that are related to different animal types.

The Hon. SAM FARRAWAY: How many members or participants are there on the council?

Ms ROBINSON: It is not set, at the moment. It will probably be about seven members with the chair included.

The Hon. MARK BANASIAK: Just going back to the Stock Welfare Panels, your evidence that you have given implies that they are not permanent panels—that they pop up when they need. Is that the case?

Mr HANSEN: That is correct. A Stock Welfare Panel is established to deal with a specific incident in a specific location. To be able to do that, we rely on assistance from local community members via the NSW Farmers Association, LLS, our staff, police, RSPCA—quite often very localised. They know the community. They know how to deal with the individuals. What we do is we stand them up. They deliver their outcomes. We do not automatically close them down once the case is closed. We leave them in abeyance but still there on our books as a Stock Welfare Panel, should we have to revisit or should we have to deal with a recurrent repeat offence.

The Hon. MARK BANASIAK: The submission states that the regulation states that the panels do not actually have to include a veterinary practitioner. It just says they "may" include, so it is not actually mandatory. Is there a view to maybe make it mandatory in future, as part of this review that you are going through?

Ms ROBINSON: Usually the LLS representative is a district veterinarian. In every case so far, we have had a vet on there. The regulation provides for us to bring in a private vet if it is the case that the LLS person is not a vet.

The Hon. MARK BANASIAK: There has been a lot of commentary on both sides of the fence in the submissions, some saying that the RSPCA needs more powers in terms of what they can and cannot do and, on the other side of the fence, some of them saying they need their wings clipped a little bit in terms of the powers that they have. Just for the clarity of the Committee, what powers do they have in terms of entering premises, comparing it to police powers? That is the parallel that has been drawn quite often. Do they have to abide by the same standards of evidence in terms of getting permission to go onto that land? Can you give us some clarity about that?

Ms ROBINSON: All of the inspectors under the Act have the powers that the Act provides them with. They have powers of entry onto properties if they suspect on reasonable grounds that there is a breach of the Act potentially occurring. They can enter houses only in very specific situations, if there is a really urgent issue. Otherwise, like everyone else, they need to get a warrant to enter houses. So they have the powers of entry to examine animals and can then also look at providing care to certain animals, which does include seizing animals. It can be getting vet treatment or providing food or water to those animals and, in some cases, if it is in their best interests and if they are cruel to be kept alive, euthanising them as well.

Mr HANSEN: When you run through the powers, they have the power to enter land for the purposes of exercising their powers under POCTAA, as just outlined.

The Hon. MARK BANASIAK: Is that based on evidence that there is harm being done to animals? Or is it just carte blanche permission to enter a property and find the evidence? There has been accusations that that is what they do. For the clarity of the Committee—

Ms ROBINSON: They need to suspect on reasonable grounds that there is a breach of the Act or the regulation occurring for them to be able to enter, except in some cases where there are trades codes where they can enter without needing reasonable grounds.

The Hon. MARK BANASIAK: Do they need to record that suspicion anywhere or report that suspicion anywhere before they enter the property? Or is it just, in their head, "I am suspicious"?

Mr WHITESIDE: There is a number of ways in which you can enter. Obviously, it has to have a certain threshold. You have to have a reasonable belief that these animal cruelty matters are present or need to be addressed. Obviously, you just cannot walk in. You have to tell them who you are, why you are there and that it is an offence not to comply. That is for the land. But you can also use consent and, generally, you use consent to go onto a property, or a search warrant. In terms of inspectors, we are under the Act. We have got the same powers that they have. I have not heard of such things, but I think we need to be careful about we have heard and what is actual fact. I just do not know.

An example of where the legislation differs—the only one I can think of in the Act—is that the police are covered in terms of body-worn devices on the property under the Surveillance Devices Act, whereby the RSPCA and AWL are not. That is something that, if we are looking for changes, ultimately may be discussed down the track. Because we rely heavily on joint investigations, that evidence that they glean or they record—as we know, the evidence you get from a photo or a video is much better than someone's recollection of what has taken place.

The Hon. EMMA HURST: Are the police able to install hidden cameras and things like that to gather evidence, whereas the RSPCA would never be able to get that? Is there a difference in that surveillance?

Mr WHITESIDE: I cannot speak to the RSPCA, but we would either do it through consent or through a warrant.

The Hon. EMMA HURST: And you are not sure if that is available to the RSPCA?

The Hon. MATTHEW MASON-COX: Hidden cameras?

The Hon. EMMA HURST: Surveillance through a warrant. Are they able to apply for a warrant for surveillance?

Mr HANSEN: Our experience has been, when you get to a level of inquiry or investigation that requires that form of covert operation, all of our agencies tend to fall back and rely on the advice, the training, the expertise and the powers from New South Wales police. At that point in time, we would normally lean into the powers and the expertise from New South Wales police, therefore bypassing the requirement of other individual agencies to be able to obtain it.

Mr WHITESIDE: It does not cover all offences. There has got to be a serious certain level. For an infringement offence, you cannot.

The Hon. EMMA HURST: To be able to get a warrant. Yes, of course.

The Hon. MARK BANASIAK: In the government submission, it talks about the ACOs having to be compliant with the Act in themselves. In that instance, the police would obviously be the principal investigator. As the principal investigator, in the last three years has there been any instances of either of the ACOs breaching the Act? What has been the result of those complaints and investigations?

Mr WHITESIDE: I cannot speak to those. I have no knowledge of it. We will take the question on notice and it will be directed to the RSPCA. In essence, they will be aware of any complaints that have been directed towards them. I just cannot speak to it, sorry.

The CHAIR: As far as you are aware and so we are absolutely clear, is there any power that the police have under the Prevention of Cruelty to Animals Act, or the Exhibited Animals Protection Act for that matter, which the RSPCA does not have?

Mr WHITESIDE: The only one that springs to mind is that body-worn video capability.

The CHAIR: Is it possible for the police to act on an anonymous complaint more so than what the RSPCA does?

Mr WHITESIDE: We are bound by the same level of—for want of a better word—reaction to what information that we have. It has to be assessed. Isolated, it is very difficult to investigate the matter on anonymous information.

The CHAIR: But the police would not automatically dismiss an informant because they are not willing to give their details?

Mr WHITESIDE: No. There is different levels of response to things. We definitely record what was told to us and then, depending if—it may be coupled with other information. We would encourage that person, obviously, to come forward and give that name because obviously that helps us with giving that evidence before the court. It may support, or otherwise, the matter before the court.

The Hon. MATTHEW MASON-COX: Mr Whiteside, if I might just start with you, I have just a couple of questions in relation to your opening statement. You raised the concern about penalties being adequate and offences being adequate in relation to the current regime. Could you expand on that?

Mr WHITESIDE: I think my outline, from memory, was supportive of any opportunity to review the penalties and powers in respect to the POCTAA. There are a number of matters that can be addressed through the process and I am hopeful that they will come out of this process here today. My opening comments were that I was supportive of any changes that may come as a result of the opportunity to review.

The Hon. MATTHEW MASON-COX: Are there any issues you want to put your finger on that perhaps you have seen through your experience that should be addressed in the context?

Mr WHITESIDE: I have touched on the body-worn video in terms of the RSPCA. In terms of Section 31 orders under POCTAA, which is an exclusion or a non-possession of animals or ownership of animals order that can be implemented from the courts. At the moment any breach of that offence is a fineable offence, about \$3,000, which I would like to review the deterrent factor in the public interest with respect that. There is difficulties in relation to investigating those matters in terms of checking on those that may be subject to orders.

You cannot look through walls to see if they have animals and you have no right to. We can knock on the door and ask them, but to have something in place, to have a system where we can check on those that are subject to those orders. In terms of the stock welfare panels, there are situations we are finding now that have become quite difficult. That is under section 24. Let us just say that on the stock welfare panel, for those who are not aware, is not just a matter of setting up a stock welfare panel and then charging onto a property and seizing animals. It is a significant process to go through and it has to be signed off by the secretary.

The Hon. MATTHEW MASON-COX: Could you provide us details of that just put that all into context?

Mr WHITESIDE: The stock welfare panel?

The Hon. MATTHEW MASON-COX: Yes. Not now, but to the Committee as a question on notice. The detail of the process in order to set up—

Mr WHITESIDE: That may be best answered by the DPI. I can do that but it is quite clear within the Act from section 24, P through to Q. With respect to that, currently there is a hinder provision. As I said before, I touched on that it is quite emotive in stock welfare panels and can become quite problematic in terms of operating to carry out the order. Again, with landholders and friends and neighbours becoming quite emotive, coupled with media attention at times. There is a provision to deal with it under section 18, from memory, which is a hinder provision, which personally I do not like seeing used. There is other ways we can resolve these matters without adding criminal charges to someone who is suffering under such circumstances in terms of putting them before a court for a hinder process

The Hon. MATTHEW MASON-COX: What would be your suggestion in that regard?

Mr WHITESIDE: I would like to see that there be provisions similar to that in LEPR with crime scene powers with the ability to exclude people from the property so that the function to be carried out. The reason being is that some of the time these matters go over a period of days. There may be firearms on the property that we may or may not know about. The situation can escalate so we have to go back into a further risk assessment the following day. It becomes problematic. I am not that saying someone should not be there, independent or observing being present, there is no issue with that. It is just when it becomes problematic I would rather see someone excluded as opposed to being prosecuted for that matter.

The Hon. WALT SECORD: I would like to pose a question to Mr Christie. As part of investigations of animal cruelty, how many instances of biosecurity or food tampering would DPI be involved in investigating? Or am I directing it to the wrong person?

Mr CHRISTIE: No. There is a number of those in both the biosecurity and food safety area. There are a number of biosecurity and food safety issues that we investigate. If there are animal welfare issues involved in those things, we involve the RSPCA the same time. I will take on notice the actual number of both of those. Happy to do so.

The Hon. WALT SECORD: I know this inquiry is about animal cruelty but is DPI aware or has investigated incidents where so-called animal rights activists have contaminated or been involved in biosecurity issues?

Mr CHRISTIE: Certainly, when animal rights activists have been on the property, we work together with the police and RSPCA to determine whether there has been any biosecurity risks there. We are certainly encouraging farmers and others to have biosecurity plans so it is very clear to anybody who comes onto the property what is required to be done.

The Hon. WALT SECORD: Twice in your evidence today you have referred to a review of the current regime: review, reform, modernise the Act. At one point you described it as a once in a generation opportunity. You cannot just tantalise us like that. You cannot simply say, "A once in a generation review of the Act" and then not say what you are looking at, or what consideration is underway. It would affect the deliberations of the Committee.

Mr HANSEN: I certainly hope the deliberations of this Committee provide us with some increased framework around the areas we should be making sure we delve into and open up. As will find most the legislation, the moment you start to unpick one thread it has consequential impacts on others. When I say significant reform, we mean significant reform. We do not think you can unpick one thread without having to look at all the legislation. The fact that the Act aims to prevent cruelty rather than to enhance or increase welfare sets us off on almost an adversarial footing right from the very start.

We know from our close working relationship with a number of NGOs, with a number of industry groups that everyone has been accumulating over many years, areas and pieces that they see we could make improvements in, that we could enhance or we could adjust. A key part for us though is that it is always as much about the journey as the outcome in terms of bringing all those groups with you, in terms of looking at what we are trying to achieve. How do we go about best doing that? What is the best combination of compliance tools available to us, scientific tools and legislative tools available to achieve the outcome. The easiest way would be to say that at the moment we do not have expectation or belief that anything is off the table, it is more that everything is on the table.

The CHAIR: Therefore, in this inquiry or revisiting the space, it is a once in a generation experience, will it be considered, as has come through many submissions, for there to be an independent officer of animal welfare? Will the department be looking at that issue?

Mr HANSEN: Obviously the structural arrangements there for the delivery of the Act will be a key part of the deliberations of Government in terms of how do you set this up to be delivered. As I said, I do not think anything is off the table.

The CHAIR: So it will be considered?

Mr HANSEN: Yes, from what I understand.

The Hon. WALT SECORD: My final question is: One of the Acts you referred to was the Exhibited Animals Protection Act. From memory there are about 40 councils in Australia that have bans on exhibited animal circuses. What is the New South Wales DPI's response to circuses that have exhibited animals and is any work being done in this area? Exotic animals in circuses.

Ms ROBINSON: The Exhibited Animals Protection Act and the Animal Research Act are included in the reform piece. The three bits of legislation across the board will be getting looked at. Under the Exhibited Animal Protection Act we have standards and there are standards particularly for circuses. They are licensed and get audited. Those standards are specific to circuses as well as general standards. I am not sure whether you are aware that there is an upcoming inquiry in regard to exotic animals in circuses so we will be considering that when that comes along.

The Hon. WALT SECORD: I was throwing it out there to see what I would get.

The Hon. MARK BANASIAK: Does the Animal Welfare Advisory Council still exist? It was around a few years ago but will it seem to have petered out.

Ms ROBINSON: That is what we were speaking to before with the advisory council. There is an expression of interest out at the moment to have a look at membership for that and new members for that. That is underway at the moment.

Mr HANSEN: But the Chair remains in place.

The Hon. MARK BANASIAK: The Government's submission goes through the statistics of both the two ACOs and the Animal Welfare League seems to pale in comparison in terms of the role that they play. Is that just a human capital issue from their end or is it a case that the RSPCA have marketed themselves better as a charity and as an inspectorate of animal welfare? I am looking to see whether if they had more troops on the ground, would they be able to pick up some of the slack? It seems RSPCA is doing the lion's share of the work.

Mr HANSEN: These are good questions to ask Animal Welfare League when you see them later today. It has traditionally been a case of where have the resources been, therefore where can the footprint be, therefore how much activity can be undertaken by each of the two groups. That being said, you can see from the investment that the Animal Welfare League has made into some of their infrastructure, some of their equipment, some of their footprint around the State in terms of where they are putting people now, they obviously have plans about what further things they can be doing. I am sure they will be able to talk further to you about it when they are here.

The Hon. EMMA HURST: When there is a problem with the conduct of the police force, if somebody has a concern, there is a formal system they can make a complaint through such as the Law Enforcement Conduct Commission. Does the Government have any response in regard to the criticisms we have received that the RSPCA and the Animal Welfare League are subject to far less scrutiny? That they are not subject to a Government Information (Public Access) Act [GIPAA], they do not have to appear at budget estimate hearings, they are not subject to administrative review and so on. You probably will have seen some of those criticisms in the submission, Mr Hansen. Do you have any thoughts or response around it?

Mr HANSEN: Only that this is obviously an area that is ripe for recommendations from this Committee and for the reform process to look at.

The Hon. EMMA HURST: Do you know if that is on the agenda for the reform process?

Mr HANSEN: I do not know what is off the table for the reform process because at the moment we rely on the RSPCA's desire to comply with any GIPA requests that come through. There is no legal obligation on them to do so. I think their evidence will be that they voluntarily try to do that whenever they do receive a GIPA request.

The CHAIR: Just for clarification there, the RSPCA's submission states that they are required to respond to a GIPA in relation to the Inspectorate because it is appointed by the Government.

Mr HANSEN: In terms of providing information that is required under the act, yes. But in terms of the broader RSPCA receiving GIPAs and having to respond, no. So we rely on their goodwill in that case. I think that is an area that is open for looking at. So what is best practice for this space? What should we be looking for

for increased transparency and increased reporting? At the moment it requires them to make reports at the end of years. Is the right information being reported at the end of the financial year in terms of provision to Parliament and the tabling of reports there? Are we getting the right information? Is it coming in a timely fashion? All of that is well and truly open for consideration under the reform process.

The Hon. MATTHEW MASON-COX: Mr Whiteside, in relation to the memorandum of understanding [MOU] you mentioned you have with the RSPCA et cetera, have you provided a copy of that to the Committee? I did not see it but would you be able to provide a copy of that to the Committee?

Mr WHITESIDE: I will take that question on notice and I will check the legalities of that but it is available, yes.

The Hon. MATTHEW MASON-COX: That would be great. That would be excellent. I was also wondering, with the relationship with the RSPCA et cetera. It seems to be a pretty close working relationship. Do you have training that you do for them or do they do training for you, your officers, in relation to animal welfare? The use of inspection powers and the like?

Mr WHITESIDE: As I outlined before, they had travelled to a lot of the police districts and police area commands in the last 12 months. I cannot give a number on that. I think it was six or seven. There was an open invitation to Police Area Commands and they have their educational component and they have been out to deliver those educational packages, mainly aimed at first responders and issues in terms of responding to animal cruelty complaints, animal cruelty and domestic violence matters. But also—as I touched on there—with the Rural Crime Prevention team which was set up two years ago, we now have a predominant focus on rural crime issues which also takes in animal welfare issues.

Our team is increasing again but to help us and to help us address rural crime and animal welfare issues throughout the State, as I touched on, we have the RSPCA with other external agencies come to our rural crime workshops where they give a detailed overview of their role—the powers et cetera—to enhance the capability of those first responders. In the last two years we have conducted, at a guess, around 20 of those workshops and trained approximately 400 first responding police, whether that be the local uniform officer in a one-man station in remote New South Wales, through to detectives and prosecutors to help us in that process.

The Hon. WALT SECORD: Detective Whiteside, when you talk about rural crime, how much of it is actually investigation of animal cruelty versus stock theft? Can we delve down a bit into that?

Mr WHITESIDE: The definition of rural crime is an incident or a crime that impacts on the function of the agricultural, pastoral and aquacultural industries. There is a bit of crossover in terms of the crimes we investigate. Traditionally people think that is just stock theft. However it is not. It is illegal hunting and trespassing which can crossover into animal cruelty in terms of the methods used to kill the animals. It can also cover biosecurity issues, diesel theft, water theft, and—you have probably seen recently in the media—a significant amount of hay related fodder frauds that have been investigated by our team. In saying that, the Rural Crime Prevention team do not do every rural crime. That is why we enhance the capabilities of the uniform police and other police to respond to those crimes. Complaints of animal cruelty are not just confined to the rural industries. As I outlined in my opening statement, it is quite significant on companion animals whether that be domestic violence or other matters.

The Hon. WALT SECORD: For RSPCA and Animal Welfare League investigations, are there parts of the State where they do not have reach and it is your responsibility? Or do they have reach for the entire State?

Mr WHITESIDE: They cover the whole State. I think from open source documents they have got 32 inspectors. Therefore we have a much more significant number in terms of police officers that can enforce the Prevention of Cruelty to Animals Act. So we do cover those areas but likewise they do cover us also when we cannot make it.

The CHAIR: Mr Hansen, as the NSW Department of Primary Industries is revisiting this whole issue of animal protection under various legislation, does the DPI not have a problem that they have to revisit? Unlike a department of local government or the police, the DPI is also responsible or also takes on as part of its responsibilities to support and uphold the interests of large animal use enterprises. If this same department is now going to turn its mind and revisit animal protection, can you not see that this is going to present quite a serious problem for your department?

Mr HANSEN: I know there will be those who see this as a conflict. But I think there is also a large body of evidence that says that this is actually complementary. You cannot actually help progress agricultural industries without helping progress animal welfare outcomes. They need to go hand-in-hand. They cannot be separated. If you look across all jurisdictions, you will find that is the way it has been approached. Looking at the

most recent Victorian Parliamentary inquiry into animal welfare, last week their report says they have looked at this issue themselves with Agriculture Victoria and the animal welfare compliance and legislation within the State of Victoria and they also see it is a complementary and not conflict issue that needs to be addressed.

The CHAIR: I think they would be quite a few people who would disagree.

Mr HANSEN: I am sure there are.

The CHAIR: Is that question going to be looked at in this revisitation of the animal protection legislation?

Mr HANSEN: That will be a question for Parliament.

The CHAIR: Good.

The Hon. MARK BANASIAK: Just quickly Mr Hansen, have there been any other applications by any other charities to become an Animal Control Officer [ACO]? We are going to hear witness statements from another charity that claims to be the leading organisation for animal rights and I am wondering that if they are the leading organisation for animal rights, one would imagine, that they have put in a submission to become one of these ACOs.

Mr HANSEN: If I answer really quickly and say not that I am aware of, can I make another comment as well?

The CHAIR: Take it on notice?

Mr HANSEN: I know a lot of what we have focused on here has been the compliance end and how you get to the compliance end. I thought I might just point to the fact that so much of the work that we do, so much of the work that NSW Police does, so much of the work that the RSPCA and the Animal Welfare League do—in fact the vast majority of what the RSPCA and the Animal Welfare League do—is actually avoiding arriving at the need for compliance by getting self compliance through education, training, awareness, all the way up. We mentioned before about stock welfare panels. They are a great case in point.

More than 50 percent of the stock welfare panels we have had formed in this last year, never progress going past getting a group of experts in a room to sit down with a local producer and help them understand what the nutritional requirements are for the animals they are meant to be keeping, giving them that advice and holding their hand and helping them rectify that situation. That is a great story but does not hit the trigger of, is it a compliance activity or is it a compliance stat? Even when we do reach that, we have had one case recently that was 440 days of working with that family to try and resolve before it reached that. This included over 50 visits from agencies to try to assist. I would flag the fact that while we have dealt predominantly here with the actual compliance and enforcement, so much of the work of the agencies actually goes well before that, in terms of trying to alleviate and avoid the actions that result in us needing to use those legislative powers that we have.

The CHAIR: The prevention of cruelty. Thank you very much for your input. It was much appreciated.

The Hon. MATTHEW MASON-COX: Questions on notice?

The CHAIR: So we have questions on notice and you have 21 days to respond.

The Hon. MATTHEW MASON-COX: Can I just add one other very quick one on notice?

The CHAIR: Yes.

The Hon. MATTHEW MASON-COX: Just the MOU between the department and the Animal Welfare League and the RSPCA. Can I add that as well?

The CHAIR: Yes. Very good.

(The witnesses withdrew.)

(Short adjournment)

NICHOLA DONOVAN, President, Lawyers for Animals, before the Committee via teleconference, affirmed and examined

The CHAIR: Do you want to make a short opening statement?

Ms DONOVAN: Yes, I would. I have not prepared a written statement, however, I just want to talk about the reasons why this inquiry is very important to me and Lawyers for Animals who I represent today. The topic of animal cruelty law enforcement has been a topic of great interest to Lawyers for Animals since its inception in 2005, exactly 15 years ago. It became even more important from about 2007 onward as we established ourselves and came to be working very closely with people who were reporting to us and also perhaps coincidentally encountering acts of cruelty in the community and then attempting to report those to the relevant agencies, to be investigated and hopefully prosecuted and especially to see the animals alleviated from suffering.

Our experience was that although I do not wish to blame the charities that undertake the enforcement of most animal cruelty laws in both your State and my home State, which is Victoria, for being unable to adequately enforce laws—because I am aware that they would not be working in this field without the very strongest and best intentions of caring for animals—the only blame that I could impart comes more recently after the example set by the ASPCA in New York that voluntarily relinquished its inspectorate powers having realised that they too were suffering the same kinds of problems that the charities suffer in Australia. These are quite complex and legion. I hope to go through a few of them and discuss them with you today in my evidence.

I just wanted to say at the outset we do not blame them but we did encounter ineptitude and almost self-deception in terms of the reasons given for why apparent acts of cruelty were not investigated or followed up. I could perhaps refer to some of my own personal examples of this if you wanted me to but I do not want to take up a lot of my time in the opening statement referring to those. I will just mention that basically that is why I believe the niche charities are ineffective in providing the service of animal cruelty law enforcement and why Lawyers for Animals has come to believe that it would have to be a separate and separately resourced unit within the police department that would be best able to undertake law enforcement. We say that, having considered the idea of a separate government agency, however independent, undertaking that enforcement.

Our experience as lawyers with police, although we do not all have the perfect ideal relationship with police we do have a mutual respect for their ability to uphold the rule of law and the focus on that rule of law. We do not think that agencies that do not deal in the law at the coalface continually every day, as police do, do have the same focus or interest in upholding the rule of law. Again we have many examples of this. In Victoria, unlike New South Wales, in what is known as Agriculture Victoria, an office within a department for specific different regions—I think it changes its name regularly—Agriculture Victoria is one of the appointed inspectors under the Prevention of Cruelty to Animals Act. Under a memorandum of understanding with RSPCA Victoria they undertake the vast majority of investigation and animal cruelty enforcement for farm animals. Unfortunately their investigation and prosecution of animal cruelty cases is, to put it lightly, minimal.

I did a comparative analysis last night which showed me the current prosecution rate. They undertake on average 9.8 prosecutions per year, although they also say there are roughly 22.1 million animals raised on farms in Victoria. It seems an incredibly low prosecution rate. They also only undertake under 20,000 inquiries into animal cruelty investigations but even if 1,000 inquiries resulted in 9.8 prosecutions that is an incredibly low translation rate. We do not know how many inquiries overall or complaints they received because they do not state that publicly.

The CHAIR: Thank you very much. We are going to have to wind up the initial statement there so we can move to questions. Are you aware of any memorandum of understanding between RSPCA NSW, Animal Welfare League NSW and the Department of Primary Industries where, at a given point, a prosecution is taken over by the DPI?

Ms DONOVAN: No, I am not aware of any such memorandum of understanding in New South Wales.

The Hon. EMMA HURST: As lawyers, do you think it is appropriate for a private charity to be responsible to actually fundraise from the public to be able to enforce criminal law and, if not, can you please give us your key concerns with this arrangement?

Ms DONOVAN: Thank you. Yes, at Lawyers for Animals we think it is highly inappropriate for law enforcement to be provided based on charitable fundraising. We only have to point to the idea of our State police forces being required to raise charitable funds to cover around two-thirds of their own law enforcement budget to realise how ludicrous this would be. We do not ask The Salvation Army, The Smith Family or St Vincent de Paul

to undertake any kind of criminal law enforcement. Yes, we just think it is absolutely inappropriate. The chronic underfunding of RSPCA has certainly contributed to it not being able to undertake sufficient enforcement.

The Hon. EMMA HURST: Do you believe that the New South Wales Government should be responsible for fully funding the enforcement of the Protection of Cruelty to Animals Act?

Ms DONOVAN: Yes, we absolutely do believe that. However, we do not believe that even the full funding of enforcement, if it were undertaken by a non-government agency such as one of the existing charities with responsibility, would ensure that the rule of law is appropriately upheld.

The Hon. EMMA HURST: What do you think would be a better model of enforcement of POCTAA?

Ms DONOVAN: At Lawyers for Animals we have long thought that what we would call the police model of law enforcement is ideal. But, in particular, the New York experience in 2014 where the New York City Police Department [NYPD] formed a unit of its own called the Animal Cruelty Investigation Squad which, at the behest of the American Society for the Prevention of Cruelty to Animals [ASPCA], formed a partnership with the ASPCA whereby the police undertook—

The CHAIR: I am sorry about that strange noise coming through. Are you still there?

Ms DONOVAN: Yes, I am still here. The New York model is also known as the police model, which I understand is now also a similar model to be adopted in Ontario, Canada. They have something somewhat similar in the Netherlands as well operating quite successfully there, although not in relation to farm animals. I would like to see this law remaindered for all animal cruelty enforcement.

The CHAIR: We have heard evidence that if such an approach was made by the New South Wales Government there would be a loss, and that would be the use of the resources of the RSPCA. The police as well as the Government have both stated that they would be concerned that the RSPCA would not be there as a fundamental resource for them if they were to look at animal cruelty matters. But you are referring to the experience in New York. Can you clarify how that eventuated and how the enforcement aspect in the police and the ASPCA over there were able to continue to work together?

Ms DONOVAN: Yes, I can refer to the amount of detail that I have been able to extract, which is only from 2016 when we became aware of this model. We got in touch with the ASPCA and we also consulted the ALDF, the Animal Legal Defense Fund, just to confirm that everything we were hearing from the ASPCA was, in fact, true and correct and that they were achieving fantastic results through their partnership with the NYPD. The ASPCA in New York I understand initiated the transition from charitable enforcement to a police model. Perhaps in doing so that was part of the—well, not that it would have to initiate it—but in doing so it was able to reach agreement with the NYPD on a pilot program first being undertaken, which I think is a very good idea to test the model and to tweak any changes that need to be undertaken for staffing. But it basically agreed that it would continue to provide full backup in terms of animal care, veterinary care and forensic expertise required for prosecution.

The CHAIR: Thank you very much for that.

The Hon. MARK BANASIAK: Given that you did not give a written submission, can you provide a bit of clarity about your association in terms of what it actually does? Are you similar to the Animal Defenders Office that we have in New South Wales? Are you just lawyers who like animals? Do you represent animals in court? What activities does your association undertake on a regular basis?

Ms DONOVAN: Sure. Look, I apologise for not having provided a submission.

The Hon. MARK BANASIAK: No need to apologise. Just for clarity in terms of your association.

Ms DONOVAN: I just wanted to ask permission to be able to submit the draft submission. I currently have five pages before me—actually I think it is longer than that. We do intend to provide that before the inquiry wraps up. However, certainly let me introduce us. We are a not-for-profit association. We are not currently a community legal centre like the Animal Defenders Office of New South Wales or ACT, so we do not actually have the legal indemnity insurance to undertake our own cases. However, we have partnered with a community legal service in Victoria, the Fitzroy Legal Service, in order to provide our volunteers and our members to run an animal law clinic where we give free legal advice to anyone who seeks advice and appears to have common interests with the animals involved in the animal-law related space. We have been running that clinic since 2013. We have accreted some knowledge there. We are an entirely volunteer-run organisation. I think we have members in every State and Territory of Australia. However, our executive is based in Melbourne and we tend to have, therefore, more of a focus, understanding and experience in Victoria.

The Hon. MARK BANASIAK: Do you have a rough membership number in terms of your association? Do you hold memberships? How does that structure work?

Ms DONOVAN: We do hold memberships and as an association we report annually to Consumer Affairs Victoria. Our membership number at the moment—put it this way, we have financial members who renew every year and that membership number is reasonably low; I think it is around 50 at last count—it could be a little higher; it could be between 50 and 70. But because we have had members from the past 16 years that we have been operating, most of whom remain on our mailing list, our mailing list is significantly larger—probably in the order of 250 to 300, mostly lawyers. Some people join our association as law students also and work as volunteers. We have a current executive numbering 13, who are all admitted lawyers.

The Hon. MARK BANASIAK: Just one more question. One of your recommendations is, I guess, the police model. Have you done any work up or studies into how much police would be needed? We know at the moment the RSPCA have about 32 inspectors, the Animal Welfare League has four, and there have been arguments to say that that is not enough. We know that the police are already understaffed as it is and they are struggling to find police to man stations. Have you done any work up in terms of what figures would be needed for this specialist police unit?

Ms DONOVAN: We have not done any work up on what the numbers would be in New South Wales, or Victoria for that matter. We have been trying to obtain through all sorts of means, including a former freedom of information request, through the NYPD in New York, some understanding of the size of their unit and then hoping to be able to roughly extrapolate that to the population of our particular State, but we have not as yet received that information. I did suggest in my request that they might send the information directly to the inquiry or were comfortable about giving it to an animal advocacy group, but I assume that they have not done so. I would suggest that the inquiry attempt to make contact, if they have not done so already, with the NYPD to request this kind of information that we have not been able to acquire.

Do we think that there would need to be more competence in the RSPCA than they currently have? We assume that there would need to be more; however, we do not know exactly how many. We believe that there is likely to be enormous efficiency gained through the use of a police department, and the expertise, all of the networking and expertise that a police department would bring to the prosecution and/or investigation, would probably lead to a large efficiency gain.

The CHAIR: Could I just ask a question there? Is one of the advantages by the police being the main enforcement agency that they have access to a lot of data on any person who may come to their attention, where the RSPCA and the Animal Welfare League does not?

Ms DONOVAN: Yes, and this has been highlighted in research from Canada, which led to the recent changes in Ontario, that it is a huge failing in the current system that the RSPCA officers are effectively going in blind at times because they do not have access to the kinds of very private and guarded police databases about past offenders and also the firearms licensing existing with members of the public and all this sort of information. We have had truthful experiences in Victoria partly as a result of the RSPCA not wishing to enter premises without police backup, and also in relation to the safety of the RSPCA officers in Victoria. In one case one inspector was killed. They do not have weapons training, they do not carry weapons, they just simply lack the security that should be required or is required for a job like this. We have always wanted to pick up the major issue of labour rights. This will be an ongoing and increasing issue of putting people at risk in their employment.

The CHAIR: Thank you very much for that. I will hand you over now to the Hon. Walt Secord.

Ms DONOVAN: Sorry, just to complete my answer to the previous question about resourcing in New South Wales in particular. We had an approach from one police officer in New South Wales who mentioned that there were quite a number of police who were currently not deemed fit to serve in the force. She described them as being older police who were not necessarily able to pass the very high requirement of business training to undertake work in the field and yet who were not yet at the point where retirement could be considered and that there was an issue with trying to find suitable employment for that number of people and we saw a potential to utilise that reserve of police who are, I understand, not currently being used—sort of critically high fitness levels required.

The CHAIR: But still employed by the police service. Is that right?

Ms DONOVAN: Yes, still employed by the police service.

The CHAIR: We will probably have to leave it there and move on to Mr Secord.

The Hon. WALT SECORD: I still have not settled my views and it will probably evolve during the parliamentary inquiry, but it has been put to me that if you have the RSPCA, Animal Welfare League and the

police—three bodies—looking at animal cruelty, you have a wider scope, more chances of investigations occurring. What do you say to that argument?

Ms DONOVAN: That our experience is that it has been anything but the case and that, in fact, if you made a phone call to the police to report animal cruelty, at least in Victoria, unless it was the direst emergency—and I do not know exactly how to explain that—there are very few cases. I have never had an experience where I have been able to get the police to attend or respond to an incident of animal cruelty because there is always the option, which they use frequently, of referring people to the RSPCA. So if you ring the police in Victoria and report an animal cruelty offence you will immediately be told that there is no point reporting anything to them and that you need to hang up and call the RSPCA. I think that is what happens in New South Wales a lot of the time too.

The Hon. WALT SECORD: Are you not then, in fact, unpicking your own argument where police resources are stretched beyond belief, are stretched to breaking point, and therefore they are saying "Yes animal cruelty is disgusting, it is horrible; however we have other things to do and can you please refer it to the RSPCA or the AWL?" Are you not, in fact, unpicking your own argument with that argument?

Ms DONOVAN: I am sorry, your voice is not coming through very well on my telephone. I did not hear properly the whole question.

The Hon. WALT SECORD: Aren't you, in fact, unpicking your own argument by saying the police are saying, "Send it to the RSPCA or the AWL because we have limited resources. We are stretched to breaking point. We have efficiency issues." In fact, are you not actually getting coverage of animal cruelty issues because they are being referred to the AWL or the RSPCA? That is the argument that has been put to me during the break.

Ms DONOVAN: Okay. No. The rebuttal to that argument is simply that we are not suggesting that the functions of the RSPCA and the Animal Welfare League [AWL] be transferred to the NSW Police as a whole. We are very much recommending that a separate specialist unit be set up between the NSW Police—let us call it an animal protection unit, for example—and that this animal protection unit, being separately resourced with staff dedicated to undertaking animal cruelty law enforcement, would not have that constant issue which we encounter all the time whenever we ask for resources: Animals are good but humans must come first.

But humans not only come first but also second, third, fourth and fifth. There is no understanding of the overall benefit of always having some appropriate and adequate coverage of animal cruelty laws—not just for animals, but for humans as well. I think a separate unit would address that issue. As for police resourcing, yes, police resourcing would be a problem except that police resourcing comes from the State. It does not need to be raised by charities. It is likely that the police would also have or should have State indemnity, which the Territories do not have and which has been a major problem in Victoria.

The CHAIR: Thank you for that.

The Hon. WALT SECORD: I want to thank you for clarifying that. I pushed her back because I wanted her to distil what she was putting before us. I thank you for that.

The CHAIR: Thank you very much. Ms Abigail Boyd will ask a question.

Ms ABIGAIL BOYD: Ms Donovan, accepting the rather delicate way that you put it in your opening statement in relation to the facilities of the RSPCA and acknowledging, as you say, that they are in it for a particular reason and they are underfunded and all the rest of it, you mentioned that you have witnessed some ineptitude from the RSPCA. Are you able to elaborate on what you mean by that and perhaps give some examples?

Ms DONOVAN: When I mention ineptitude I am referring to situations where I think the employees of the RSPCA are placed in an untenable position. They are being asked to respond to cases—in particular, I am referring to telephone reporting, which is people who receive the initial complaint by telephone. All complaints should be taken online or by email. In order to undertake any degree of work and in order to maintain some functions they have to reject a large number of those complaints. In order to reject the complaints they often, whether consciously or subconsciously, make up excuses.

The best example I could give of this is when I chanced upon a dog that had broken its back after falling a large distance from the balcony that was overhanging a cliff in metropolitan Melbourne by the river. I found this dog and I took it to the vet immediately and they eventually, or perhaps shortly there after, they managed to contact the owner—one of their associated vet clinics had treated the dog—and then they got permission to put the dog down. But that dog had been lying in that position for I do not know how long before I chanced upon it in quite heavy bushland. When I reported it to the RSPCA I asked them to at least visit the property where I believed there was someone suffering from mental illness who had perhaps lifted the small dog over the balcony rail. At that stage I had been inside the property. I had met the residents. I had seen the ill individual. I had looked at the

balcony rail. The dog in question was a pug. It was a very old pug. It could not possibly have jumped the 1.2 metres over the balcony rail.

I explained all this. I took photos of the balcony. I sent this to the RSPCA to support my complaint and the telephone recipient of my complaint explained that they probably would not have the resources to send anyone out and repeatedly stated that it sounded like the dog had accidentally fallen from the balcony and therefore there was no cruelty. Then he had it explained three times that it was not possible for the dog to either fit through the rails; the gap between them was half the size of the dog. It is just these kind of small, very small matters like this.

Another example is when the RSPCA investigated the case of the cockatoo that was locked in a very small cage inside an exhaust workshop in north Melbourne. They agreed with all of my contentions that the cage did not meet the requirements under the various laws and codes of practice and in fact that this cockatoo was being held in abject cruelty. But they also state, and I have written confirmation of this, that the RSPCA would not, even though they had approached the owner and we had approached the owner and offered them an aviary where this bird could be taken—a new home, long term, free of charge—the owner had refused point blank to do anything to fix the bird's situation.

The CHAIR: Is your evidence that because the RSPCA is just overwhelmed with so many complaints they have to filter them to such an extent that probably some cases have been neglected to be investigated because of that very factor?

Ms DONOVAN: Yes, but it is not only to do with their lack of resourcing. I point out—and my last example was to try to explain this further—we got an official response stating that the reason they would not be taking the matter further, or protecting that particular bird by prosecuting the offending owner, was that they did not have the resources to enable them to undertake the prosecution unless, in their words—not the words but the effect of them as I do not have the letter before me—in cases where the public would be outraged to learn of such cruelty taking place. They had imposed their own standard that was completely outside the standard set by the Prevention of Cruelty to Animals Act to decide when a case should be brought to prosecution. It was a much higher standard, obviously, to require the owner and a totally subjective standard on their part to determine what would outrage the members of the public, were they to learn of the act of cruelty being undertaken.

The CHAIR: I just have to hold you there because Mr Veitch would like to ask a question in clarification.

The Hon. MICK VEITCH: This is just a point of clarification. Those examples you have just provided to the Committee are based on your experience in Victoria. Essentially, what you are saying is, though, that that would be, in your view, a similar situation in New South Wales.

Ms DONOVAN: Yes, and from reports that I have received in New South Wales. Also, Lawyers for Animals undertook a particular small project in 2010, probably, in relation to a New South Wales case where a man had killed a horse with a hammer and dragged it behind a vehicle while it was not standing. The RSPCA had prosecuted in that case but had an outcome at the District Court level which resulted in a mere bond. We requested that the RSPCA undertake an appeal against sentence in that case. We were met with, yes—a sort of filtering response—that they would like to but they do not have the resources to enable them to undertake any kind of appeal.

The CHAIR: Thanks for that. Ms Hurst will now ask you a question. We are starting to run out of time.

The Hon. EMMA HURST: It sounds like you are talking a lot about the RSPCA not having enough resources. We were talking about the potential to have an animal cop area of the NSW Police Force. Essentially, does this all come down to the fact that the Government here in New South Wales—I am talking specifically about New South Wales—is possibly not giving enough funding towards the Prevention of Cruelty to Animals Act and enforcing that criminal code? Wherever that money would go to ensure proper enforcement—whether to the RSPCA or to build a dedicated area of the NSW Police Force—at the end of the day, to deal with some of these cases you are talking about, essentially it all comes down to the fact that there is just not enough money going into enforcing these laws?

Ms DONOVAN: If that were the case and if it were only a question of resourcing, I do not think we would have seen the significant improvement in the enforcement of animal cruelty laws in New York that we saw with the transition from the charitable model to a police model.

The Hon. EMMA HURST: Did the police not get an increase in funding when they took it on?

Ms DONOVAN: Again, apologies—I have not been able to extract that level of information, perhaps because we are not a government agency. I hope that you might have more luck, though. I expect that the monies that would otherwise be dedicated to funding the RSPCA in all of New South Wales would naturally be transferred

across to any separate unit of the NSW Police Force, so that would at least be an initial funding boost and resourcing for the unit. But I am not aware of how much more money—

The CHAIR: We will write to them and seek that information. Are there any other questions from members? There are no more questions from Committee members, and the bell is ringing. We will close this interview with you now. I appreciate you taking the time to give us this information.

Ms DONOVAN: Thank you for listening. I want to note that I will be sending through a submission in the next couple of days, I hope.

The CHAIR: That would be great. Thank you very much. No questions were taken on notice.

Ms DONOVAN: Thank you very much for the inquiry.

(The witness withdrew.)

SHATHA HAMADE, Legal Counsel, Animals Australia, before the Committee via teleconference, sworn and examined

GLENYS OOGJES, Chief Executive Officer, Animals Australia, before the Committee via teleconference, affirmed and examined

The CHAIR: Welcome to this inquiry. My name is Mark Pearson. I am the Chair of the Select Committee on Animal Cruelty Laws in New South Wales. I will help set up the scene for you. We are here in the Macquarie Room at the New South Wales Parliament. I have with me the other eight members of the Committee: the Hon. Lou Amato, the Hon. Mark Banasiak, Ms Abigail Boyd, the Hon. Sam Faraway, the Hon. Matthew Mason-Cox, the Hon. Walt Secord, the Hon. Mick Veitch and the Hon. Emma Hurst. Members of the public and the media are also present and the proceedings are being recorded by Hansard. Would either of you, or both of you, like to make a short opening statement?

Ms OOGJES: I would, thank you, Mr Pearson. Animals Australia welcomes this inquiry and its examination of animal welfare standards and compliance, and appreciates this further opportunity to provide input to the inquiry. Mr Chair, we need to look no further than the current bushfire crisis to see the depth of feeling in our community, the importance of assisting the vulnerable—whether they be people, animals or, indeed, our remnant natural environment, all caught in the path of these unprecedented fires. Like other charities, we have been overwhelmed by the support pouring in to assist the rescue and recovery.

It is, therefore, when people see suffering they want to relieve it. The Prevention of Cruelty to Animal Act in New South Wales and the framework it provides to protect animals from cruelty has been in place for decades, as you know. It is crucial that we consider whether it is still fit for purpose—that is, to prevent cruelty and promote animal welfare to protect vulnerable animals from pain and suffering. That is the contract and that is the expectation our community has of this important piece of legislation. We have two primary concerns, which I will indicate briefly, in regards to the effectiveness of the POCTAA, as we call it in New South Wales.

First, the current animal welfare laws are inadequate in themselves and, in particular, the Act does not treat all sentient animals equally before the law, with entire classes of animals remaining essentially unprotected from animal cruelty. The most significant example of this is the inadequate protection afforded to farmed animals, be compliant with voluntary agricultural codes of practice providing an exemption from the cruelty provisions of the Act—that is, section 34A. The adopted codes of practice provide only a minimum standard and have, for decades since the 1980s, merely reflected the usual routine farming practices. Animal welfare science and community expectations have been largely ignored in those codes, regardless that they have moved on so much in those decades and thus this huge class of animals—farmed animals—have inadequate protection from cruel practices in New South Wales.

This exemption to the Act for farmed animals, as an example, provides and allows for practices that fall way below expected community standards, allowing for surgical procedures without pain relief and tight, restrictive confinement, such that almost all natural behaviour is impossible for an entire lifetime for some animals. Therefore, in our view, the Act is not fit for purpose for all animals. The second primary concern is the clear need for additional resources to enable adequate monitoring and enforcement of the existing animal welfare laws and regulations. That this task in New South Wales is largely left to two non-government organisations, primarily using charitable donations to fund the work, is, in our view, totally unacceptable and inadequate in our developed nation in 2020. Animals Australia stresses the importance of adequate government funding being allocated to enable the full investigation of animal cruelty complaints, regardless of the organisation tasked with enforcing the Act.

The provision of a sufficient number of animal cruelty inspectors and the resultant necessary prosecution costs should not be relying on charitable donations from the public. In conclusion, Animals Australia believes the Act itself, specifically the breadth of animals and animal-use activities it covers, must be reviewed and updated. We therefore recommend to the Committee the establishment of an independent office for animal welfare to assist with the support, improvement and oversight of enforcement activities to achieve the original and existing purposes of POCTAA. We note in this regard that the recent—and by that I mean October 2019—report from the New South Wales parliamentary inquiry into the use of battery cages for layer hens, stated as its first recommendation:

That the NSW Government establish an independent office of animal welfare, as a distinct authority, separate and independent from the NSW Department of Primary Industries, to be responsible for animal protection issues.

We commend this recommendation to this Committee and suggest that issues raised by us and other animal welfare advocates and submissions to this current inquiry, could be considered and advanced by the appointment

of such a body. The community expectation of a strong safety net for all in our care is, in our view, not currently being fulfilled and we seek the Committee's assistance to enable a robust process of reform by such an independent office of animal welfare. Thank you.

The CHAIR: Thank you very much, Ms Oogjes. Ms Hamade, do you have an opening statement?

Ms HAMADE: No, that was a collective statement.

The Hon. WALT SECORD: Thank you for your submission and introductory statement. I am Walt Secord from the Australian Labor Party. I want to note that we went to the 2019 State election with a policy of an independent office of animal welfare, so we welcome your recommendation. Putting that aside, are you critical of Animal Welfare League and the Royal Society for the Prevention of Cruelty to Animals or, is it the fact that you are critical of—in your view—the lack of investigation? Is it a criticism of those two bodies or is it a criticism of the regime that is in place?

Ms OOGJES: In our view, it is the latter. We are not here to criticise and we do not have a criticism of the two existing charitable organisations that are doing their best, we presume, to enforce compliance and to respond to the very many complaints that they get. Our view is that the Government should properly fund all authorities under the Act, such as the police and others, to undertake a more robust and broader approach to animal cruelty issues. We do not think that it is right that charities, and not even fully-funded charities, have to use too many donations in order to undertake those inspections and compliance activities and prosecutions.

The Hon. WALT SECORD: Thank you for clarifying. Just one more question before I move to my colleagues. How would you see an independent office of animal welfare working and who would you see it reporting to?

Ms OOGJES: In our submission we have gone some way towards answering that, indicating the sort of things that would do. Just to answer the last part of your question first, we believe an independent office should be lodged in a department that does not have any perceived or other conflict of interest. We believe that the Department of Primary Industries in New South Wales—similarly in other States—has conflicting priorities, so we do not believe that it should be there. We would expect that it should be under an independent department, such as the auditor's department, the Premier's department—a department such as that.

The Hon. WALT SECORD: Can you point to any other international jurisdictions that have what you would consider best practice?

Ms OOGJES: Not to our knowledge. There are certainly systems, such as in the United Kingdom and in Europe, where there are independent panels, particularly scientific panels, that assist in the process of providing independent, well-based recommendations to government. There are certainly some of the elements that we see in an independent office in other jurisdictions. We see this as a more broad-ranging office that would look at providing expert advice to government, but also facilitating, for example, the development setting of enforceable animal welfare standards based on scientific input and practical knowledge, and to be able to assist enforcement bodies across the board with increased training and readiness to inspect and to, where necessary, educate and sometimes prosecute. We are looking at it as a one-stop shop to be able to not only improve the review of standards, but also enforce those standards.

The CHAIR: Just for clarity, to elaborate there to an extent, since the proliferation of factory farming or intensive farming, where we have what one would call the "hidden animals", do you think that a review of whether charitable organisations with limited powers is now in question because so many animals are being kept together in a space where they cannot easily be seen, and yet still reflecting the provisions of the Act, which is protection for every individual animal?

Ms OOGJES: You are quite right, of course, that POCTAA sets out in its purpose to protect all individual animals. But as I indicated in our submission and also earlier, so many animals do not have sufficient protection. The standards that their owners are required to comply with relate to codes of practice that are not fit for purpose, meaning they have not changed over the years to properly reflect the scientifically known natural animal behaviours that are required. Yes, we are concerned that there are very many animals suffering. There is not an adequate inspection regime, routine or otherwise, to our knowledge, in the jurisdiction. So it is of real concern that there is not that oversight, and we believe that there needs to be a much greater compliance enforcement body in place.

The Hon. MARK BANASIAK: Just sticking with this independent authority, in your submission you state that it would be a New South Wales-based statutory authority, either in the Attorney General or Premier's department, but you would also have Commonwealth Government members there as well. I am just interested in

terms of how you think the lines of authority would work when you have got Federal Government members essentially being subservient to a State Premier.

Ms OOGJES: If that was the impression we gave, we do not really mean that.

The Hon. MARK BANASIAK: You explicitly said "Commonwealth Government members".

Ms OOGJES: There are certainly several things going on and there is, if you like, an incentive to have nationally consistent standards. And so that is where the Commonwealth Government would come in. As you probably are aware, they do not have constitutional authority, as such. But their input would be sought, I am quite sure.

The Hon. MARK BANASIAK: Who was the author of this submission? Was it you or was it a joint submission? In one of the footnotes you reference the author in relation to code reviews. I am just wondering who; it is a bit of an unusual reference. It is a bit like referencing talking to a mate down at the pub, if there is no background to it.

Ms OOGJES: My apologies for that confusion. That is my note, if you like. Yes, we did it jointly but I wrote that section and it relates to my longstanding work towards the review of codes and standards, and legislation, for that matter. I have been involved in the animal welfare movement since the 1980s. I have been on animal welfare advisory committees, both Federal and State, throughout those decades, in fact. I have been around the table for the review of national standards which become, as you all know, the codes that each State takes up, or does not, as the case may be. So I have been involved around the table in the review of the transport standards, the cattle standards, the sheep standards, the poultry standards, the saleyard standards. I could list them all for you. What I can tell you is that those standards have not moved significantly—or, indeed, virtually at all—since they were introduced in the 1980s.

At that point of time, in the 1980s, they simply documented—and, indeed, animal welfare organisations in the very early '80s were not around the table. They simply documented the current way that things were done. That is, surgical mutilation without pain relief—the battery cage system, of course, was documented at the time—and that has been the case all the way along. Even in the 2000s when the more modern reviews were being undertaken with us around the table, even scientists around the table, it has been the farming industry in each case that has, if you like, said what they required. And because of the system in place right now, which is agricultural Ministers signing off on these codes and standards and guidelines, they have got their way. In other words, that is why there has been virtually no change in the standards. That is why there are gaps in the protection of animals when it comes to farm animals in our State legislation, including the New South Wales POCTAA.

The CHAIR: Just for clarification, are you saying that one of the reasons why is that it is the Department of Primary Industries or Agriculture in which the animal welfare portfolio sits?

Ms OOGJES: Yes. We are very concerned that that is the case because an agriculture Minister of State, and then when they collectively come together in what is called now the Agriculture Ministers' Forum [AGMIN]—the problem with that is that their constituents, the farming bodies that they are in place to assist and to assist to develop their industry, have a conflict with, sometimes, animal welfare, which of course can mean change in practice and it certainly should mean changes in practices. And there is a real reluctance on the part of, sometimes, the department as well, but certainly the Ministers, to give way to change. They may then get, if you like, backlash from those others that they try to represent in farming and other industries related to farming industries. There is a real conflict, which is why we are suggesting that an independent office of animal welfare is required and why it should be an independent department, or reporting to an independent Minister or Attorney General, as we suggested, or the Premier.

The Hon. MARK BANASIAK: You were fairly critical about the NSW Farmers and their involvement in getting a word changed in one of the codes and changing the word from "competency" to "having relevant knowledge, skills and experiences to complete a task". If you look at every definition of what competency means and you look at the Interpretations Act, it references that competency means having the knowledge, skills and experiences to do a complete task. I put it to you that, in that criticism, you are really splitting hairs in terms of that.

Ms OOGJES: Can I indicate to you that that is from sitting around the table, across the table, from those debates. It really was because the farming bodies, in this case NSW Farmers, were concerned that farmers may be judged incompetent. So, yes, a split of hairs if you like, but certainly it was, I think, a real reflection. To some extent, it demonstrates the concern that farmers—farming industry groups, at least, representing farmers—are really so concerned about anything at all changing. Competence was used in previous codes—that is, other species codes—and it was only when it got to particularly the sheep and cattle standards that this became an issue.

The Hon. EMMA HURST: You advocate for an independent office of animal welfare. We have got other submissions recommending that the model should move to an animal cops unit. I am wondering: What was the reason for your preference for an independent office of animal welfare? Is that just where you went, or do you actually have a specific preference for an independent of animal welfare?

Ms OOGJES: Sorry, Emma. You cut out there. What was the alternative suggestion? An animal—

The Hon. EMMA HURST: An animal cops unit, as a specific, designated area of the Police Force, was the other thing that has been suggested today.

Ms OOGJES: That suggestion is related to having police involved in a task force situation.

The Hon. EMMA HURST: Yes. Our last person that came in to give evidence was talking about—the best model, going forward, was to have the Police Force be the primary prosecutor and investigator for animal cruelty and for the Police Force to have a specific unit to investigate and prosecute animal cruelty, which is slightly different to an independent office of animal welfare. I was just curious as to whether you had looked at both models and if you had a preference for one over the other.

Ms OOGJES: Could I say, Emma, that we would be supportive of the police having such a task force. I will ask Shatha Hamade to speak to that in a moment because she has had experience of that. But I do not believe the two things are mutually exclusive, meaning that when we talk about an independent office of animal welfare, you will see in our submission it is quite broad ranging, including developing standards and helping with training and such things across the board. We would see the independent office of animal welfare sitting above all of those elements of review of standards, assisting with changes to legislation, reporting and training, as I said, and overseeing the compliance system. A police task force or the use of the police in any way—we would see that as just part of the whole. That is, part of the various agencies that would help with enforcement. Ms Hamade, would you like to speak to the value of having the police's experience involved?

Ms HAMADE: Certainly. The real-life case study of that was the creation of the Queensland task force to look into the greyhound racing industry in Queensland. That was the formation of a task force with police skills and experience that were then basically trained up and charged with looking after that particular portfolio. So with the full gamut of powers in terms of surveillance and enforcement except for us, and of course being backed by a government agency in that it not being reliant on charitable funds everything can be progressed on its merit on the facts rather than needing to worry about budget et cetera.

The Hon. EMMA HURST: With an independent Office of Animal Welfare created do you see the RSPCA and the Animal Welfare League continuing as an enforcement agency under POCTAA as well or would they still have a role to play in your idea of an independent office?

Ms OOGJES: Yes, we do believe so. We believe that there could be a number of different organisations or authorities, departments, for example, involved. And there would be benefit, for example, and I assume it is the same in New South Wales and Victoria Fisheries has a compliance arm. We see the plan when we set up animal welfare to ensure that there is good and consistent training of each of those agencies so that they can work in a consistent manner. They will have expertise in different areas. Of course, the police would be able to deal with things that are more along the criminal—that is organised crimes, gambling and such things—areas where the existing RSPCA and Animal Welfare League may have greater expertise in regard to domestic animal issues. I think they all have a role to play.

The Hon. WALT SECORD: I thank you for making a comprehensive submission. I know that there is widespread interest in the proceedings from *The Land*—for the benefit of The Nationals it is a publication that comes out on Thursdays. Do you have much engagement with The Nationals? I notice that on this Committee no questions have been asked by members of The Nationals to you about this matter? I will take those signs to be a support from your submission. Do you have any comments or any engagement with The Nationals?

Ms OOGJES: Not on a regular basis but that is no different to any other political parties if you like. We are a charity. We deal directly usually with the Department of Agriculture or the Ministers. It is not usual for us to have frequent contact with other MPs.

The Hon. WALT SECORD: In earlier evidence from the Department of Primary industries [DPI], they announced that the Minister is on the verge of announcing "a once-in-a-generation review of animal welfare" involving POCTAA, Exhibited Animals Protection Act, medical research and the Crimes Act. Will you be making submissions into that area because one of our areas of terms of reference is "and related matters"? If you were looking at other areas of animal welfare what would you be looking at?

Ms OOGJES: As I said, I am not exactly sure what department is predicting it is going to be talking about. We do know that the Federal Government, with the involvement of the States, is going to look at a

significant review of the way farm animals, codes of practice and standards and guidelines are reviewed. But I do not know a lot about that yet because it has not been announced. We will, as we have for some decades, be very keen to provide input to any such review. We would welcome a review because, as we have said, we do not believe that a lot of the New South Wales Act at the moment is fit-for-purpose and that is not dissimilar to the situation in other States. I am sorry I missed the last part of your question.

The Hon. WALT SECORD: I referred to the four areas. The director-general of the department actually said it was going to be a "once-in-a-generation review" of the four main streams: there was POCTAA, Exhibited Animals, medical research and the Crimes Act. He was promoting it as one of the biggest reviews coming up in animal welfare.

The CHAIR: I think it is making Glenys and I feel a little bit aged.

The Hon. WALT SECORD: That was the end of my questions.

The Hon. MARK BANASIAK: On page three of your submission you state that significant work is needed to raise animal care standards. On page one of your submission you state you have no direct insight into monitoring, reporting, investigating and prosecuting animal welfare in New South Wales. In the next sentence you contradict yourself when you state that the laws are inadequate. What do you base your assumption on that significant work is needed if you have no direct insight into how the laws are working in New South Wales?

Ms OOGJES: We are quite up-front and of course indicated that we do not have a direct insight into how it is happening. Indeed, we could say that in any State because it is very difficult to know what is going on, I have to say. But what we have said is that the Act itself, as I indicated, carves out whole classes of animals from its direct protection, that is, protection against cruelty as is in other sections of the Act. That is what we meant by that. I do not believe it is a contradiction.

The Hon. MARK BANASIAK: If we get this independent statutory authority up and it looks at all animals and no animals are cut out as you say, would Animals Australia be happy then to say that the laws are adequate? Is there further work that you think needs to be done? In terms of Animals Australia, what is your end goal in relation to animal laws?

Ms OOGJES: Obviously that is hypothetical to some extent because we do not know how extensive the changes to the Act would be but we certainly recommend changes to the Act. Having said that, once the Act was upgraded and presumably much better it will only be as good as the compliance, and therefore the education and activities of the authorities in order to ensure that people live up to that standard, that is, animal carers and owners live up to that standard. I think there is an awful lot of work to be done even once a full review of the Act has occurred. The other element too is to understand that in order for it to be fixed there are significant areas, such as currently covered by codes of practice in New South Wales, that has to be significantly changed.

The Hon. MARK BANASIAK: You say that great swathes of animals are not included. How far do you propose that we delve deep into it in terms of animals? Are we talking about every single animal? Are we talking fish, crustaceans, insects? How deep do we go in terms of the animals that we would include in this review of the Act?

Ms HAMADE: This comes down to the fact that what is present in sentient is an animal has the capacity to suffer, then that animal should be afforded protection. But this question that you raise is really a fundamental question and is what Glenys alluded to in the beginning about the fact that much of these regulations or codes have not moved much in many, many decades because of the inherent conflict of interest of those charged with administering them and developing them. So what we are saying is that we are now in 2020 and there needs to be an entire overhaul and modernisation of these laws. It is also about the principle of proportionality.

Back in the day, the sort of suffering that was inflicted on animals, particularly in husbandry, may have been deemed reasonable or acceptable because of lack of science and lack of resources. However, in 2020 the advances in science, the advances in community expectations and the availability of additional options for advanced husbandry are now readily available. And so the proportionality question now should not be about what maximises profitability, it is the suffering of the sentient animals necessary in the face of what we now have available to us in science and resources in order to mediate that suffering, keeping in mind that necessity should not be about maximising profit when you are dealing with sentients.

The Hon. WALT SECORD: I have a question about sentient creatures because I have grappled with this. When it comes to animal protection in the animal kingdom, how far down do you go on sentient creatures. The Hon. Mark Banasiak asked about insects. How far do animal rights go down in your organisation? Do they go down to mosquitoes, ants?

Ms OOGJES: We have to take a practical approach to this but we also follow the science. Where sentience—that is the ability to feel, to suffer—can be reasonably shown, meaning that it is fairly well agreed that an animal is able to do that, that is it is sentient, then we believe they should be protected. That has already been considered in a number of documents, of course, including the National Health and Medical Research Council [NHMRC] national code of practice for animals used in research and teaching, for example. It tried to look at this in regard to the development of fetuses and animals that had at least halfway gestated, if you like, are seen to need protection—those sorts of things.

But each of the State governments have looked at this when they have defined what is an animal. Of course usually it goes down to—some of them are now protecting crustacea and some cephalopods—when that can be shown that they are sentient they should be protected. So I would say that, for example, many or most fish are now understood to be able to suffer and therefore certainly should be looking at fish and other animals that there can be agreement that they have a capacity to suffer. That is what the Prevention of Cruelty to Animals Act is about—that is to stop suffering or to prevent suffering.

The Hon. MARK BANASIAK: As Australia's leading animal protection organisation, have you ever requested from the Government to become one of these animal control officers that would enforce the POCTA Act?

Ms OOGJES: No, we have not. We do not see that as our role. We certainly do see our role as to assist and urge others to take on that role and do it well.

The Hon. MATTHEW MASON-COX: I am from the Liberal Party. I might be having a steak for lunch so do not hold that against me. But I wanted to ask you in relation to the model codes of practice. I note and I think you mentioned that they are being reviewed at the moment and that animal welfare standards and guidelines will be substituted for them in due course through a COAG process. You are aware of that, aren't you?

Ms OOGJES: Yes. It is a continuous process. It has been going on for about 10 years now since that change. But, yes, various codes are under review at any one time.

The Hon. MATTHEW MASON-COX: I wanted to ask you in the suggestion that you have for an independent office of animal welfare to set up standards, would the office under that model be in competition or potential conflict with the COAG process that is undergoing a wide review at the moment?

Ms OOGJES: No, I do not think so. Timing wise it would not be. We are hopeful that the review at the national level that is having a look at how codes, practices and standards are reviewed would happen through this year. In any event there is always good cooperation and liaison between the States, who have the constitutional power for animal welfare, with the Federal Government—and the Department of Agriculture particularly—in Canberra in order to ensure some national consistency where that is possible. So I do not think there is any conflict at all. They would work in concert.

The Hon. MATTHEW MASON-COX: Do you accept that we are better to have a national process in relation to these codes of practice over time?

Ms OOGJES: I think you need both—that is, you need a good and robust system, an independent system at the Federal level and you also need it in each of the States and Territories. I do not think there is a conflict there. I think the two levels can work in concert.

The Hon. MATTHEW MASON-COX: I would like to see that happen but what I am trying to get at is you could not have a model code, for example, in relation to battery hens and the production of eggs or processing of chicken and have a State code which did the same thing—that is what I am trying to get at.

Ms OOGJES: At the moment, while as you called it, the model codes—and indeed there are national standards and guidelines now for various species—exist but they do not have any legal force, if you like. They are just cooperative documents. What then happened in the past and still happens now is that then a State decides how they will take them up. They are encouraged at the Federal level or, that is, the cooperative level of all the States, to as much as possible adopt the national stand. That is why they were called model codes in the past, so that there is not inconsistency, so that somebody on one side of New South Wales in a truck going to Victoria does not have to change the way they do things because of the legislation. So it makes sense for there to be cooperation. As I say, I do not see that that is a problem. We have been doing it for a very long time.

Ms ABIGAIL BOYD: I wanted to ask about this idea of the exclusions under the POCTA Act and what seems to be a bit of a fear from some that if we include farm animals and other categories of animals within that Act that somehow that will lead to a vegan uprising and an assumption that if you cannot eat your dog then you will not be allowed to eat cows either—and I know that sounds ridiculous, and it is, but that is the thing that people

are saying. Could you explain the difference between the notion of cruelty and how cruelty and an animal cruelty law applying to farm animals would apply in practice?

Ms OOGJES: Thank you for the question. It is a key one. There are a number of examples but perhaps one is that it would be an illegal act in New South Wales and elsewhere to mules your dog. That sounds ridiculous to everybody. That is to actually cut the skin off the backside of your dog without pain relief, for example. But you are allowed to do it and to castrate and to tail dock a lamb without any pain relief whatsoever. What we are saying is that the rules should be the same. The animals can feel pain in a very similar way and will suffer from that wound. It should be similar. That is what we are saying. At the moment the carve out means that a sheep is treated completely differently to the way any other member of the community would be able to treat an animal that it cares for or owns.

Ms ABIGAIL BOYD: The focus is really on preventing unnecessary suffering as opposed to trying to extend it to say that you cannot slaughter cattle.

Ms OOGJES: That is right. This is an animal welfare or an animal protection Act. It is really self-evident, I think, that we are talking about reducing suffering.

Ms HAMADE: Indeed. And this goes back to the point I made earlier. These should not be codes of convenience for producers. These should be animal welfare standards that are based on suffering—again, not convenience or profit. We are now in 2020. We have the science. We have the means to prevent this unnecessary suffering but our codes, regulations and laws are still stuck decades ago. This is where the work really needs to be done.

The Hon. EMMA HURST: A lot of what has come up around the lack of funding that charities are being provided by the Government to uphold this form of criminal legislation and the unusual situation we have where this is potentially the only criminal legislation in New South Wales that is being expected to be fundraised from the public. What are your thoughts around a government's responsibility to fund the upholding and enforcement of this criminal legislation? Do you have any thoughts around that funding and how it would work?

Ms OOGJES: Virtually any other legislation that is put in place, whether it be child protection or land laws of various sorts, they are regulated and the funding for the compliance and prosecutions if they are required is all undertaken by the Government. It seems quite ridiculous to us that animal welfare is not funded in a similar way and indeed that charities are expected through community donations to do that work. It is an Act of in this case the New South Wales Parliament and it should be the Government that ensures that it is complied with.

The CHAIR: Thank you very much, Ms Oogjes and Ms Hamade. I think we have finished our questions. I do not think there were any questions on notice for you to answer in three weeks, so that has covered that field. I really appreciate your evidence for this inquiry.

Ms OOGJES: Thanks very much.

Ms HAMADE: Thank you.

(The witnesses withdrew.)

(Luncheon adjournment)

MARK SLATER, Animal Welfare League NSW, affirmed and examined

The CHAIR: I welcome our witness, Mr Mark Slater. You may make an opening statement.

Mr SLATER: On behalf of the members, staff and board of Animal Welfare League NSW I thank the Committee for the opportunity to contribute to this process. Animal Welfare League NSW believes that a review of the current legislation is what is required prior to an assessment of the effective enforcement of the legislation, that being the Prevention of Cruelty to Animals Act 1979. The Animal Justice Party's submission states that data on POCTAA is limited. Therefore we ask that shouldn't an appropriate process for understanding be undertaken prior to the assessment of the enforcement effectiveness of ourselves or RSPCA NSW? To this end we believe one thing that is missing in animal welfare in general is an induction into each stakeholder's business, not as an argument, but as a provision for the communication of the goals of any one organisation.

We believe the understanding of the policies and theories in any one of the animal welfare organisations across New South Wales is not completely understood by the other organisations. Animal Welfare League NSW also believes that all stakeholders to this process are responsible for defining success; success of both this process as an outcome, but also what success looks like through a societal lens in regard to all animals' welfare, the constant improvement thereof and the education of the public to these targeted outcomes. To this end I respectfully ask the Committee to consider how we might communicate what are good animal welfare outcomes. Should it be through defined, different institutional ideologies, or a disagreement of values? Animal Welfare League believes it should be focused upon a sustained, 360-degree communications program engaging the public that focuses on negating political and media pointscoreing at the expense of institutions, people and, ultimately, the very animals we are here to protect.

If POCTAA has not been reviewed in 41 years, how could we possibly expect any one member of the public to have an understanding of the welfare behind anything of a localised nature? Animal Welfare League NSW also believes that part of this process should be an agreed factual outcome, rather than, as People for the Ethical Treatment of Animals [PETA] has stated, opinions based on differing ideology. We need to lift our gaze to the future and towards aggregating all experience into a meaningful process that defines solid legislative outcomes that will meet societal need without basing our processes on retrospective criticism without context, whether that be about process, relationships, support mechanisms or the constitutional aims of any one organisation. Animal Welfare League NSW understands the frustrations with delivering excellent welfare outcomes in an environment of differing perspective and opinion.

Respectfully, for the Committee's consideration is the fact that we as an organisation are born out of historical differences, as are many of the organisations and individuals contributing to this process. However, we do not employee these differences as cultural whipping posts. Rather, we embrace and explore difference to find new learnings and methods of application. In closing, the NSW Farmers Association stated in its submission that it believes that animal welfare is a complex, multifaceted concept. I am sure you will agree. However, if I may be so bold, I would suggest that it is a complex and multifaceted profession and process. Thank you.

The Hon. EMMA HURST: Mr Slater, you say in your submission:

The legislation as it stands does not allow for effective prevention due to in part, the constraint of Inspectors of accessing property where real and tangible concerns are held for an animal(s) welfare.

Mr SLATER: Correct.

The Hon. EMMA HURST: Can you explain a little bit more about what you mean by that and maybe give some examples of where the Animal Welfare League inspectors have been limited in their ability to be able to protect animals?

Mr SLATER: Sure. Unlike the police, we do not have the ability to be able to enter a property on suspicion. We have to have either direct line of sight of an animal suffering or be able to build a portfolio to take to a magistrate to then give us entry or, essentially, a search warrant. We are hampered by that. Some of the information that we get is personalised and can be based on things like neighbours arguing, essentially. However, when there is real, warranted and sustained complaints but we do not have line of sight to an animal, be it a dog or a horse or whatever, we are stopped at the front fence. Perpetrators and the persons of interest [POIs] in the circumstances know the law. It is like wearing a body cam.

You walk up to somebody with a body cam, you walk up to the front fence, they will say, "You can't come in", and turn the body cam off, because they know what you are doing. Unfortunately, these are people who know how to get around the law. If we had the ability to respectfully enter a property on a reasonable doubt of an

animal being in suffering or not being looked after properly, there would be lower rates of animal welfare issues, but then we would be able to prosecute more people based on that.

The Hon. EMMA HURST: What do you do in those situations where you are being withheld from being able to run your job, basically, get the inspectors to actually—

Mr SLATER: We focus on gathering a body of evidence, essentially. The best thing that we can possibly do is continue to talk to neighbours. We do not harass persons of interest, or POIs. We continually talk to them. We will meet them at their front gate. Our inspectors are always briefed to bring the situation down. We want to de-escalate. If you escalate, essentially people will shut down. They will not talk to you. Unfortunately, in some situations we will not get through the front door. In other situations, it generally happens in large commercial breeding facilities or agricultural facilities, you will get neighbours start to complain and there will be a body of evidence that is enough to go to a magistrate to hopefully compel them to allow us entry to the property.

The Hon. EMMA HURST: Do you feel with these constraints that there are potentially animals suffering for a prolonged period of time where, if some of these restrictions were reviewed—for example, through this process—and some of the restrictions put on your inspectors were removed, or if your inspectors were given similar powers to the police, that you would be able to more effectively stop animal cruelty from happening at an earlier stage?

Mr SLATER: To a certain extent. A lot of the people who are habitually in these situations—it is the way they own their animals. There could be boarding facilities, there are people who are currently under investigation—so I cannot name them—who use other charities' rehoming statuses. They have animals out of the line of sight, they have them in cages, and we know for a fact that they do, but they are hypersensitive to new people and you cannot get in. They have been operating like that for a long period of time. Generally speaking, the damage is done in the first 24 hours, essentially, in our experience.

The Hon. WALT SECORD: Mr Slater, how much of your organisation's activity is dedicated to animal welfare enforcement?

Mr SLATER: We have 20 branches around New South Wales. Our branches have direct line of contact into our inspectorate. We take our members on a journey of education. We talk to them about what welfare cases look like. It is varying, it is fluid, especially in times like the recent bushfire crisis. We were on the far South Coast. I had two inspectors deployed with me. It would have been 90 per cent to 95 per cent of our work. On an average day most of our work coming into the shelter will be either people abandoning their animals or work coming in from the inspectors. It varies between 50 per cent and 90 per cent.

The Hon. WALT SECORD: What would happen if the law enforcement activities were taken away from the Animal Welfare League? What would your organisation do?

Mr SLATER: What would we do?

The Hon. WALT SECORD: What would be the *raison d'être*?

Mr SLATER: Good question. We would continue to do what we have done for 61 years, which is be at the forefront of animal welfare in New South Wales. We would contribute to the legislative process as we are doing today. We would continue to run our branches, we would continue to provide resource, as we have, with things like our B-double mobile veterinary clinic, which is world's first. We would continue to strive to be the best that we could possibly be.

The Hon. WALT SECORD: In response to my colleague Ms Hurst's question about a desire for more powers, do you not think that an independent office of animal welfare with those powers would be the better course of action than having the police do some, Animal Welfare do some, RSPCA do some?

Mr SLATER: No, I do not, and the reason being we are bogged down in POCTAA, which has been around for 41 years now. We cannot gather those issues up retrospectively; we need to look at that piece of legislation. But in the same instance there will be a huge loss of intellectual property as far as our officers. We deal with the police as a protective mechanism for us—if we are going into a house where we know there are drugs or violence, those kinds of issues essentially. Most of the cases that we get from the police are because they do not have the capacity to deal with it. They could be issues of animals having been struck by a car that needed to be euthanased by a firearm. Under POCTAA the police generally cannot do it because—

The Hon. WALT SECORD: Do you do that?

Mr SLATER: Yes, because the animals cannot be euthanased by a handgun—that is in the legislation; it has to be a long arm. All of our inspectors are firearms licensed and tranquiliser licensed as well. In some

instances we will also tranquilise native animals if they can be treated and then we will release them. That is the better part of six hours for an officer simply because as soon as you tranquilise a native animal you have to give it all possible attention; you have to go a long way away from a road and then you have got to sit with it while it comes around, to ensure that it is not going to get itself into any further trouble.

The Hon. EMMA HURST: Can I ask a follow-up question in regards to the independent office of animal welfare? We heard some evidence already this morning that some organisations view it as working with the current structure as it stands—so in making sure that the Animal Welfare League and the RSPCA continue their enforcement roles, but that that would be then reporting within an independent office of animal welfare that would help with the review of POCTAA and that sort of area. I know that that is a very vague structure idea, but do you think that something like that could potentially work?

Mr SLATER: Yes. I have spoken with both yourself and Mr Pearson about this and we have made no secret about the fact that we would like to be held to account publicly and openly. As a not-for-profit we are publicly reportable and we do not hide from our numbers. However, I believe that if you leave the current system in place—obviously funded better than what it is funded; I think everyone agrees it is not currently funded appropriately—and then have, if you will, an "ombudsman" of sort, because currently right now, and it gives me no comfort, if a member of the public rings me personally and says, "I want to complain about one of your inspectors for this, this and this reason", the process is "No problems. I will take care of it", and my office as the chief executive officer will look into that, there is no further recourse for that member of the public.

That all, in the short term, seems quite comfortable as far as we are concerned, but it does nothing as far as our reputation or animal welfare organisations are concerned. We see this process and these things happening within the RSPCA as well. People then misconstrue things because there is no follow-up. If there was an independent body that we answered to I would be far more comfortable with that.

The Hon. EMMA HURST: Could I just ask about something that came up this morning when we were talking with the police and the DPI in regards to potential violence for officers that are going in on their own? We talked about the link between people who are violent to animals and violent to people, and that there is a memorandum of understanding with the organisations and the police. But our understanding is that with the DPI they said this morning that they often have two officers as part of their compliance going out from the DPI to a place, but I know that the RSPCA and the Animal Welfare League, with such minimal funding, you just do not have that luxury to insist that two officers go out to any call. Do you have concerns about officers on the field entering violent situations based on the fact that they do not have enough information to call the police in?

Mr SLATER: Always. Can I just clarify, are they the local land services officers DPI deploy or is it DPI—

The Hon. MICK VEITCH: He did not say.

The Hon. EMMA HURST: He did not say. He just said that often compliance have to—

Mr SLATER: We had a couple of issues when we were inducted into local land services on 1 January this year when we were down at the fire emergencies. The one big issue is that you are dealing with animals on a property and you would deal with some people who were renegade as well and in these instances when you are euthanasing agricultural animals because they have been burnt and you cannot go around and apply topical creams and sort that out, you are dealing with firearms. That is somewhat of an unknown because the variable of a fireground you cannot manage, you can only look out and be as safe as you possibly can in quarantined particular areas.

In terms of going into situations where my inspectors do not know what they are walking into, yes it is cause for concern. We reasonably then employ our inspectors to de-escalate. They are told that no welfare issue is worth your bodily, physical and mental wellbeing and they are to walk away. If they do walk away, we have a good rapport with New South Wales police and the Crime Squad as well and we put a call into them and we escalate things appropriately. But we do not carry batons, we do not carry any sort of body armour; we just turn up simply because the people who are most dangerous recognise these things as being an escalation—we do not want to do that. Essentially we want to get to the animal.

The CHAIR: A question following on from my colleague Mr Secord. Would the standing of the Animal Welfare League be compromised if it was the case that you were to no longer be an inspectorate under the Prevention of Cruelty to Animals Act? Because you were asked that question in the sense of if it was taken away then you do not really see that much difference as to what you would do—there would be lots of things for you to do to protect animals and help animals including what you have just described in relation to the bushfires. Is the inspectorate a burden?

Mr SLATER: No, not at all. It is the pointy end of welfare as far as we are concerned. If it were to be removed, to answer your question, reputationally it would be quite damaging as far as we are concerned—a 61-year-old organisation. As I pointed out in our submission and I spoke about this morning, the biggest issue is communication. We need to work through this process as an organisation to ensure that welfare outcomes are met, number one, and ensure that reputationally animal welfare is not damaged. If you want to call it an industry then that is probably a good label at this point in time.

The CHAIR: So you are saying that your reputation may be tarnished or whatever but not your standing as an organisation.

Mr SLATER: It would take away from a lot of our fundraising opportunities, it would take away from our communications processes, and then obviously give us access to veterinary science, working with the Department of Primary Industries. That is the 360-degree view of our organisation. Veterinary services and inspector services are catalytic to what we do, essentially. We can provide welfare and rehoming through a foster network, essentially; so if we lost our rehoming facility, our camps or in West Hoxton, we would be able to overcome that, we can still provide that service, but without inspectorate or without veterinary care we cannot be a well-rounded welfare organisation.

The Hon. MARK BANASIAK: I asked this question of DPI about the difference in terms of the number of inspections that you do versus the RSPCA, and the director-general sort of insinuated that it may be that you diversify your expenditure into other areas outside of the inspectorate, like your mobile veterinary unit. Is that the case in terms of the difference between the number of inspectors that the RSPCA has compared to yourself? Does that play a part in your funding of the inspectorate, that you are diversifying your funding into other worthwhile avenues?

Mr SLATER: No, and I am more than happy to share it with the Committee. We are currently in the first year of delivering our five-year strategy, or the second year—the first year was a staging year—I should say. Part of that strategy is to expand our inspectorate both into regional areas and throughout urban areas as density climbs in terms of population. We are seeing a lot of people come to this country for the first time and want to own an animal. We believe that inspectors need to be there to be able to help and support them own an animal appropriately. We are not looking to diversify our inspectors; we are looking to grow as an organisation. Some of our members will joke and say that we have been the greatest secret society for 61 years, essentially. We are looking to cast off that dust and move forward. Part of our growth is the mobile vet clinic and the expanded branch network, as well as an education program.

The Hon. MARK BANASIAK: Just one clarification about your complaints: The statistics that we received were 1,292 complaints received but there were 1,944 attendances. Is that where you have multiple attendances for one complaint?

Mr SLATER: Yes, you revisit. If we issue a 24N, basically our inspectors will go back and ensure that that person is appropriately caring for the animal as directed. And then sometimes we have to go back and seize animals as well if the situation is dangerous and we need police help.

The Hon. MARK BANASIAK: What is the average time that you would spend on an investigation, from receiving the complaint to going out and visiting?

Mr SLATER: The legislation allows for us to take 60 days to get it to court. We stick to 45 as a benchmark.

The Hon. MICK VEITCH: Is that an internal benchmark or is that a benchmark set by the memorandum of understanding with the department?

Mr SLATER: The 45 days?

The Hon. MICK VEITCH: Yes.

Mr SLATER: It is an internal benchmark; the reason being, it is very easy for these situations to become quite sticky, especially if you are dealing in low socio-economic areas—generally, you tend to start kicking rocks over and you will find more and more problems. Focus on one thing and get that one job dealt with.

The Hon. SAM FARRAWAY: Following on from Mr Banasiak's point: The Animal Welfare League NSW has a rich history—61 years—but, for different reasons, it probably does not have the same recognition as the RSPCA. You were talking about your five-year strategy, and I note that, recently, the AWL did some TV coverage—I think it was on *Sunrise*—

Mr SLATER: Yes, we did the media activation at the end of last year.

The Hon. SAM FARRAWAY: When you are out in the media promoting AWL and what you do—I think you had a large mobile truck or van facility—

Mr SLATER: Vet clinic.

The Hon. SAM FARRAWAY: —yes, a vet clinic, that was relatively new—do you see a spike in complaints made because of greater awareness of AWL after—

Mr SLATER: Yes.

The Hon. SAM FARRAWAY: Obviously, you would have some stats on that—or at least an uplift that you can see?

Mr SLATER: A lot more phone calls come in. Because, I mean, Singer sewing machine, RSPCA—there are so many times you will walk into a meeting and I am wearing this, and it is infuriating. Steve Coleman knows that. "Oh, you guys are the RSPCA, aren't you" "No, we're not." We are guilty of not doing a good job of telling people who we are and what we do, but we will be referred to when we are up in the media and we are talking about who we are and the structure of the business. People will automatically say, "Oh, right, okay"—localised complaints especially, given the fact that we are on the doorstep of the aerotropolis. The density—it is no longer peri-urban. We have got a lot of people moving into that space. We are ringed by Fairfield, Liverpool, Bankstown, Penrith city councils—these are all growing metropolises. Then all of a sudden the inquiry does go up, yes.

The Hon. WALT SECORD: Why do you not simply fold your activity into the RSPCA?

Mr SLATER: The history of our organisation is we were founded by some members—Mr Pearson is smiling—who took exception to a process that the RSPCA employed in 1958. Those members left with some government and ministerial support and founded the Animal Welfare League NSW. Our constitution does not allow us to do that either but, putting it bluntly, I would be strung up if I was to suggest that to members, to be fair.

The Hon. WALT SECORD: You speak our language.

The Hon. SAM FARRAWAY: Back to my question: I would like to talk about the NSW Animal Welfare Action Plan. We had the Director-General of the NSW Department of Primary Industries [DPI] here today. He has outlined that the Government, the DPI, wants to see significant reform. As the Hon. Walt Secord would say, the Director-General referred to a once-in-a-generation opportunity that is confronting them to significantly reform the Act. The Director-General outlined the six goals. The first question is: How is your interaction, your contribution around the action plan, and what has been done to date?

Mr SLATER: We have met with senior policy advisers. Specifically, I speak with Clem Harris on a very regular basis—monthly. We are a bit longer than that because of the recent fire emergency. We deal with the DPI on a very regular basis. I am in Orange twice a month. I talk with Scott Hansen—I have a face-to-face with him every two months. He is made fully aware of what we are doing and how we are doing it—down to when we have put together our new budgetary processes and the budget for this current year, I went and sat and briefed director of animal welfare, Kim Filmer, who passed the information up to Scott because he did not happen to be available at the time. So, we are very clear with the DPI in what we are doing and how we are doing it.

The Hon. SAM FARRAWAY: Essentially, as a charitable organisation, you are receiving the grant—because it comes in the form of a grant—from the Government or DPI.

Mr SLATER: Yes.

The Hon. SAM FARRAWAY: Then you are presenting a business plan internally for the organisation and back to DPI for transparency to demonstrate what the organisation is doing with the grant money and that it is being well spent and administered?

Mr SLATER: Yes. It is important to note that the grant that we receive—that \$75,000—is historically based. It has been around for a while. No-one is actually quite sure on the maths or how they came up with it. I think the RSPCA gets about \$450,000. I do not think it is a per capita thing. But what we do is we report retrospectively to the DPI. We also report quarterly in an informal manner. We base our budgets on what is called phasing. Unlike most not-for-profits, we do not spend the money with a view to trying to make up the ground over the next 12 months. Our board is adamant that you make a quarter, you make your budgets, you make sure your expenses are what they should be and then you move forward into the next quarter. That is how we are growing our inspectorate. What we are not doing is recklessly employing six or seven inspectors with HiLuxes and equipment and all those other sorts of things and then hoping that we will make the money back. We are being rather appropriate and responsible as far as our funds are concerned.

The Hon. SAM FARRAWAY: I have a final question. We also spoke earlier with, and heard from, DPI around the Animal Welfare Advisory Council [AWAC]—that the council has been in place for a little while but there will be some structural change in the council and that nominations are open. I think 13 March is the closing date for expressions of interest. Under the reforms, under the six goals of the action plan, and possibly change in the structure of the advisory council, do you see it as having more of a role? You have made it clear that an independent body would not be the optimal reform option in your view. So, under the current plan with some reform, how do you see the advisory council working with the two bodies?

Mr SLATER: I think you have to untangle AWAC in the first instance. Historically, AWAC has been made up of a lot of players. If you are talking about rodeos than you are bringing rodeo people in, and that might be to the exclusion of other organisations because animal welfare is such a big piece of work. I think what AWAC has to do is be given a succinct brief by the Government, by the DPI and by the Minister as to the outcomes that they are supposed to be advising on. Right now, you are kind of eating an elephant one bite at a time: You are doing a lot of work, you are dealing with relevant and current issues, but you are not dealing with how we move forward into a success period and how we communicate the outcomes of this Committee, essentially.

I think the Minister has to be far more in touch as far as AWAC is concerned. I know that is a timing issue, but the meetings have to be real, appropriate and have proper outcomes—tangible outcomes that can be communicated to the public. I think at this point in time AWAC is recruiting for some scientific bodies on the advice of Kim Filmer from the DPI, and we are waiting to see the outcome of that process. We have advised, and will continue to advise, AWAC into the future. I have discussed this with Scott Hansen as well. The structure needs to be right because you cannot have 30 players on a committee, some coming in and some coming out, because stuff gets missed and falls through the cracks all the time. So, AWAC is a great concept but I think it needs to be tightened up a little bit.

The Hon. SAM FARRAWAY: That is ensuring that you have the right amount of expertise on that advisory council to get the most benefit for the two organisations and Government and DPI.

Mr SLATER: Exactly. You are dealing with fire ants in Martin Place, potentially, or you are dealing with horseracing issues.

The CHAIR: Thanks very much.

Ms ABIGAIL BOYD: I want to drill down into the part of your submission where you talk about funding and what could be done with extra inspectors. Looking at your operations, what percentage of your total expenditure would be spent on inspectors and inspectors' activities at the moment?

Mr SLATER: We currently have six inspectors. To put an inspector on the road there is a wage of between \$65,000 and \$95,000 a year, essentially. You have a car at \$55,000 to \$60,000. You have uniforms and then ongoing training—all of our officers undertake Government Investigations Certificate IV. It is a smaller proportion because, in comparison to the RSPCA, our inspectorate is much smaller. I think we are less than one-fifth. I think at this point in time RSPCA has 34 or 30—I think they have 36 because there are a couple of casual inspectors they have got who are focused on drought work only and for whom the Minister made a grant in October last year. So it could be about 36. If you want to have a comparison between ourselves and the RSPCA, a much smaller proportion but that is based on the fact that we have six inspectors.

Ms ABIGAIL BOYD: I am more curious about the link between the Government funding and how many inspectors—

Mr SLATER: It pays for?

Ms ABIGAIL BOYD: Yes.

Mr SLATER: About 80 percent of one.

Ms ABIGAIL BOYD: So from what I am hearing, if the Government funding at the moment is approximately one percent of your total yearly income—

Mr SLATER: I do not think it is even that.

Ms ABIGAIL BOYD: Right okay.

Mr SLATER: If I do the maths of the top of my head, to be honest about it, I do not think it is even that.

Ms ABIGAIL BOYD: Then you have about 10 percent of your operating expenses are for inspectors. So I guess there is quite a decision to be made there in terms of what your funding gets spent on?

Mr SLATER: Yes.

Ms ABIGAIL BOYD: When you ask for additional funding would it be fair to say that even if the Government was to double the funding that would not even get you another inspector? Or would you be using that and then taking resources from elsewhere in the organisation to top up?

Mr SLATER: We do a little bit of that but it plays into the five-year strategy for us. We have been very lucky with some of the real estate purchases that we have made as an organisation. In the process of selling one of our properties, it had environmental issues so we have sold that to a neighbour on the northern beaches. We did explore opportunity with a Minister over there to see if we could bring that back online but unfortunately that did not come about. West Hoxton which was one of our original properties from 45 years ago is full of asbestos and a few other bits and pieces but because that is now being rezoned into a high density area due to the Aerotropolis, we are in the process of selling that property as well.

So what we are doing is we are rejigging our finances. The board expect in the next four years that we will no longer be a loss-making entity. We will be income generative because we will be paying attention to our fundraising which we have not done previously. This would then negate the need wholesale to rely on funding from the Government as far as the Inspectorate is concerned. That is not me saying that I would not like more money but we are able to expand on our own terms.

Ms ABIGAIL BOYD: So what will your ideal level of funding be from the Government then over the next five years?

Mr SLATER: I would say 50 percent of our inspector costs. I think that would be reasonable. If there is an algorithm that the Government has that comes up with a number for our funding, I would like to see it. I do not think there is one. I think there is a budgetary constraint there within the Department of Primary Industries [DPI] and the State Government in general. Generally speaking I think it comes out of the fact that the legislation that dictates what we do being the Prevention of Cruelty to Animals Act is a very old piece of kit and it needs to be brought into the twenty-first century. I think funding would then start to be realistic. Not just for us and inspectors but in terms of education and removing the parochial nature of ownership of animals in Australia. We are the third largest pet owners in the world and yet we do not have strong regulations and laws and education processes around what we do and the ownership of animals. There is no curriculum in schools for example.

Ms ABIGAIL BOYD: So we are looking at somewhere around the \$800,000 mark for real costs of the six inspectors that you have at the moment and we have less than one tenth of that being funded at the moment although it is going to go up apparently to \$100,000, according to the Government.

Mr SLATER: Yes, that is because they are aggregating their grant between ourselves and the RSPCA. They are currently funding a couple of other bodies. I do not know who they are.

Ms ABIGAIL BOYD: So by outsourcing the function of enforcement of POCTAA, the Government is effectively relying on charitable donations and fundraising in order to cover nine-tenths of the enforcement costs, would that be fair?

Mr SLATER: To a certain extent. But we also have commercial arrangements whereby we have a for-profit vet clinic which is open to the public. Our rehoming facility, there is a cost of surrendering an animal, there is a cost if you want to come and get a cat or a dog or a horse or whatever from us. There is a cost to adopt that animal as well so there is commercial income there. That is income generative and the inspectors are not. So there are parts of the business that fund the inspectors that are not based on not-for-profit donations wholly and solely and we do have a managed corpus with JBWere, which returns between eight and 10 per cent over a 13-year period.

Ms ABIGAIL BOYD: And that is fortunate that you have got that structure. But again from a Government perspective, they are getting a pretty good deal.

Mr SLATER: Not bad.

The Hon. EMMA HURST: I have just got one quick follow-up just on that topic. I am just curious if you find it quite unusual that POCTAA is the only criminal enforcement that does require an external organisation to develop those funds, however they are developing, whether it is fundraising or running the business side of it. Do you find that kind of structure, in and of itself, somewhat outdated? Maybe a shift would be that the actual enforcement section would be entirely funded by Government? Do you have any thoughts around that? In the same way that every other criminal legislation is paid for by Government.

Mr SLATER: It brings me back to my original point and I apologise for being repetitive but the legislation is old and it allows for that and that is why we believe that it needs to be revisited boldly. That is the

piece of work we believe is most important. Funding will come of that when we know the outcome is that the legislation will drive for us.

The CHAIR: Thank you very much. I will now hand to the Deputy Chair Mick Veitch.

The Hon. MICK VEITCH: Thank you Mr Chair. I have been quite patient. I just want to go back to the independent office for animal welfare or whatever it is, this independent body.

Mr SLATER: This is the theoretical potential.

The Hon. MICK VEITCH: I just want to explore it with you. Your earlier answer indicated you were not supportive of that body because you feel that the current arrangement with the Animal Control Officers [ACOs] doing the work is a model that can be enhanced and built upon. It would be fair to say since POCTAA came into event that there has been societal change in appreciation for animal welfare issues.

Mr SLATER: Yes.

The Hon. MICK VEITCH: We have just recently had the water theft issue in New South Wales where the Government response was to put in place the Natural Resources Access Regulator. We have the police bodies, the Independent Commission Against Corruption. They are all bodies that eventually, at some stage, sit where you are about once a year and answer questions from politicians on behalf of the community about their activities and what they do. Do you see benefit in an annual arrangement where your body, the RSPCA and the NSW Police under the current POCTAA provisions, come and sit here and answer questions in front of a Parliamentary Committee just like ICAC does, just like the Ombudsman does—

The Hon. LOU AMATO: Under scrutiny.

The Hon. MICK VEITCH: Just to match what has been an increase in community expectation and scrutiny around animal welfare?

Mr SLATER: Yes I do. I would embrace it. I know my organisation would embrace it as well. The problem with animal welfare is it is such a variable. As I said before to Ms Hurst, the ownership of animals in Australia is parochial. We have not written a handbook but if you look some of the young people coming through today and their expectations in terms of animal welfare, we are not meeting any of those expectations. We do need to be held to a higher account.

The Hon. MICK VEITCH: So there is one aspect to saying this. We have this exercise. What does this exercise look like? All of us here have sat in front of those bodies I mentioned before and at the end of the day walked away thinking we probably could have done that a bit better or there were some missed opportunities. What sort of things should be scrutinised at a Parliamentary level? Is it your annual reports? Is it after you present your annual reports? Should those annual reports be tabled in the Parliament for instance? I do not think at the moment they should be because the majority of your funding does not come from Government but are these some of the things that we should explore?

Mr SLATER: Absolutely. As a not-for-profit we are also publicly reportable so all of our numbers, our facts and figures are accessible by the public. We report in a manner and our auditors are Hall Chadwick who are a global organisation. As a shareholder organisation—a structured organisation—who are our members and the public and they expect outcomes. As far as how we would do that and who we would report to, we would happily put our numbers into Parliament and have them interrogated by members of Parliament. The other part of the process in terms of the first part of your question— can I just clarify that with you again in terms of what it looked like and—

The Hon. MICK VEITCH: Yes. If we were to go down that path and make a recommendation along those lines, how do you see that working? I am happy for you to take it on notice.

Mr SLATER: No. Then also in terms of what it would look like and what would we report on. There are some very simple mechanisms that are being dealt with in the public, below the surface. Things like cat colonies and I will give you one specific example. Cat colonies in Australia, Matthew Flinders brought the first cat here. The cat population in Australia could be three, four, five, six, seven, eight times more than that of the human population. Nobody knows because there has not been a credible big data piece of work done on the trapping and release and how you manage cats. These are very simple mechanisms to look at the effectiveness of welfare cases.

In regards to cats, you would have some very well-meaning, not formally educated but extremely experienced people out there feeding cats and looking after the welfare of these animals because at this point in time the legislation allows for them to do that on private land. On public land that is a big no-no. There is also dissemination between what a feral cat and a colony cat is. If you look at the London model, since 1977 they have

been managing cat colonies through TNR very successfully. But all we are saying in Australia, for example, is that it will not work. My response to that is you have to disprove the model. These are the things that we have to disprove that do not work and we remove that parochial nature of the way we deal with animals.

The Hon. MICK VEITCH: So they are the sort of things that could be scrutinised at a parliamentary level. Not as supportive as of an independent office of animal welfare advocacy but you would be supportive of a model where you would come once a year, sit in front of a parliamentary committee and be scrutinised?

Mr SLATER: Very much so.

The Hon. MICK VEITCH: One of the things I am interested in is the complaint handling mechanism. I accept that you have indicated that is an internal process?

Mr SLATER: Yes.

The Hon. MICK VEITCH: This is my deficiency: I have not had a chance to look at your most recent reports. Do you include the complaints mechanism, the number of complaints and how you have dealt with it in your annual report?

Mr SLATER: Not how we have dealt with it, no. We will log how many complaints, what they were about.

The Hon. MICK VEITCH: The nature of the complaint?

Mr SLATER: The nature of the complaint, yes. We are just starting to get involved in drought panels, for example, with the DPI, which is an aggregated body as I am sure you are aware. There is some privacy issues as well, but we log all of our inspectors' books. They all use handbooks the same as police, which is another reason why they go through government certification level 4 on investigations. All of that information would be made readily available as far as Parliament is concerned.

The Hon. WALT SECORD: Earlier you talked about a difference between the RSPCA and the Animal Welfare League and you said you would be strung up. What is the existential difference? How does your organisation in its activity and enforcement differ from the RSPCA?

Mr SLATER: It is minutia but it is tangible. It is like trying to measure culture. The RSPCA deal with very large cases. We deal with the same sort of issues but on a smaller level. We tend to de-escalate. We go in with single inspectors. The difference is that we were born of veterinary practices in 1958. A well-documented couple of brothers called the Butcher brothers got in and busted up a gas chamber for dogs. We do the same work. We focus on the same things. We work together if we need to, but we are on very different journeys as far as organisation is concerned.

The Hon. WALT SECORD: Can you give me an example of how you are different?

Mr SLATER: To the RSPCA?

The Hon. WALT SECORD: Maybe I am not understanding, but what is the difference? Certain organisations have no-kill policies which make them difference from other organisations. What makes you different the RSPCA? What do you do involving enforcement? How do you differ?

Mr SLATER: Sitting externally to the RSPCA I will answer as best as I can from what I can see. We focus a lot on our membership. We are currently growing our membership. We put a lot of kudos in our members dealing with our inspectors. Our inspectors in the peri-urban situation. We are not out in rural areas at this point in time. They are the two major differences between ourselves and the RSPCA. They deal with very large stock issues because they have more inspectors than us, regardless of the two casual inspectors that they have on. They have 15 regional inspectors who are farmers as well.

The Hon. WALT SECORD: You are more pet oriented?

Mr SLATER: Yes. Pet—companion animal. If I may add, we believe that there is no allowance for companion animal. It is just animal. Companion animal needs to be defined because I have neighbours in the southern highlands who have a cow for a pet. That is not allowed for in the legislation.

The Hon. MICK VEITCH: The New South Wales Leader of the Opposition in the Upper House had a pig as a companion animal.

The Hon. WALT SECORD: Had a pig.

The Hon. MICK VEITCH: Sorry, had a pig. It had to move. The pig got too big.

The CHAIR: Albert.

The Hon. MICK VEITCH: Albert.

Mr SLATER: Pigs are very smart animals.

The Hon. WALT SECORD: Today we have repeatedly heard evidence say that POCTAA has been in place for 40 years, it is not fit for purpose, but no-one will tell us what their problems are or how they need to modernise it. Even the director-general of the Department of Primary Industries sat here and said, "We are going to do a once in a generation review." What the hell are they talking about? What are they talking about that it needs to be fit for purpose? What do they need to change involving POCTAA? Everyone is talking about this need but no-one will tell us what they are referring to.

Mr SLATER: As far as public concern, you can go through and look at some veterinary practices that are allowed in POCTAA. Pin firing in a horse which allows a hot needle to be stuck in the sheath of a horse's leg. That is considered to be a good welfare outcome. That is cruel and it is painful. At its basic DNA, that is what you are talking about. You are looking at veterinary practices. You are looking at how you house an animal at home. You are looking at if cats should be allowed to roam. New South Wales is the only state in Australia that cats can freely roam but you do not have microchipping or desexing that is mandatory. Fluffy the cat can wander off and cause havoc any time that he or she pleases because we do not know who owns that animal.

These are all basic issues. They also lead themselves onto issues—clean water. Cats are very dirty animals under their claws. People will tell you that native animals are affected by this as well. Those basic mechanisms. If you want to own an animal, it has to be owned responsibly. I do not think cats should be allowed to wander. There is lots of different reasons. For example, you do not want a young child witnessing a cat being run over. You do not want a tomcat impregnating as many cats as he wants along the road. It just exacerbates the issues.

The Hon. MICK VEITCH: You will see dogs in summer in Sydney. I come from the country and it annoys me to no end. You can walk around the suburbs of Sydney, 40 to 45 degree heat, and there are dogs locked up in the car.

Mr SLATER: In cars. It drives me nuts.

The Hon. MICK VEITCH: These the same people who think they do wonderful things for animal welfare. They will bail me up and badger me about regional issues on animal welfare and do not look at how they are treating their own pet. They think they are doing the right thing.

Mr SLATER: That is part of that basic education. People will look at a dog that is hot and say, "It is just painting. It is in the car but I have cracked the window a little bit more." No, it is starting to fail.

The CHAIR: Cooking.

Mr SLATER: Yes.

The CHAIR: What is the Animal Welfare League's position on puppy farms or puppy factories?

Mr SLATER: Number one, there is not a universally defined, agreed definition of a puppy factory. There are differing levels of membership to breeders organisations. We have had a couple of cases and there is a couple of cases being investigated currently of people who produce animals en masse without care for the animal. For example, there is a regional case going on now where there was nine or 10 bitches in heat being bred and then another 15 or 16 past that five or six years of age who were then just thrown out the back of the property. There was no welfare for them. They were just left to gather dust and/or pass away.

The CHAIR: Does the Animal Welfare League support puppy farms if they are well run? Or do you have a policy position opposing them?

Mr SLATER: Are you referring to farms or pets?

The CHAIR: Any sort of puppy farm at all or major breeding facility of dogs and cats.

Mr SLATER: A major breeding facility, as long as it is within the law, and it is guided by the Companion Animals Act—

The CHAIR: It might be legal but what is the Animal Welfare League's position on it?

Mr SLATER: In terms of puppy farming?

The CHAIR: Yes.

Mr SLATER: High-density puppy farming that is done without welfare considerations—

The CHAIR: What is your position? Do you oppose it?

The Hon. WALT SECORD: He is spelling it out there. He just answered it.

Mr SLATER: I was trying to answer then. High population puppy farms without consideration of animal welfare or the law, we do not agree with.

The Hon. EMMA HURST: I have one quick question. We have talked a little bit about the independent officer of animal welfare. Another suggested model that has come up today is that there could potentially be a new arm within the police force where it was animal cops that would work alongside organisations like the Animal Welfare League and RSPCA. Do you have any preliminary thoughts on that as a body? I know that you already work with the police, but if it was a special section of the police that was trained specifically because the police this morning said that they do not have the same skills and the same knowledge set as the inspectorates organisations like your own. If that was a new arm of the police that you would work with, would that be something you would welcome?

Mr SLATER: Absolutely yes. For the record, it defies logic that POCTAA is engaged and taught to new students at Goulburn academy and it is the first thing that they probably forget, respectfully. I know the police have a tough job. I would not be a police officer for all the money in the world, but it has got to be one or the other.

The Hon. LOU AMATO: I am trying to understand a little bit more, I guess. Are you a non-profit organisation or a company as in proprietary limited?

Mr SLATER: No, we are a deductible give recipient, status 1. So we can raise funds for ourselves but we cannot disburse to other organisations.

The Hon. LOU AMATO: When your inspectors go to a property and they enforce a fine or whatever it is, I have heard of the RSPCA—everyone has; it has been around since the beginning—but not many people have heard of your organisation. It is like having your NSW Police Force and then all of a sudden you have a metropolitan police force. You go into a property and someone says, "Well, who are you?" Have your inspectors ever encountered that sort of problem? I am just trying to work out how you can have so many different people trying to prosecute someone.

Mr SLATER: There is a lot of reliance on the ID of an inspector and the registration of an inspector. But Local Land Services currently face the same issues as we do. People are not as responsive to a uniform per se if, as you said, "Who are you? Where do you come from? Any clown can put on a uniform," essentially, which is why part of our focus moving forward is a better comms strategy. We sat with the animal welfare committee of the NSW Farmers' Association and they posed the question to us in a slightly different manner and probably a little more aggressive.

They said, "What are you going to do to overcome the bad press of other organisations and welfare organisations, because you are just going to be lumped in with them as well." Our response was, "Boots on the ground. You talk to one person at a time." You cannot do these things quickly when you are talking about individual farmers, members in regional areas. The reason why we were having this conversation with NSW Farmers is because it is incredibly important that we get inducted into these businesses and that they get inducted into ours. It is too easy to hold each other at arm's length without any understanding and cast rocks at each other for no outcome whatsoever, based on misunderstanding. Does that make sense?

The Hon. LOU AMATO: I understand. I come from a business background. If governments are funding a grant to you and a grant to someone else, why would you not have one organisation and all the resources into one and give the benefit to the animals out there? Have the resources, the inspectors and so forth out there. That is how I am trying to look at things—how to make something more efficient.

Mr SLATER: Our biggest concern is the loss of intellectual property and operational intelligence. As the NSW Police Force said today, they do not have the expertise in dealing with animals or those relationships. What we do is quite scientific and learned. We employ behaviourists, for example, who will assess a dog or a cat for rehoming, be that an inspector's case or someone who has just brought an animal in and said, "I can no longer care for this animal." There is a lot to it.

The Hon. SAM FARRAWAY: We have heard from some earlier witnesses and in quite a few of the individual submissions that the AWL or the RSPCA pass the buck. Perhaps in a truncated response, what is the process? Obviously as one of the two organisations, you and the RSPCA, what is AWL's process when they get a complaint as to whether they follow it through? I am trying to determine whether possibly some of the individual

submissions are sour grapes because they did not get a response they wanted or whether there is an issue where the workload is too much for the organisations and they cannot take them all on. It has been somewhat of a little common theme in some of the submissions, mostly submissions from individuals.

Mr SLATER: I think it is a fair point. I think what you say is it is probably a little on each of those—that some people did not get the outcome that they were looking for and there are probably some values of ours that they do not agree with and that of the RSPCA as well, and also that they did not get the outcome that they wanted. Again it comes back to the legislative and legal process. We may have someone called on an animal welfare issue and you go to court—you have a compelling brief. You put in front of a magistrate and you know that under POCTAA there is a six-month mandatory period for a jail term that could be handed to this person and you walk away with a \$250 fine. It is frustrating not only for us but for the people who complain about these things.

The Hon. SAM FARRAWAY: And it would not really matter was enforcing it once it gets in front of a magistrate, I suppose. It does not matter whether it is the NSW Police Force, an independent body, RSPCA or AWL. That is not going to change, is it?

Mr SLATER: No. You can only build a body of evidence as best as you possibly can and provide compelling evidence. You are also putting your faith in the fact that magistrates have done their training, that they understand POCTAA and that the knock-on effect or cost to society is enormous, essentially. We need to have some outcomes in terms of people being found guilty for these acts that are preventative. We want people to see that there are outcomes—if you do not treat an animal well, there is comeuppance, essentially.

The Hon. SAM FARRAWAY: The Government did review some of the penalties for animal welfare offences and did seek some public feedback on changes to better protect animal welfare. That is obviously now sitting with the Government to review. Did AWL contribute to that process as well?

Mr SLATER: Yes. We spoke to the policy advisers. We asked for much heavier mandatory sentences.

The CHAIR: Would you welcome one of the recommendations either by the review by the Department of Primary Industries or from this inquiry that in the education of magistrates that the animal welfare needs to be put fairly and squarely on the agenda?

Mr SLATER: Absolutely.

The CHAIR: I am just going to ask you if you could put aside your loyalty to the Animal Welfare League and step back and look at the Animal Welfare League.

Mr SLATER: Certainly.

The CHAIR: We have a very small percentage of the funds coming in for the inspectorate from the Government. Most of the funds that are coming in for the inspectorate—that is for the inspectorate to uphold a criminal law—is coming from legacies, bequests, donations, commercial activities et cetera. Do you not think that that is actually unfair for animals and that animals deserve better than such a precarious, vulnerable, unpredictable situation for a baseline funding for prosecuting a criminal act?

Mr SLATER: I do but I also think it is borne of a piece of legislation that is 41 years old that does not meet societal need.

The CHAIR: Would you welcome a change after this 41 years?

Mr SLATER: Of the legislation?

The CHAIR: Of that particular arrangement.

Mr SLATER: I would welcome better outcomes as far as animal welfare is concerned in general, 360 degrees.

The Hon. MICK VEITCH: This is a two-pronged question to do with your funding from the Government. The first part is: Outside of the government funding, how much does your organisation spend on education programs? You can take it on notice if you want and get back to us.

Mr SLATER: Yes, if I could. I will take it on notice.

The Hon. MICK VEITCH: And then: Of the money you receive from the Government, how much do you spend on education?

Mr SLATER: It is tied wholly and solely to the inspectorate.

The Hon. MICK VEITCH: Does your MOU tie it completely to compliance?

Mr SLATER: That is correct. Yes. I note that we have a secondary agreement with the DPI that is disaster response and recovery for things like the bushfire situation, where we do not get a fee for service but our costs are covered.

The Hon. WALT SECORD: My question comes out of the Hon. Mark Pearson's question about donations to your organisation. Would prosecutions and activities that you would pursue be directed or influenced by donations? Would not certain activity be pursued because donations would like that? You would take up certain animal rights causes or prosecutions that would be in line with bequests and things like that. Does that skew your investigative activity—for example, the popularity of cats and dogs?

Mr SLATER: No. There was a case 12 months ago where we knocked back a bequest because we were asked to expand what we did. And it was substantial—it was \$125,000.

The Hon. WALT SECORD: What was the direction they wanted you to move into?

Mr SLATER: No kill. We believe as an organisation that you cannot be involved in welfare unless you are prepared to euthanase an animal. It is part of a policy called Getting to Zero. We have a core business. Our strategy dictates what we do. We do not move off the sides of that, essentially. We are very specific about the way we do things moving forward.

The Hon. SAM FARRAWAY: One of the key advantages or outcomes of your organisation and the RSPCA is that they are able to enforce, I would say—and others would probably disagree—the POCTA Act but they are able to rehome the animals in a lot of cases or in some cases, I suppose, euthanase, which is sometimes the most humane thing to do if the animal has gone through significant trauma. Do you think an independent body is anywhere near capable of trying to administer that quite complex process?

Mr SLATER: Rehoming?

The Hon. SAM FARRAWAY: The whole rehoming, because it is a huge part of an outcomes based process of what your organisation and the RSPCA do. It is more than just issuing an infringement or a criminal act or penalty or getting someone in front of a magistrate. It has to be more than that because it is getting an outcome for the animal.

Mr SLATER: There are lots of variables to it. The way I can answer you simply is if you get the rehoming of an animal wrong, people get hurt and those people no longer engage with animals and/or welfare again. If you rehome an animal with special needs because it has been treated badly, the outcomes are far more exacerbated, which is why you need vets. We include what is called behaviour modification plans. We go through interviews with people who want to adopt these animals as well. It is a massive part of what we do, rehoming. We also foster as well. Animals do not thrive in a shelter environment. We are moving to have 80 per cent of our animals in foster and then rehomed directly from foster after best-in-the-world practice that is employed in America. Does that answer your question?

The Hon. SAM FARRAWAY: Yes.

The CHAIR: Just quickly, it would still be possible for whatever agent is enforcing the Prevention of Cruelty to Animals Act—just like the police no doubt sometimes have come across a situation, realise that animals have to be seized or cared for and they may seize them—for the Animal Welfare League or the RSPCA or other bodies to care for those animals, would it not, irrespective of who is actually investigating?

Mr SLATER: We would but there would need to be a distinction between a 16 (d) rehoming facility and an in-pound facility. Obviously, there is the seven and 14-day rule when looking after an animal, whether it is microchipped or not, that comes into play as far as these owners are concerned. Then once these animals are seized from an owner who has breached POCTAA, if they have not been microchipped at that point in time you cannot interview that animal if it is not necessary veterinary work. Again, the nuances are within the existing legislation that needs to be updated.

The CHAIR: I think it will be. Thank you very much for your evidence. It is much appreciated. There was one question on notice.

Mr SLATER: Yes—the cost of education.

The CHAIR: If you could provide that answer within 21 days of today, that would be great. Thank you.

Mr SLATER: Certainly.

(The witness withdrew)

CATHERINE RACHEL SMITH, Founder and CEO, NSW Hen Rescue, affirmed and examined

The CHAIR: The Committee welcomes Mrs Catherine Smith, Founder and Chief Executive Officer of New South Wales Hen Rescue. Thank you very much for coming.

Mrs SMITH: Thank you for inviting me. My position in NSW Hen Rescue as the CEO and Founder is a voluntary position.

The CHAIR: Would you like to commence with an opening statement?

Mrs SMITH: Yes. I am just going to say a few words. My role in NSW Hen Rescue, which is a small organisation, has seen me rescue many ex battery hens—they are the main animals that we rescue—but I have also taken a lot of stray animals and there also has been a cruelty case. There have been times when nobody else has done anything and we then have had to negotiate with the guardian of the animal to release them to us. I have got quite a unique perspective on the role of the RSPCA, the police, the Animal Welfare League and the Department of Primary Industries [DPI] because of my own personal experience with them through the Hen Rescue.

The case that is probably the most relevant to this is the case of the Lakesland hens, which was in June 2018 and which is covered fully in my submission. But to sum up, it was a case where approximately 5,000 intensively free range hens were starved and dehydrated to death by—well, actually about 1,000 of them were starved and dehydrated to death but the others were still starving. There was period of time from when it was reported by a member of the public to the RSPCA and the police. There were then 10 days when no action was taken. It was only when we received anonymous footage showing the deterioration of this situation, with further hens dying and still no food and water, that we commenced a social media pressure campaign and also contacted Mark Pearson to contact Steve Coleman directly, that the RSPCA finally gave in to the pressure. The result of that was that while charges were pressed against Shaun Stone, the farmer, not a single hen was saved. I feel that is very relevant to this. That is all I needed to say as an introduction.

The Hon. EMMA HURST: Hello and thanks for coming. In your submission you give significant detail about the Lakesland hen incident, which was extremely distressing. What kind of evidence came forward throughout that that the RSPCA failed to protect 4,000 hens that were involved in that case? Was it a lack of resources? Did they have insufficient powers, or was there something else playing into that as well?

Mrs SMITH: There were a number of factors, from what I am aware of, both from my experience on that date and from what has come up in court from their body cam footage that was played. The first is, as someone actually said earlier, passing the buck has come up a lot. What happened was when a member of the public reported the issue they pretty much said, "Call the police." The police said, "Well, it's the RSPCA's job." The member of the public thought something was going to happen, and that is what we were told as well, and nothing did for 10 days. I would say a lack of communication and a lack of utilising the resources they already have. That would be one.

The second is the lack of willingness to use the powers they already have. One Inspector Genders admitted that in her 15-year career as an RSPCA inspector she has never seized an animal. I find that to be very strange and it does coincide with this. Many animals could have been saved. At least some of them would have had to be put down—they were in very bad condition—but for some we had all kinds of people coming forward offering homes, who we were vetting. There was a lack of willingness to use what they already had and I suppose the funding that they already had. They turned up on the night, finally, and, their words were on the body cam footage, "We're here because of the pressure", meaning the social media pressure.

They did not bring a light. They had some weak torches. I mean, I can get a decent in Bunnings. I could probably afford that myself. I feel that they could have done the same. The RSPCA, I believe, has enough funding for a decent light from Bunnings. It is a lack of doing what they could do. Then there was a lot of cover-up. After the incident, on 21 June 2018—on 20 June they first attended—they came back on 21 June but they did not rescue anyone. On 24 June I spoke to Steve Coleman and he said that there was potential for rescue and that he was negotiating with Shaun Stone, the farmer, but that the fact that we had been there had made it harder. On body cam footage since, on 21 June, we have seen the RSPCA inspectors tell him to book a slaughter truck. There is an element of lying and saving face in the media that also contributed to it, so I feel that there are several factors.

The Hon. WALT SECORD: Mrs Smith, just for clarification, when you say passing the buck, you mean the NSW Police Force and the RSPCA.

Mrs SMITH: Yes.

The Hon. WALT SECORD: Does this happen very often? Do you find that people are getting ping-ponged back and forth?

Mrs SMITH: Yes. On a much less dramatic scale, we often have maybe backyard chickens. They might be roosters. An example is chickens that being fed only white flour. They were being kept in an old air conditioning unit that was on the side of someone's house and were only alive because the neighbour kept popping by and putting some greens through. The RSPCA said to call the police. The police said to call the RSPCA. Nobody came out. Eventually I was able to negotiate with the guardian to surrender them to me. Another example is with roosters being constantly dumped because people breed without thinking. What are we going to do with the roosters in Sydney? They dump them all the time. People call the RSPCA. They say, "Call the council." The council says they cannot do anything; call the RSPCA. It happens all the time.

The Hon. WALT SECORD: Why does it happen?

Mrs SMITH: Passing the buck? I suppose I am dealing a lot with farmed animals or animals that, even if they are companion animals, they are viewed as agricultural animals.

The Hon. WALT SECORD: So you feel that the RSPCA has a different approach to companion animals versus farmed animals?

Mrs SMITH: Yes. I have run into some issues with companion animals, such as chained dogs.

The Hon. WALT SECORD: I prefer the phrase "pets" but, okay, companion animals.

Mrs SMITH: I like the term "companion animals", so we can just use that.

The Hon. WALT SECORD: So you feel there is a difference in attitude from the RSPCA?

Mrs SMITH: I definitely feel that there is and I think it is to be expected when you have members of the board who have animal farming interests and you have inspectors who are from an animal farming background. I also believe it is in the training. I believe that the culture is one of "These are the animals that we exploit and these are the animals that we care for." They might be better for donations as well, dogs and cats.

The Hon. MICK VEITCH: Do you have the same issue with the Animal Welfare League that you have with the RSPCA?

Mrs SMITH: Thank you for asking. The Animal Welfare League [AWL] I found to be a little bit more open. I do not know whether it is just because of the smaller team, that you are able to have more of a conversation with them. However, whilst I have got to a further stage with, for example, getting them to inspect a battery farm where there were many dead hens, there was actually no difference in outcome; no hens were seized, no charges were laid. Just last week, actually—it is not in my submission because it only just happened—I got a message from an AWL staff member saying they had been contacted about a hoarding situation with 50 chickens; "You deal with it" kind of thing, which I did.

The Hon. WALT SECORD: What about your dealings with the police? You have told us about AWL and RSPCA. What do you get when you call the police and say, "I think this cruelty is occurring. These chickens are being housed in an air conditioning wall unit and only being fed flour"? What do the police say when you approach them?

Mrs SMITH: Nearly without exception—I think there are a couple of friendly police people who have tried to give me more of a conversation—they say to call the RSPCA. Some do not realise they have the power to do anything. They tell me, "We can't do anything about that."

The Hon. WALT SECORD: The police do not realise that they have the power?

Mrs SMITH: Some of the police officers I have spoken to do not realise they can do anything.

The Hon. WALT SECORD: What do you think about the proposal for an independent office of animal welfare, separate from the RSPCA, the AWL and the police—a separate body and this is its activity?

Mrs SMITH: I think that one of the biggest benefits of that is that it will be properly funded, but also it will not have vested interests because it will be held accountable. It will not be, I am guessing, that they are going to have, like, a freedom foods program where it depends on these farms. It is not freedom foods; it might be RSPCA Approved here. Is that the one for the food scheme?

The Hon. MARK BANASIAK: One of them.

Mrs SMITH: One of those. If you were then to report one of those farms and you are saying that there is an issue with them raising the chicks so they can be slaughtered at six weeks when they can barely move at that

time, that is RSPCA Approved. An independent body is not going to have that link and I think that gives so much more potential for them prosecuting in farmed animal situations. I believe the training, where they were talking about the experience, can be given. Perhaps the great people from those organisations who are actually doing the job properly could be part of it.

The Hon. SAM FARRAWAY: In your submission you refer to a euthanasia bonus. Could you dwell on that a little bit more?

Mrs SMITH: I definitely can, but I want to make it clear that that my experience was from quite a while ago. It would be important to check that this is still the case.

The Hon. SAM FARRAWAY: Which organisation was it with?

Mrs SMITH: RSPCA. My experience when I did briefly work for the RSPCA, when I believed that they were going to do the right thing, was that I was on the reception desk. It was a small shelter so I was getting all kinds of interactions. I quickly learned that the animal care attendants and the managers, on the days that they killed an animal, putting them to sleep—or it might have been the week. I cannot remember if it was the week or the day, but they received more money because of the horrible nature of that job.

The Hon. SAM FARRAWAY: How long ago?

Mrs SMITH: This was in 2007 and I believe it was reported on again in 2011. So it is some time ago and I would want to confirm.

The Hon. SAM FARRAWAY: Following on from the previous questions, "Board members of the RSPCA include the very people who abuse animals—animal agriculture farmers. The RSPCA board should not include anyone who profits off the exploitation of animals." Do you not believe that there are good people who would be able to participate on the RSPCA board who have a connection to agriculture that would not be fit for those roles?

Mrs SMITH: I agree that they would not be on the board at all.

The Hon. SAM FARRAWAY: Why?

Mrs SMITH: Because practices within animal agriculture which are okay under the Prevention of Cruelty to Animals Act include slamming piglets on the ground to kill them. It includes painfully debeaking. People who do that—I do not think they should be responsible for welfare.

The Hon. SAM FARRAWAY: It could be said that that is a minority. It is a very broad brush, obviously, in the submission. I was just trying to understand if you feel that broad-brush approach to not allowing anyone who has—

The Hon. WALT SECORD: Be fair to the witness.

The Hon. SAM FARRAWAY: I will give her the opportunity—a broad brush to anyone who has a tie to agriculture. For many within agriculture, it is their life, it is their farm, it is their lifestyle. I think it is a far too broad-brush approach.

The CHAIR: Is this a question?

The Hon. SAM FARRAWAY: Under the current structure of the RSPCA, do you really think that that would be a benefit to not have the expertise?

Mrs SMITH: From my experience, I have had no luck trying to get any kind of help for the animals who come under farmed animals from the RSPCA or AWL. I think that it would be impossible for someone who, as you said, their life revolves around it, their income, supporting their family, to then step back and say, "Actually, this whole part of my business is cruel." Debeaking is the standard industry practice. It is not rare. Slamming piglets on concrete is standard industry practice. You will see it in—I cannot say every piggery and hatchery, but in the majority. As for the good people, of course they may be very good people—good to their families, good to humans. But to animals, ultimately they are killing them. I do not believe that those people killing them should be responsible—

The Hon. SAM FARRAWAY: Taking away from your specialised view around hen rescue, do you believe that sending a cow to slaughter is exploiting the animal and that the person who operates a beef or cattle station or farm should not participate in the RSPCA board?

Mrs SMITH: Correct.

The Hon. EMMA HURST: Just to clarify, your concern is that anybody within the industry would have a conflict of interest. We just heard from the Animal Welfare League about the Prevention of Cruelty to Animals Act needing a whole review. We heard from Animals Australia this morning talking about the sentience of all animals and that the current laws are not strong enough to protect these animals. So you feel that anybody no matter who they are, if they have a conflict it will affect their role there?

Mrs SMITH: I believe it will affect their role. I believe there will be poorer outcomes for animals. I also think that if someone puts themselves in the shoes of the cow going to slaughter, are you being exploited? If it was you, yes.

The Hon. MICK VEITCH: In your submission you talk about conflicts of interest and you talk about the RSPCA Approved foods program. Can you elaborate a bit more about how you see that conflict playing out for the RSPCA? The AWL were here a bit earlier; I do not think they participate in those programs.

Mrs SMITH: I do not believe so.

The Hon. MICK VEITCH: I stand to be corrected, but I do not think they do. Could you talk the Committee through your concerns around the conflict of interest exposure of the RSPCA by being involved in those food programs?

Mrs SMITH: I believe that there are some massive issues. If we take the chicken meat industry and their approved farms that I have visited, the conditions in there—I have seen chickens kicking, unable to stand, going round in a circle because they have been grown to be too big too quickly and they are still little chicks. I have seen the RSPCA Approved purchase hay bales, but they cannot get up there because the breeding means they are too big. They cannot move up there. It just does not mesh with wanting the best for animals. To actually profit and for that to be a major part of your business model—how can that possibly be in the best interest of the animals? I just do not see it. When it comes to prosecuting, for example, or looking at the law and seeing what can we change, if they are making money from it, how are they going to look at it without that prejudice?

The Hon. MICK VEITCH: I think you might have been in the room when I asked the previous witness about greater parliamentary scrutiny around the activities, regardless of whatever the structure is after the reviews of the legislation the Government is talking about, whether being an independent office or advocate, or whether they still continue to fund the ACOs. My question was around at least once a year coming in and sitting here in front of a parliamentary committee where their activities can be scrutinised from a parliamentary perspective. What are your views for and against that model?

Mrs SMITH: I think it is better than nothing, but I think it is a very small step. I think, yes, they need to be scrutinised. It is quite ridiculous what they did to those hens and what I have seen them not do to help other animals. But it needs to be more, it needs to be more than that.

The Hon. MICK VEITCH: To put it in context, I do not think the ICAC commissioner would think it is a small step coming to sit in front of a parliamentary inquiry, and I certainly know that the public servants do not think it is a small step. You say it may be a small step, it is not a small step. There are a number of government agencies and ombudsmen who have to do that every year, sometimes twice a year, and it is no small step.

Mrs SMITH: But it is not getting the independent office, is it? It would not be that, that you are talking about.

The Hon. MICK VEITCH: It could well be. My question was regardless of what structure is put in place, do you agree there should be—

Mrs SMITH: I agree there should be scrutiny, yes.

The Hon. MICK VEITCH: Parliamentary scrutiny.

The Hon. MARK BANASIAK: Just some questions about your organisation to start with. How many hens do you hold at any given time?

Mrs SMITH: We work in foster homes. You know how the Animal Welfare League [AWL] had their main—we just work in foster homes. We have gone from anywhere between 500 to 12, depending on whether we have the different rescues. We are small.

The Hon. MARK BANASIAK: What would be the breakdown roughly in terms of the source of hens? You have talked about convincing owners to hand them over to you. In your submission you talked about the Lakelands situation where you essentially went illegally onto the property, grabbed them, and on the way out you were crash tackled, and having a result of the RSPCA or the AWL actually handing them over to you for you to manage: a rough breakdown?

Mrs SMITH: For the actual ones that we take in and we are able to, about 25 per cent. But we get contacted about a lot more by email and people say, "I've tried contacting the RSPCA." And what I have to do, we are so tiny, I give them a list of animal sanctuaries that might be able to help and I say, "If you have no luck, come back to us." Because I want them to be safe. I give them a list because, I say we get contacted about a lot more but we have a tiny—

The Hon. MARK BANASIAK: So 25 per cent you would say is from the owner?

Mrs SMITH: Yes. We were set up really to be for ex-commercial-farmed hens.

The Hon. MARK BANASIAK: How much would you say you get from, I guess I use your word "liberation", when you have gone in there and grabbed them yourself because you feel the RSPCA and AWL are not doing anything?

Mrs SMITH: Oh no, Lakesland was the only time I have tried to do that.

The Hon. MARK BANASIAK: Lakesland was the only one?

Mrs SMITH: Yes. It was very strange circumstances. That does not come up usually in our day-to-day work.

The Hon. MARK BANASIAK: I do not want to put words into your mouth, but touching on what my colleague the Hon. Sam Faraway was speaking about in terms of animal agricultural board members, you state that, "The RSPCA board should not include anyone who profits off the exploitation of animals." Taking what you have said already, do you believe that any animal-based agriculture is exploitation?

Mrs SMITH: Yes. Because if you put yourself into that situation you definitely feel exploited.

The Hon. MARK BANASIAK: Are you opposed to all animal-based industries? I am trying to get, I guess, the motive and the ideology behind Hen Rescue.

Mrs SMITH: Yes, I am aligned with that way of thinking, that I do not believe animals should not be exploited for us in any respect, because it is painful for them.

The Hon. MARK BANASIAK: Do you see pets as exploitation? Do you go that far? Because we know there are some animal rights or animal welfare people who believe that even pets are too far—

Mrs SMITH: It is an interesting question, because I work in rescue and I rehome the hens as companion animals. So, what I have is a very big distinction between rescued and bred animals. Whereas the Animal Welfare League were not completely against puppy farms, if you listen to that question, only if they were breaking laws. I would be totally against puppy farms, but I would be pro adopting rescued animals from a shelter and giving them a great life. So, I suppose it is a little bit of a strange answer.

The CHAIR: When you and other members of your organisation arrive at an egg laying facility or whatever, what is in the forefront of your mind? Is it the concept that animals should not be abused at all in agriculture, or is it to assist the animals that are in front of you?

Mrs SMITH: For Lakesland?

The CHAIR: Any situation where you can see it.

Mrs SMITH: In the forefront of my mind is to help the animals in front of me. I suppose I just do not have big, lofty ideas in my head when I am doing those kind of jobs. I am just like: This girl, she needs help and I need to get her to the vet. That is kind of how I would be thinking.

The CHAIR: On the day at Lakesland when the RSPCA arrived—and it appears from your submission that there was sort of like a strange reluctance to move or act—in grappling with understanding that, maybe the court tried to understand it as well and maybe there was evidence brought into the court about this, what seemed to be the reason for that approach from the RSPCA do you think?

Mrs SMITH: I believe that it was because these animals—they were agriculture animals, they were from the farmed industry. There is bodycam footage of the RSPCA where they say—I do not remember exactly but I have got the transcript—"Don't these people understand chicken farms? This is just a chicken farm" or "an egg farm." And that is on their thing, and they talk about us at the gate. So to them it is like, this is an egg farm. And they said, "We are here because of the pressure." They would not have come if it were not for the social media pressure. The way that the Local Land Services vet, who was there to take samples, broke the necks of two girls—who were not dying actually, they probably needed a feed and some water desperately—for samples and they took over two minutes to die and we could see them flapping their wings and screaming. The RSPCA inspectors carried on chatting about stuff. I do not understand how they could stand in front of them, and that is

the standard way to kill them for Local Land Services. I think it is a cultural thing. I think RSPCA, as an organisation, do not care about farmed animals, and that is what it seems from evidence.

Ms ABIGAIL BOYD: I am reflecting on the way that the legislation in New South Wales is broken up into different categories of animals, and we have read submissions where people say: Why do we just have certain types of animals within one category? To me it reflects the historical attitudes of people. You had the animals you could use for research, the animals you could use for entertainment, the animals that you eat, and all the rest are kind of fair game to be pets. That is how people viewed the standard of care that you had towards those animals, a kind of arbitrary perspective. Do you think it is fair to say that community attitudes have changed in such a way that now requires us to rethink those divisions?

Mrs SMITH: Oh yes, definitely. The community attitudes are so different now. The fact that one of the laws means that you can keep your dogs chained on a small chain, and I think it is to let them off once a day over a 24-hour period and it can be the shortest time. The RSPCA—if I am going to for this time give them the benefit of the doubt—how are they meant to prove the dog did not come off the chain for five minutes that day? This law does not reflect how society is now. Society in general does not want dogs to be chained. The same with birds in small cages. People have them as ornaments. It still happens all the time. My negotiations with people—we do not just work with hens—I am trying to get them to surrender their aviary birds, because you will have an Indian ringneck parrot in a cage—like this—for their whole life, like Raphael who we have got now. It needs to change, you have really hit the nail on the head.

The Hon. EMMA HURST: You gave quite a few examples where you believed that there was a reluctance to act. In your view and from your experience as well, what do you think needs to be done broadly to improve the enforcement system in New South Wales?

Mrs SMITH: I think that, firstly, to say that the enforcement system should not have these links with agriculture. I truly believe it would make such a huge difference. Whatever your views about agriculture generally, well this, enforcing animal cruelty laws, it should not be about that. I believe that training and culture—if you were to start a new office for this the culture could be brought up, new, that this is a culture of respect for animals. These animals are individuals. A flock is not just a flock with no-one in it. These are individuals who all have different personalities, just like a dog. I think that that culture and the appropriate training and then the funding of course, but it is the culture that would change the reluctance because it would be the done thing that you help animals no matter what their species. Whereas at the moment it is not the done thing to help chickens.

The Hon. EMMA HURST: Do you have anything else to add that you feel has not been covered in the inquiry?

Mrs SMITH: I think that there is also the willingness to kill. I know that we use the word "euthanasia" and sometimes I think somebody mentioned when there has been a trauma the animals need to be put out of their misery in a kind and gentle way. Euthanasia is not slaughter which the RSPCA currently said they euthanize but they are actually sent to slaughter with a commercial company that always does that. There was nothing special about those deaths, and they did not need to die. They need to not be so quick to kill. There were people waiting who had a safe space at home. We had the fundraising ready to go for those hens. I have seen it with dogs and cats when I worked with Animal Liberation.

You will see in my situation a hoarding situation where Animal Liberation NSW were willing to help rehome around 80 cats and there were many kittens so they would have been very friendly and able to be brought up. The RSPCA just decided to kill them all. I do not believe that is euthanasia. I believe that is another cultural thing that we need to challenge and if there was an independent office or, if people were being held accountable, I believe that should be part of it.

The Hon. EMMA HURST: It sounds like a lack of communication or working amongst the groups where potentially another charity or group could step in and say, "I can actually help with this situation."

Mrs SMITH: That is right, a lack of communication, and the fact that there are multiple—I think it came up in the last conversation with the Animal Welfare League. There are multiple groups means that you can pass the buck whereas if there was one uniform group—not the RSPCA because they are probably the worst as far as enforcing this—we could achieve amazing things legally and as far as convictions for animal cruelty and completely change the culture.

The Hon. WALT SECORD: You said you worked at the RSPCA. What did you do when you worked there?

Mrs SMITH: It was quite a long time ago but I was on the front desk.

The Hon. WALT SECORD: Dealing with people coming and out?

Mrs SMITH: The shelter is small at Katoomba in the Blue Mountains so it is not like the Yagoona one. That is why in my submission you will see a man brought the three rabbits and I was asked by the manager Kathy "Choose the cutest one. The other two are going to be euthanized." They were health and friendly. It was a really horrible experience and I had gone in there thinking it was going to be great and a chance to work with animals. I am aware that time has passed and things may hopefully have changed for the better but I felt it necessary to put in there because from what I see now, I am seeing those things repeated and hearing those things repeated.

The Hon. MICK VEITCH: Was it many years ago?

Mrs SMITH: It was and it was only for three months. I quickly realised—I detailed some of the things where I tried to advocate for the animals to be able to live. They were adorable, friendly, rehoming animals. I remember their names and I failed it and they did not like that either.

The Hon. EMMA HURST: Did you say it was 2007?

Mrs SMITH: Yes.

The CHAIR: Is it noteworthy that the RSPCA is receiving funding from the Department of Primary Industries? The Minister decides how much funding or even whether they do receive funding, and whether they are approved to be a charitable organisation. Every year the Minister has to make those decisions. The fact that the DPI is representative of intensive farming and agribusiness, is this the quandary faced by the RSPCA? The DPI is the body which looks after animal agriculture yet it is also the body that gives the funding and the recognition of the RSPCA? Do you think that puts the RSPCA in a difficult position when dealing with corporate farming?

Mrs SMITH: It could and I think it does but I think because the culture is so poor in the RSPCA that they have very similar attitudes now to the DPI anyway. For example, with the Lakesland hens you think on the second day when they turned up and it was light, they would have brought a vet to actually treat or, I suppose, euthanize some of the hens that were really suffering. Because although they turned on food and water, I would say, I guess, maybe 400 hens could not actually stand up they were that sick to get to the food and water. But instead they brought the Local Land Services vet who was just taking two samples, and that is the killing I told you about, and only walked down one side of the barn—did not even look at the other side, did not treat anybody. That DPI relationship may have started off as forcing them to do things they did not want to but now it is just part of the culture to the point where they do not even bring a vet to important situations.

The Hon. SAM FARRAWAY: I have read about the NSW Hen Rescue, obviously being a vegan organisation, I wanted to go to the egg industry about which you talk. Do you believe the egg industry is sustainable? Do you believe the egg industry should be shut down?

Mrs SMITH: I believe it should be shutdown. There has to be cruelty in the egg industry. All the male chicks are killed when they are a couple of days old. The common method is to put them into the grinder or suffocate them.

The Hon. SAM FARRAWAY: A Committee inquiry was held into caged eggs?

Mrs SMITH: Yes.

The Hon. SAM FARRAWAY: Did you participate in that?

Mrs SMITH: No, I did not. I am against the egg industry as a whole. So I do feel that caged eggs are like another level of horror. All the hens go to slaughter at 18 months. They are often waiting overnight to be slaughtered the next day in these crates. When they are pulled out of a free-range farm they are pulled by the legs and put into crates onto the truck and they are so low in calcium, they are so nutrient deficient that their bones break. We found them waiting at the slaughter house with broken bones until the next day. That is every system, including pasture-raised. Yes, it is a better life, I will give you that, but it is not right. The selective breeding means that you can have them in your backyard again, it is much better, but basically inbred. Originally red jungle fowl lay about 30 eggs a year, that is from whom these hens originate, but they have been bred by avian scientists—which is a real job—and farmers to lay around 350 eggs a year.

The Hon. SAM FARRAWAY: I have been to quite a few caged eggs and free-range egg farms. I suspect that in any industry there is an issue but I think again, it is a bit of a broad-brush approach. "Chickens are individuals with their own personalities and have a strong desire to live." At what point do you identify each hen, each chicken, as the individual with a name? How do you protect them against other chickens and hens? How do you protect them in that sphere?

Mrs SMITH: Sorry, do you think the other hens will attack them?

The Hon. SAM FARRAWAY: That is the point. I mean to say if you are going to treat them differently as an individual with their own individual personality and essentially mould them into society—this is as total companion pets—there has got to be overrun, is there not?

Mrs SMITH: I suppose we would do it like I did it. What happens if people eventually stop eating animals is that we stop breeding them as a society. I wish I could click my fingers and everyone would be vegan, that would be my dream, but I know that is not going to happen. They would gradually stop breeding and unfortunately the slaughter houses would continue, which I wish did not happen, and eventually they would not be bred any more. In the meantime, yes, the chickens would be like many people already have them with names, they take them to the vet, they have flocks that get along together. It is actually really lovely to spend time with them.

The Hon. EMMA HURST: To clarify, was your question also about what the protection laws would look like?

The Hon. SAM FARRAWAY: Yes, hens and chickens being individuals with their own personalities and identifying that they have a strong desire to live. If they are to be identified in society how are they to be protected from there?

The Hon. EMMA HURST: Are you asking if they should be protected in the same way as dogs are currently protected?

The Hon. SAM FARRAWAY: Yes, even broader, anything.

Mrs SMITH: Yes. I agree that they should be protected like dogs but with the changes that we want to see for dogs. Do you know how I mentioned the training? There is still work to be done with the dogs. I want all animals to receive the respect I believe that they deserve.

The CHAIR: Is your understanding of the Prevention of Cruelty to Animals Act that, within that actual statute, there is never a reference to a herd, a mob or a flock? It is an "animal". Is that your understanding of the Prevention of Cruelty to Animals Act?

Mrs SMITH: I did not have an understanding of it, I am sorry. In my belief, I think of them all as individuals. I have a vague understanding of POCTAA, but not as much as you.

The Hon. LOU AMATO: Mrs Smith, do you believe that cats should be kept in a cat run?

Mrs SMITH: I think cats should be kept in your home. If you want to build them an enclosure, that is lovely, too. Yes, it is probably better for them also to be able to go outside. I do believe that wildlife should be protected from cats.

The Hon. LOU AMATO: I am glad you said that.

Mrs SMITH: But I do not believe that colony cats should be killed. I think that the "trap, neuter, release" program is the way to go.

The Hon. LOU AMATO: But that is a contradiction of what you just said.

Mrs SMITH: Yes, you are right. My belief is that they should be in the home but, being real, I am aware that they are not all currently in the home. A bit like I would like everybody to go vegan, I am real enough to know that the cats are not suddenly all going to be in people's homes. Let's take steps now to minimise the impact on wildlife, to help the cats themselves and to take action one step at a time, minimising the amount of harm we do.

The Hon. LOU AMATO: What would you do with colony cats? Obviously they are destroying our native fauna.

Mrs SMITH: Colony cats, I believe there are already some wonderful programs in place. It is not my area with NSW Hen Rescue. However, I do have some interest in all animal rights areas. I think there have been some wonderful models of trap, neuter, release and with feeding of the cat colonies to reduce the hunting as well. The aim would be that, once they are desexed, you do not have the population. I realise it is a big job. I will be honest, it is not my area of expertise, but that is my feeling.

The Hon. MARK BANASIAK: Just quickly, how do you reconcile trap, neuter, release being a very long-term endgame with the short-term effect that they are still out there killing native wildlife? They are not making love to the native wildlife, they are killing it.

The Hon. LOU AMATO: They do it for pleasure.

The CHAIR: Order! Let the witness answer the question without commentary, thank you.

The Hon. MARK BANASIAK: How do you weigh up this idea that trap, neuter release is a very long-term view of solving the problem, as opposed to the euthanasia of feral cats having a very immediate impact and result on saving native wildlife?

Mrs SMITH: From the research I believe that it is not always as simple as that. Often if you kill them other cats will come in to start with. It needs to be a long-term project. However, I would answer it in the same way as if you had asked me about animal agriculture. Animal agriculture destroys more wildlife from land clearing and from the fields for the grain to feed the animals than cats.

The Hon. MARK BANASIAK: There is an argument to say that actual plant-based agriculture—

Mrs SMITH: I am so glad you asked that, because if we eat—

The CHAIR: There was a question because I heard the inflection at the end, Mr Banasiak.

Mrs SMITH: If we eat the plants directly as plant-based eaters and as vegans, not only can we get all of the nutrition that we need, but we are eating way less plants than if we first of all put them into animals like cattle, kill the animals using more resources—also putting all of these gases into the earth—and then eat the animals. The amount of land clearing in the Amazon for soy, for example, I believe is about 85 per cent of that land clearing and it is for animal feed. If we ate that directly we could rewild so much of that forest. Thank you for asking.

The CHAIR: Order! We will wind this back to the terms of reference.

The Hon. WALT SECORD: I just want to thank you for your evidence. I do not necessarily agree with it, but you have actually thought through the arguments, your views are sincere and I just want to thank you for your evidence.

Mrs SMITH: Thank you.

The CHAIR: Thank you.

(The witness withdrew.)

PATRICIA FERNANDEZ, Australasian Meat Industry Employees Union, affirmed and examined

The CHAIR: Would you like to make an opening statement?

Ms FERNANDEZ: Yes, I would like to make a very brief statement—although I have sat here since early this morning and I listened to the last speaker—in defence of my industry, which is much maligned.

The CHAIR: You are not the last speaker.

Ms FERNANDEZ: My industry represents a broad range of workers in most parts of New South Wales, but particularly in regional New South Wales. We cover poultry processing, turkey processing, pig processing, cattle processing, sheep processing, goats and some other animals from time to time, such as alpacas and deer. We do not do horses. I have been working for the meat workers union for 25 years and I have been involved in the industry for 35 years all up, so I believe I bring some experience to the table about the reality of what goes on in the meat industry. Hopefully I will try to allay some of your fears about what goes on in regards to the terms of reference of this inquiry. Having said that, though, obviously I do not have to address all the terms of reference, because they do not all apply to my industry.

Certainly, in the first instance, the industry does uphold animal welfare to the utmost, despite what many people may think. No, people do not go to work in my industry for the sole purpose of being cruel, being nasty or to kill things. It is an industry that feeds people and provides employment. For most parts of New South Wales it is probably the largest employer. When you have inquiries of this nature it may encroach upon an industry that is very misunderstood, because, as I always say to people, any normal person who walks into my industry and has never seen an animal being slaughtered for the processing of food is going to see a process that kills an animal. That is the reality, but we do so because we provide food. It is hard for people like me to sit here and listen to people say, "There's a correlation between cruelty to animals and violence."

I would say, "If you're a violent person, you're a violent person." It wouldn't matter if you hit a wall or kick it and make a hole in it, you are violent. It is very irrelevant as to who you are violent against. I do not believe anybody in my industry has any higher correlation to being susceptible to being cruel to other things simply because they work in the industry. I am sure there are as many people working in this Parliament who go home and do the wrong thing and they do not have anything to do with the killing of animals. I think it is important, though, when you look at this, there is no movement. When you talk about being cruel to an animal, nobody wants to be cruel to animals. I certainly do not.

The majority of my animals have all come from the RSPCA, I dare say. I believe in rehousing animals. The majority of people I come across in my industry—I have been very privileged, in a way. I have probably gone to most abattoirs in Australia, including up in Arnhem Land and all the way down in Tasmania. I have been to abattoirs in America, I have been to abattoirs in New Zealand, so I have a broad understanding of how the processing industry works. I open up myself for questioning, because I know there are questions. What I do not want is for people to think if an animal is chained up, mistreated, not fed and not watered that it is the same thing as an animal who goes up and presents itself for slaughter for the production of food. That is my opening statement.

The Hon. MICK VEITCH: Ms Fernandez, I am just going to quote the last paragraph of your submission: "We"—as in the union—"agree that any enforcement agency who investigates and prosecutes any breaches of animal cruelty in the meat industry must not be an agency who is reliant upon charity, donations, membership subscriptions and or fund raising." You have been here most of the day listening to questions and responses. You would have heard us talk about the need for an independent office of animal welfare or an independent animal advocate or the like. That statement clearly reflects that view. Can you explain to us why your union feel that we need to move away from charity-based enforcement and go to an independent office arrangement?

Ms FERNANDEZ: Yes, I think that is right, and I stand by those comments. However, I am still trying to reconcile in my own head how anything is independent, because no matter where the money comes from it is whether you are truly independent. If you look at family legislation, your kids still fall through the cracks—and they are fully funded, fully independent with specialist units and there is still cruelty against children. So we cannot kid ourselves and think there is a silver bullet out there that is going to fix all of our problems. I do not believe that any agency that enforces should have to rely on charity. I think that money should go to the welfare of the animals. I was very taken by the evidence that was given by the Animal Welfare League; I thought he was very good in providing his information. Most of his money does not come from the Government, from what I heard today. I think that should be the primary role, it should not be about enforcing. It should also not be about giving processes the tick of approval.

I am sorry to say I find that sometimes for the RSPCA to say that certain products coming out of my industry have got the tick of approval, I do not think that an agency that relies on charity, or any funding for that matter, should be doing that, I really do not. I see the ads on the TV where they say "We've saved six million animals." I know how many animals we kill in this country and let me tell you that would not even constitute a week in the life of an animal. If we are going to start somewhere we have got to start with education.

The CHAIR: Can I just take you back a little bit and ask you to expand a bit on why you do not think a charitable organisation should be having any sort of business agreement with animal product industries.

Ms FERNANDEZ: Because that is not their role. It is like saying that, let us say, St Vincent's goes and gives a tick of approval to Kmart because they sell clothes. I just do not think that that is the role of any organisation to say, because it is a very complex thing. Even free range of poultry is very complex—it is about the daylight that the animal sees, whether that constitutes sunlight, whether that constitutes artificial lighting, how many square metres per animal and all of those things.

The CHAIR: So would you say that this business arrangement could compromise—

Ms FERNANDEZ: I agree, yes.

The CHAIR: —their function as an inspectorate body, particularly if it came to a complaint about that company?

Ms FERNANDEZ: That is exactly right.

The Hon. SAM FARRAWAY: Just a direct follow-on from this, I understand exactly what you are saying and to the Hon. Mark Pearson, but could it not also work in reverse—or not even in reverse, the other flip of the coin where as an awareness campaign the general public feels safe in purchasing a product that has that stamp because they care about the welfare of an animal or the process, I suppose, in particular with your industry from farm to slaughter to the supermarket, that they would buy that product, because for them that is awareness that obviously there is a process and a check and balance and they will purchase that product over another because of that approval?

Ms FERNANDEZ: I see it as a commercial arrangement rather than a purely—

The Hon. SAM FARRAWAY: I suppose a question to you for your particular industry that you represent: Does money obviously change hands in the sense—

Ms FERNANDEZ: I believe so. I can stand corrected, but I believe so.

The Hon. SAM FARRAWAY: To get that approval, to get that tick?

Ms FERNANDEZ: I believe there is a fee attached to that. But I stand corrected, that if I am wrong I apologise to the agency.

The Hon. MARK BANASIAK: Would you prefer that any of those sort of commentaries about the quality of food and where it has come from and how it is killed come from an industry-based organisation like the Meat Standards Authority [MSA]? Would you prefer that they have the responsibility of making those comments as opposed to a charity?

Ms FERNANDEZ: I believe it should probably be a tripartite system. I believe it should be an organisation that is made up of the processes, the farmers, the unions, the government and all of that that can do inspections. We are the best people—we know our industry; we walk into our industry every single day of our working life; we know exactly how it operates. In all my years in the industry—I worked for 10 years in the industry before I came to work for the union—I never saw anybody from the RSPCA, or any other agency for that matter, come in and have a look. You had the Australian Quarantine and Inspection Service [AQIS], which is of our food safety and all of that stuff obviously. You had your vets come in, there is no question, but they are usually employed by the employer—they are not independent. I am not saying that they do not do a great job, because I have never seen vets do the wrong thing in my industry, but I am just saying I just think the RSPCA, the hen people that were here before—sorry if I have got the wrong name—they should just be about animal welfare.

The Hon. LOU AMATO: Would you say that is probably because they trust your industry and your standards and procedures?

Ms FERNANDEZ: Who?

The Hon. LOU AMATO: The RSPCA and other organisations. They have not gone into your establishment—

Ms FERNANDEZ: I do not think this should be a bashing from the union on the RSPCA.

The Hon. LOU AMATO: I am not bashing anyone. You made a comment. I was just asking—

Ms FERNANDEZ: It would not matter who they were. I will give you an example.

The Hon. LOU AMATO: What I was saying is do you feel that that is probably why they have not gone there, because they trust your industry and your procedures?

Ms FERNANDEZ: It is not an issue about trust. It is an issue that you should have all the checks and balances to ensure that if something—

The Hon. LOU AMATO: That is what I am getting at.

Ms FERNANDEZ: —gets the tick of approval, that you go there and have a look, you would talk to the workers. Would you not talk to the workers? Would you not go to a kill floor and say, "Your employer has applied to get the tick of approval from the RSPCA. We would like to talk to you about your processes. Have you been trained? Have you done this?" I would think that that would be a very conceivable thing to do. I have never had one worker tell me that anybody ever asked them.

The Hon. MARK BANASIAK: Considering your opening statement where you spoke about how you have been overseas—you have been to the US, you have been to New Zealand—how do you respond to the previous witness' testimony that all animal-based industry is exploitation? Seeing what you have seen in the US and seeing what you have seen in New Zealand and compared to what you have lived and breathed for decades, how do you respond to such a statement?

Ms FERNANDEZ: It hurts. It hurts that my industry is so maligned. It hurts that we are seen as an industry that a cow presents itself and we exploit it. It is not the reality, it is not the truth. I understand why people come to that conclusion, but it comes from a position of not understanding the industry. As I said in my opening statement, a normal person who has never seen anything in the industry would walk into a knocking box where we knock the animal and would go, "Oh my God, that is barbaric." That is the reality. But you have to do that in order to kill the animal, you have to knock them, you have to make them unconscious, just like when you go to hospital and you lay on the table and the anaesthetist says to you, "Start counting from 100 down", and then you do not know anything, and the next thing you know you wake up—in this case you do not wake up. But that happens.

Ms ABIGAIL BOYD: Just picking up on that point, and I note your comments in your opening statement and the feelings that the industry has about feeling, I guess, persecuted in some ways, obviously there are those people who feel that animals just should not be eaten or killed.

Ms FERNANDEZ: Yes.

Ms ABIGAIL BOYD: This particular inquiry is looking at cruelty. Cruelty is not the same as killing; cruelty is about unnecessary suffering. I guess I am asking you to explain how expanding the laws in relation to animal cruelty to cover agriculture would cause such concern for the industry.

Ms FERNANDEZ: Because the people making those decisions have probably never been inside an abattoir. This is why I was here today. Really, when you look at the terms of reference and that, you think this is not really about us. But this is my concern: that it will encroach upon my industry because there will be people who have a vested interest in saying that the killing of any animal, for whatever reason, is cruel. You have heard it here today. People have said a cow presenting itself for slaughter is barbaric—it is an exploitation of the animal.

The Hon. EMMA HURST: That is outside the terms of reference of the inquiry. I know that some people were guiding people and prodding them on questions outside of that. I understand that may have caused confusion for anyone witnessing that. Can I take it back to the terms of reference?

Ms FERNANDEZ: Yes.

The Hon. EMMA HURST: I would like to get your thoughts with respect to the enforcement of the current laws as they stand, and whether you think there is a better system and how that would work in enforcing the current laws? Or are you happy with the current system?

Ms FERNANDEZ: No. I am not happy with the current system because it does not necessarily enforced—I will give you an example; live exports. Let us take it out of processing. Let us look at something that has nothing to do with processing. Live export is the most barbaric and cruel. Nobody would ever say it is not cruel. If the RSPCA is the enforcer, why have they not stopped it? They should have stopped it. Why has it not been stopped? I have flyers here that I have been sitting there all day looking at. All it says is, "Stop the suffering," and "long-haul live exports". If you are the enforcer you should be able to say, "No. That ship is not

getting loaded. These animals are not coming here. We are the enforcer. It stops here". Why has that not happened? That is my concern. I do have some sympathy for some of the stuff that has been said today, that the RSPCA may have the enforcement right but rarely exercises it. Live export is a perfect example of that. There is absolutely no need to export animals live, especially on a ship. You have an agency here that can stop it and they have not done so.

The CHAIR: In terms of enforcing, the Prevention of Cruelty to Animals Act permits killing of animals for the purposes of causing food for human consumption, so the exemption is already there. It is not in question as long as the animals are killed humanely. Of course, that is the issue of enforcement. As you said, we have not seen any regulatory authority come to almost any abattoir to check these things.

Ms FERNANDEZ: Not to my knowledge and certainly not in my time.

The CHAIR: Would you welcome a body like the police or officers under an independent officer of animal welfare to have more interest in abattoirs to visit? Spot inspections, for example, or have an agreement for CCTV cameras over the critical points of animal welfare? Would that be a welcome—

Ms FERNANDEZ: I think you will find we already have those things. We do have cameras.

The CHAIR: I thought they might but they are not mandatory are they?

Ms FERNANDEZ: They are not mandatory but the majority of abattoirs would have cameras. I think it is a misnomer. A majority of them have, they are just not accessible to you. They have them there.

The CHAIR: Who are the recordings accessible to?

Ms FERNANDEZ: They are certainly accessible to us if we ask for them.

The CHAIR: Not the food authority?

Ms FERNANDEZ: I do not know. I would not know about the food authority. If you think back there was that issue with the turkeys at Inghams at the Tahmoor plant and there was footage of that that was exposed. There are cameras there now. I can tell you that for a fact because I have looked at them myself. Where it is directed—

The CHAIR: And does that make the Australian Meat Industry Employees Union more confident that will help dissolve this notion that these are places that people would think are terrible places if there is monitoring? If there is transparency of abattoirs via the cameras, via spot inspections by whatever authority, would that make the industry feel more confident?

The Hon. WALT SECORD: Mr Chair, this is not part of the terms of reference.

The CHAIR: The terms of reference are about enforcement, and this is about enforcement.

Ms FERNANDEZ: They have got cameras out to stop you from using your mobile phone and I still see people using mobile phones every day. I think what you need is education. You need internal education; you need external education. You need internal education to ensure that the people that carry out those tasks of killing an animal for processing understand how to kill them, kill them properly, kill them humanely and kill them with the utmost welfare. I believe that the majority—the overwhelming majority—of the industry today does so. The few examples that we have had have been shocking, have been extremely upsetting and have been dealt with swiftly. Not always correctly in terms of that there was no prosecutions again.

Those people when they went to court, evidence was not given. We certainly did not ask for them to be reinstated. We never read any cases against the people who are guilty of that horrific behaviour. We uphold welfare and we do not protect people who take any cruelty to an animal. Do you know how hard it would be for a police officer to walk into an abattoir and determine whether there is cruelty? I do not think anybody really understands. What? Somebody says, "Today at 10 o'clock, cow 234 was..." By the time the police came, that animal is in a box. That is a reality.

The CHAIR: Therefore, would you agree that part of enforcement would be to have—because if we were talking about in terms of detecting whether there are breaches of the prevention of cruelty to animals act is behaviour in an abattoir. In other places it is how animals are housed or not treated for different veterinary treatments et cetera, but in an abattoir it is activity of slaughter, of killing. Therefore you are right. If an inspector knocks on the door, the whistle blows, anybody knows the inspector is there. So if it is a behaviour issue it is quickly rectified but if there were part of the enforcement in such situations as abattoirs where it is a behaviour issue, if there is going to be anything at all by the workers against the animals or each other for that matter, but it is detected, it is a different type of enforcement and surveillance that is required.

Ms FERNANDEZ: There already is surveillance. The issue is that I think people like you from the Animal Justice Party and that think that should be made available to you. We say, "well, that is the reality." Maybe not you personally, but encroaching on our industry does not help the industry either. Doing the things, getting people to go into our industries in the middle of the night and exposing yourself to zoonotic diseases is not good either, or biosecurity issues.

The CHAIR: No, I agree with you.

The Hon. EMMA HURST: I do not think the Animal Justice Party is doing that.

The Hon. MARK BANASIAK: In terms of enforcement, there has been a lot of assumptive statements in submissions that because the prosecution does not come to fruition then somehow the system is failing. In your view, and using your example where some of these people that did the wrong thing in the industry went forward to court but it fell down a court, do you see the issue with prosecution being at the Court level? Is that we think the majority of these issues fall down or is it falling down at the RSPCA and Animal Welfare League NSW level in terms of how they investigate?

Ms FERNANDEZ: I think it is like any court case. It is based on the evidence and on the judge or magistrate sitting, listening to the evidence and then making a decision based upon that. We have seen plenty of cases with nothing to do with animals where people—from my own experience, my father was killed by a drunk driver and the guy got 15 months. Do I think that was right? No, but it is what the justice system decided.

The Hon. MARK BANASIAK: You do not blame the police for that, do you?

Ms FERNANDEZ: No, I do not blame the police. I think the police did a fantastic job. At the end of the day you are at the mercy of someone sitting behind it who does not know us, who does not know my family, does not know the impact that had on my family made the decision. That is it.

The Hon. MARK BANASIAK: You cannot fully shift the blame the failures of the POCTAA on the investigation.

Ms FERNANDEZ: You would need to educate people. We have got to move away from this issue—that killing an animal is cruel. Killing an animal is not cruel. Treating animals with cruelty like I heard today about puppy farms—I am completely against puppy farms. It is disgusting. The breeding of dogs is disgusting. You can now get a dog about that size, it looks like a rat. What do people think is going to happen? That is wrong. The stuff about cats—I have got 130 acres at Weisman's Ferry and cats are a pest. They are vermin.

Ms ABIGAIL BOYD: Regarding the reluctance of industry to open itself up to external regulation, the job of parliaments is to make laws that balance competing interests in society and to apply those across society. What I am struggling to understand here is why your industry, in particular, should be exempt from the laws that society as a whole wants. I understand the fear about those laws ending up as extreme but I cannot figure how that would occur in the ordinary course. Why the reluctance?

Ms FERNANDEZ: No, there is no reluctance. I am saying if there is any cruelty in my industry, it should be dealt with swiftly and accordingly. I do not take away from that. I do not shy away it. Any aspects of animal cruelty in my industry, however they come, should be dealt with swiftly and properly and with the full force of the law. If I have misled you, I am sorry. That is not what I am saying.

Ms ABIGAIL BOYD: That is all right. I understand.

Ms FERNANDEZ: But what I am saying is, the problem that you have is that when people go into the industry—I have been in the industry 35 years and still today I still learn stuff. It is not that simple to see an animal die and be processed and opened up and all that stuff and have an understanding as to whether that is cruel or is not cruel. That is my fear. My fear is that, yes, we should be regulated, maybe go back to having independent vets—for the Government to fund vets at every abattoir where they can oversee stuff. All that was taken. That was taken with funding cuts and all of this stuff.

Ms ABIGAIL BOYD: Certain practices have been in farming for a long time and, over time, we have seen changes in those practices as a result of cost efficiencies or because consumer preferences are pushing things in a particular way. Can you think of any examples where industry has changed the way it does things purely because it has the ability to do something in a more humane way?

Ms FERNANDEZ: Yes, the gassing of poultry. I am a great believer in gassing poultry. The systems of gassing poultry are extremely humane. I know I have spoken to people around this table about this before. Every time I have watched it, it is done—because poultry is bred to a certain size; it has been genetically modified now for—I should not say "genetically modified"—but the genes of animals today come from, I think, the cock

and the hen—all the poultry that is killed in Australia today comes from one hen and one cock. I think maybe it was 80 years ago that all the animals were niggled.

The CHAIR: What about the gas stunning of pigs?

Ms FERNANDEZ: Again, it is extremely humane. I have seen it happen. I will give you a picture: For poultry, they go into chambers. The stuff that was said before about how they stay in their—I have never seen what they have said, that for days they stay in a cage. Poultry is very susceptible to climate change—so a one-degree change, they will just die. They get picked up and within hours they are processed.

Ms ABIGAIL BOYD: Did they used to just break the necks?

Ms FERNANDEZ: No.

Ms ABIGAIL BOYD: How did they used to do it before?

Ms FERNANDEZ: I have been in the industry for 35 years. They used to get stunned. They used to get an electric shock, so it stuns them, and then they get their throats cut. So the animal is unconscious when it is killed. Of course, you will see splatter.

Ms ABIGAIL BOYD: Is the gassing of the poultry also cheaper and quicker than the old process?

Ms FERNANDEZ: I cannot answer that. I do not even think I can take it on notice because I do not think the industry would give me that information. I think, having come out of the poultry industry, to me, it is the most humane way. Pigs—again, you have to understand that in the mass production of pigs in Australia, again, you get very well-conformed animals. You get very similar sized animals. You do not get one that is 90 kilograms and another one that is 65 kilograms—you get very well-conformed animals. They go in a gondola, they get put down, they get CO₂, they faint. They come back up, they are on their side, they get hung, they get their throats cut—no pain. I think you mentioned to me before: What happens if they wake up? They go back down the gondola. It is as simple as that. No-one is going to pick up a pig that is half alive. They also will not pick up cattle that is half alive because they will give you a kick. That is the reality.

The CHAIR: I have to wind this back to the terms of reference. Are there any further questions?

The Hon. WALT SECORD: No, but this has been very interesting.

The CHAIR: Thank you very much, Ms Fernandez. It has been very helpful.

Ms FERNANDEZ: I still have 15 minutes.

Ms ABIGAIL BOYD: Back to the question that I asked before: I am curious to know whether there has been a change in practice in the industry purely to make things more humane, rather than for cost or efficiency purposes?

Ms FERNANDEZ: Certainly. When I first came into the industry, cattle used to get shot with a 22. That is the reality. Somebody would stand them and shoot them with a 22. You do not do that anymore—it is a retractable bolt. It is very humane. The animal comes up the race, within seconds it gets a retractable bolt to the head—instantly to the brain—they feel nothing and then they get hung and get their throats cut. Absolutely, it is very different—the gassing of poultry and pigs, as I said earlier. There are a lot of animals where it is very difficult. Goats are difficult animals to process because they jump and stuff like that. But I think the industry is consistently looking at better ways to be efficient and, at the same time, to apply animal welfare. The more the animal hits itself against a rail before it gets killed, it affects the meat, so it is about animal welfare and it is also about that.

The Hon. LOU AMATO: The calmer the animals, the better.

Ms FERNANDEZ: The employers want the animal to be calm. The races are built in a way—I think, now, you are starting to see circular races, rather than straight races going up, because there is a scientific belief—I do not know, I am not a cow—they go around in a circle, they tend to be calmer because they cannot see around corners and stuff like that. So, you are starting to see new abattoirs designed now where they have a circular race leading the animals up to the necking box—what we call the knocking box. So, yes, nobody wants an animal to be kicking and screaming and all of that stuff because it is no good for the animals, it is no good for the workers, it is not good for the company in the end. It is not good for the meat you are going to eat. For instance, poultry—I heard before about the breaking of the bones. When you get a chook from a processing farm and when you get a chook from a free-range farm, you will notice that there are more bloodstains on the free-range than there is on the mass-produced, and that is because there is a lot more hitting of the animal—not human hitting—but there is a lot more and they bleed, and that is what happens.

This is all stuff, and this is what I say: If you really want to know, you need people like us to talk to. What gets me is I have never been called by the RSPCA, I have never been called by the Animal Welfare League NSW, I have never been called by the lady that was here before about anything. I have said, "If there is an issue about cruelty, if you hear, if somebody whistleblows," and I am all for whistleblowers—I have nothing against whistleblowers; I think they should be protected to the utmost. If people genuinely have something to say and it is true and it is based on fact, they should be allowed to say it and be free to say it without any retribution. Whatever recommendations you guys make should have that.

Why are they not calling us? We can get into a workplace immediately. You guys have to go through all this getting in at night with torches and all of that. If you ring us and you say, "We heard that the abattoir over at wherever—we got a call from workers there, they are saying that they are doing the wrong thing," I will send my people out immediately. That is what should be happening, rather than this whole thing—everybody has competing interests, everybody wants to be the one that does the right thing. Well, we are the experts. We are the ones at the coalface of what happens in my industry.

The CHAIR: Thank you very much.

(The witness withdrew.)

The Committee adjourned at 16:00