

**Supplementary submission  
- Inquiry into the  
Approved Charitable  
Organisations  
2022**

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**MARCH 26 2022**

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**ANIMAL CARE AUSTRALIA  
STAKEHOLDER SUBMISSION**





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# Supplementary submission – 2021 Inquiry into the Approved Charitable Organisations

## Introduction:

Animal Care Australia (ACA) provided a submission on the 28<sup>th</sup> February 2022 to this Inquiry. Since submitting, ACA has continued to seek out further evidence to support that submission and we present that information in this document.

We would like to thank Portfolio Committee 4 for providing us with the opportunity to provide feedback for this Inquiry, and the opportunity to provide testimony at this Inquiry.

## Additional Information:

Since founding ACA we have been contacted by many members looking to complain about their treatment – in some cases harassment, and the abuse of power of the RSPCA. This contact has been predominantly from members in NSW, Qld & Vic. This is simply not an individual State issue, however what we do note, is the lack of complaints from the two states where the prosecutorial powers have been removed – ACT and WA.

ACA wishes to acknowledge our organisation is not a designated complaints organisation. Our members were at all times advised to contact the RSPCA, or if unhappy with their response, the appropriate Department of Agriculture ( eg: NSW Department of Primary Industries).

In 99% of the cases, we were informed that had been done already, with ALL cases being referred by the department back to the RSPCA. Our members' frustrations were (and still are) palpable. There simply is not anywhere for them to turn – except to us.

ACA started to take note of these complaints. Most of the people involved were and still are afraid to vocalise or publicise their experiences due to the potential retribution that had been experienced by previous complainants.

Many display different forms of post-traumatic stress following their encounters with an inspectorate. Many have lost their loved family members and still mourn their losses today – years afterwards.

This brings us back to:

## Term of Reference this submission responds to:

1. That Portfolio Committee No. 4 – Regional New South Wales, Water and Agriculture annually inquire into and report on the operation of the charitable organisations approved under s 34B of the Prevention of Cruelty to Animals Act 1979, and in particular:

(b) the exercise by the approved charitable organisations of their compliance and enforcement functions under the Prevention of Cruelty to Animals Act 1979,

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**ACA IMPLORES this Committee AND the newly appointed Minister to review the current arrangement (contract or memorandum of understanding?) between the NSW Government and the RSPCA NSW with the view of revoking the RSPCA NSW as an authorised organisation.**

There is a considerable precedent for this to occur. The State Governments in the ACT, WA, and soon QLD & SA have all recognised the conflict of interest of having the enforcement officers investigating, prosecuting, appearing as witnesses while prosecuting, and as respondents to complaints against their own actions.

We also note the RSPCA NT (RSPCA Darwin) do not hold any powers to enforce animal cruelty legislation. This is performed by the Northern Territory state government.

Since our first submission we also note the addition from Victoria for a call to have the enforcement powers of the RSPCA Vic completely removed.<sup>1</sup>

This supports similar calls made in Qld and in Federal Parliament.

### **Supporting data:**

To support our submission ACA would like to submit the following additional reports, stories and submissions:

- 1) **Submission to the Parliamentary Inquiry into the RSPCA WA** from a former RSPCA Qld, and RSPCA WA Inspector between 2007 and 2011 (page 7).
- 2) **Regulating Animal Welfare Services QLD** – November 2021 report for the **Auditors General's Office (page 12)**.
- 3) Speech by Robbie Katter – Member for Tragear (page 51).
- 4) Complaint relating to **RSPCA NSW purposely inflicting harm** to an emu in order to prove animal cruelty (page 54).
- 5) **Submission to the Inquiry into the Raid on the Waterways Wildlife Park** from former **Police Prosecutor Gunnedah Local Court** – regarding seizing of koalas and their death while in RSPCA custody ('care') (page 57).
- 6) Complaint relating to **RSPCA recent seizing and euthanising of a beloved family pet (page 63)**.
- 7) Response to an ACA Survey (2019) relating to animal welfare and the charitable organisations. (Respondent was contacted and details are permitted to be shared). (page 65).

This is just a small sample of cases and scenarios.

Throughout these documents there is a considerable amount of concern highlighting:

- Abuse of power
- Inaccurate and neglectful knowledge of species and animal care
- Behaviour of bullying, intimidation and coercion

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<sup>1</sup> <https://www.facebook.com/JBourmanMP/posts/380005324126096>

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- ☒ Lack of respect, responsibility, accountability and liability
  - ☒ Appearance of evidence manipulation to guarantee a conviction
  - ☒ The need for the state government to be held responsible and answerable for the actions and poor outcomes of the organisation tasked to enforce it's legislation.

Does the NSW Government really want to continue to ignore the growing evidence and constant complaints and mistrust?

This surely provides scope for a review of the agreement between the NSW Government and the RSPCA NSW. Is this not in the public's best interest? More importantly, is this not in the best interest of the animals?

ACA has outlined below our updated recommendations (in order of preference) to resolve the many issues relating to the effectiveness of the RSPCA NSW:

**1) Revoke the approval of the RSPCA NSW as an authorised organisation. (under Section 101 subsection (1) of the Draft),**

or

**2) Remove the reporting responsibility of the RSPCA Inspectorate from the RSPCA and place them under the direct supervision and accountability of the Chief Animal Welfare Officer and/or the existing DPI Inspectors for Exhibited Animal License Section,**

or

**3) If Inspectorate remains with RSPCA – remove their power to prosecute. Either the DPI or DPP to be responsible for prosecuting,**

or

**4) Implement a procedure where an independent prosecutor (not employed by the RSPCA) is utilised (contracted by the DPI?) to carry out all prosecutions.**

Regardless of the options above it is vital that more accountability and transparency is enshrined into the Animal Welfare Act 2022, as well as an independent means of appeal.

It MUST be a requirement for veterinary decisions to terminate an animals life to be supported by a third party, such as the Animal Welfare League or other appointed independent veterinary practitioner.

Any evidence gathered by the RSPCA (and AWL) must be provided to the legal representative for the defendant and/or the defendant's treating veterinary practitioner BEFORE an animals remains are destroyed, in the spirit of providing a fair trial.

## **In Conclusion:**

**To be clear:** This submission is in direct relation to the RSPCA NSW. ACA does not have the same concerns with the Animal Welfare League.

- **We do not request the AWL arrangement with the NSW Government be revoked**

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- **We do not currently require the prosecutorial powers of the AWL to be removed**
  - **We acknowledge and fully support the new Agriculture Minister's agreement to review the funding arrangements for animal welfare and strongly recommend any additional funding to be provided to the AWL**
  - **We equally recommend additional funding be found for the purpose of educating the public on improving animal welfare and announcing the introduction of the new Act and the responsibilities of animal owners under the new Act.**

On behalf of the Animal Care Australia Committee,

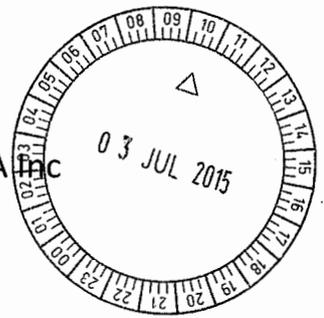
A handwritten signature in black ink that reads "M Donnelly". The signature is written in a cursive style with a large, looping initial "M" and a long, sweeping underline.

Michael Donnelly  
President

## **Appendix 1**

**Submission to the Parliamentary Inquiry into the  
RSPCA WA from a former RSPCA Qld, and RSPCA  
WA Inspector between 2007 and 2011.**

# Parliamentary Enquiry into the Operations of the RSPCA WA Inc



## Submission:

### Terms of reference:

**1: Funding from the Government**

**2: objectives; and**

**3: use of its powers**

### Background:

I was a former RSPCA Qld, and RSPCA WA Inspector between 2007 and 2011. Metro Senior Inspector at RSPCA WA from Feb to April 2012, and Chief Inspector at RSPCA WA from April 2012 until July 2013. I therefore feel qualified to make observations on some RSPCA WA matters.

Traditionally the RSPCA WA inspectorate has been seen as a primarily educational body that has powers under the Animal Welfare Act 2002. These powers extend to seizure of animals, issue of direction notices, powers of entry to premises, and ultimately the prosecution of offenders in WA summary court jurisdiction. These areas of operation form the inspectorate's most significant powers under the Act. The Animal Welfare Act 2002 {AWA 2002} allows for the appointment of inspectors under 'The Act'. 'The Act' is currently administered by the Department of Food and Agriculture WA {DAFWA}. The director General of DAFWA is responsible for the appointment of those inspectors. DAFWA operates its own Livestock Compliance Unit consisting of a number of inspectors. The Act allows for the appointment of Inspectors within the RSPCA Inspectorate. Some local Government Rangers are also gazetted inspectors under the Act as are all sworn WAPOL Officers.

**1: Funding from Government:** Currently {2012 figures. May have increased by now} the RSPCA WA receives funding from DAFWA at \$500k per year for certain inspectorate activities. This includes the maintenance of an 'education unit' which I understand has been disbanded. Further information received indicates that an inspector is now doubling up as 'the education unit'. During my time as Chief Inspector with the organisation, the education unit consisted of a number of staff under its own dedicated manager. It was engaged in a busy program of activities consisting of schools visits, visits by children and students to the RSPCA facilities at Malaga. The unit was also very active in generating educational material for RSPCA activities such as the annual Million Paws Walk, which is the organisations largest fund raising event of the year.

It is therefore of serious concern that the education unit has been disbanded as one inspector is unlikely to be able to maintain even a small fraction of the educational workload that was being generated by the education unit.

During my time as The Chief Inspector with the organisation, there was a considerable degree of tension between the RSPCA and the administrating DAFWA. A major part of this was surrounding the two different prosecution policies of the respective organisations. The RSPCA had its own prosecution policy, but then came under pressure to adopt the DAFWA prosecution policy, which it

robustly resisted; maintaining the argument that the RSPCA was an independent organisation, with the backing of one of the best brand names in the world, and that it should not be conforming to wishes of a government department.

There exists a huge conflict of interest within DAFWA by 'maintaining' the RSPCA under its administrative blanket: both organisations are under The AWA 2002, but are functioning in a different direction. During my time as Chief Inspector several examples of this occurred:

A} Live animal Export. The RSPCA is opposed to this on the basis that it is inherently cruel to transport large numbers of sheep and cattle on ships to destinations that have dubious, if not standards of animal welfare. On the other hand DAFWA is 'regulating' this activity and is not opposed to it. On several occasions the operational scenario of an RSPCA Inspector working alongside an LCU Inspector at the Fremantle port facility was raised. I actively encouraged this form of liaison between my staff and the LCU Inspectors, but DAFWA refused to be involved with 'joint operations' of this nature for fear that differing advice may be given to members of the public by inspectors from each respective organisation.

B} DAFWA the farmers friend. RSPCA Inspectors have encountered difficulty in dealing some members of the farming community as they are seen by the community as the 'bullies with the big sticks', and as the 'prosecutors'. LCU Inspectors despite operating under the same AWA 2002 have been seen as the farmers' friend, much more likely to give advice, rather than prosecute. So, there is an inconsistency in approach from both organisations, despite operating under the same legislation, and some funding being received by the RSPCA from DAFWA .

The RSPCA WA is regularly campaigning for more of the public's money to fund its activities. While I was Chief Inspector in 2012, the society was obtaining approx. 91% of its income from public donations, the \$500K from DAFWA forming only a small percentage of the annual income. Some of the fundraising activities that the WA society have been involved in have been deceptive, and in a report tabled by former President of The Board Eric Ball, examples were shown where CEO David van Ooran was featured in a case concerning cruelty to a dog: in this case Mr van Ooran expressed his shock and disgust with the cruelty metered out to this dog. It was later revealed that this case was in fact an RSPCA NSW case, and that Mr van Ooran was unlikely to have ever seen this dog or to have been involved in this case. His response to the allegation of deception was that it was an animal cruelty case dealt with by the RSPCA, and it didn't matter that the details weren't quite right?

I don't know of any other organisation with prosecution powers that would get away with being economical with the truth, as in this case? Nor do I think it appropriate that the donating members of the public are kept from the truth of the situation?

In the same context, the RSPCA WA is not currently required to provide a full break down of its financial activities in its annual reports. This is disturbing as it does not have to detail some of the sums of money it has paid out to former staff to keep them quiet about what really goes on at the society. In Eric Ball's report referred to earlier, he makes reference to a list of approximately 25 staff members that were either dismissed from the organisation or left as a result of constructive dismissal, or otherwise resigned. This was in the period 2012 -2013, and I was one of those staff members. This amounted to approx. 25% of the establishment at that time. I know that some of these staff members, a significant number being members of the inspectorate were dismissed, and

then paid off having to sign draconian non disparagement clauses in order to prevent the RSPCA WA ending up at the Fair Work Commission.

It is my overwhelming feeling that the public have a right to know what their donated money is being used for. If the RSPCA WA are prepared to use publicly donated money to cover its tracks in poor management of its staff, then what is to stop them from doing similar with the \$500 per year from DAFWA ?

In my view the RSPCA WA should provide full financial accountability in its annual reports.

**2: Objectives:** The RSPCA WA purports to be the premier animal welfare organisation in this state. It covers an area which is geographically the largest Police jurisdiction in the world. It is encumbered with the AWA 2002, yet it numbers only a handful of inspectors, most of those based in the metro area. Operationally the Inspectorate regularly relies on WAPOL and some Local Governments to do its work for it. This is especially the case in the regional areas of the state. The lack of coverage by the inspectorate means that poor animal welfare outcomes are likely in many scenarios that should be dealt with more effectively. It is my view that the Inspectorate function should be removed from the RSPCA WA, and a suitable WAPOL unit formed to fulfil the role on a state-wide basis. If the 'policing' of the AWA 2002 is to be left to a small charity with limited resources then that shows that the State Government does not take animal welfare seriously.

**3: Use of its powers:** Under the regime of CEO David van Ooran, the operational objectives of the RSPCA WA seem to have changed. During my time as an inspector which was before Mr van Ooran joined the society, the inspectorate was very much an educational unit engaged in advising the public on matters pertaining to animal welfare. Extreme cases or cases involving recidivist offenders were prosecuted, with generally balanced results, in the public interest.

The situation now seems to have swung more in favour of gaining prosecution statistics, which puts the society directly at odds with the prosecution policy of its overseers: DAFWA. This again hi-lights the conflict of interest that exists between DAFWA and RSPCA WA.

In one recent high profile case, a woman was prosecuted for being cruel to a large number of cats, by confining them in two houses in squalid inappropriate conditions. Later in the investigation it was revealed that the accused had spent literally thousands of dollars on vet treatment for some of these animals. With that knowledge in mind the question has to be asked: Could the Inspectorate not have worked with this person to reduce her cat numbers over a period of time? As might have occurred in a previous regime?

Certainly with this case and others there was heated dialogue with DAFWA over decisions made, and the relationship between CEO David van Ooran and the manager of the LCU at DAFWA steadily deteriorated to an almost total lack of communication. This is hardly a preferable situation for an organisation under the control of a Government department.

I would submit that the activities of the RSPCA WA Inspectorate need to be closely scrutinised, to make sure that they are in the public interest, and do not amount to an abuse of process. I understand that DAFWA have instigated their own review of the activities of the inspectorate, but this is yet to be concluded.

**Conclusion:** I welcome the parliamentary enquiry into the RSPCA WA, and feel that it is in the public interest to know more about the activities of the society. I am prepared to attend any hearing to give evidence or expand on any aspects included in this report.

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Simon Eager

## **Appendix 2**

### **Regulating Animal Welfare Services QLD – November 2021 report for the Auditors General's Office**



AUDIT INSIGHTS

30 November 2021

# Regulating animal welfare services

Report 6: 2021–22

As the independent auditor of the Queensland public sector, including local governments, the Queensland Audit Office:

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- provides entities with insights on their financial performance, risk, and internal controls; and on the efficiency, effectiveness, and economy of public service delivery
- produces reports to parliament on the results of our audit work, our insights and advice, and recommendations for improvement
- supports our reports with graphics, tables, and other visualisations, which connect our insights to regions and communities
- conducts investigations into claims of financial waste and mismanagement raised by elected members, state and local government employees, and the public
- shares wider learnings and best practice from our work with state and local government entities, our professional networks, industry, and peers.

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The Honourable C Pitt MP  
Speaker of the Legislative Assembly  
Parliament House  
BRISBANE QLD 4000

30 November 2021

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*.



Brendan Worrall  
Auditor-General



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# Auditor-General's foreword

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All Queenslanders may not generally be aware of the role or occurrence of regulation in their day-to-day lives, however it impacts the standard of services they receive in many, if not all, industries. More often than not, regulators are responsible for ensuring appropriate standards are met to ensure community safety and to protect the environment and the rights of Queenslanders.

Over time, a variety of Queensland Audit Office (QAO) audits have involved examining entities that perform or oversee regulatory functions, ranging from regulating firearms, food safety, pharmacy ownership, and mining and coal seam gas. Despite regulation being a core function of government, we have repeatedly found that good regulatory performance in enforcing minimum prescribed standards is often absent.

On 15 July 2020, the then Natural Resources, Agricultural Industry Development and Environment Committee requested that I conduct an audit on the delivery of animal welfare services and the enforcement of the *Animal Care and Protection Act 2001* and the *Animal Care and Protection Regulation 2012*. I agreed to conduct an audit per the *Auditor-General Act 2009* and the *Auditor-General Auditing Standards*.

This report (and other QAO reports that cover regulatory practices) go beyond the individual organisations involved in the audits. It is not just about their specific challenges or performance—many of the issues we are seeing are systemic across government. Thus, we must focus our attention on the insights and wider learnings we have for all regulators and those entities responsible for overseeing the performance of regulators.

In Chapter 4 of this report, I share a principles-based, good practice model for all entities to self-assess against. Our guidance is drawn from this audit on regulating animal welfare services and our other previous audits that focus on or reference regulation.

Regulation can take different forms and exists for different purposes. Regardless, good regulatory practices that minimise failures and harness opportunities for improvement are fundamental and indispensable to the operations of government. The insights and guidance we provide can assist entities in improving their practices and lead to better outcomes and services for Queenslanders.



Brendan Worrall  
Auditor-General



# Report on a page

The Department of Agriculture and Fisheries (the department) and RSPCA Queensland deliver animal welfare services under the *Animal Care and Protection Act 2001* (the Act). RSPCA Queensland provides valuable animal welfare services. The Act gives it authority and powers to perform animal welfare investigations on behalf of the state. The department has engaged RSPCA Queensland to provide animal welfare services predominantly in the coastal areas of Queensland from the Gold Coast to Cairns—a map showing these areas of responsibility is in [Appendix E](#).

We assessed the effectiveness of the department’s engagement with RSPCA Queensland. We have not audited each party’s processes for delivering animal welfare services.

This report also includes insights that all regulators can use to improve their practices. The scope of this report does not include RSPCA Queensland’s processes and governance arrangements.

## The department’s engagement with RSPCA Queensland needs improvement

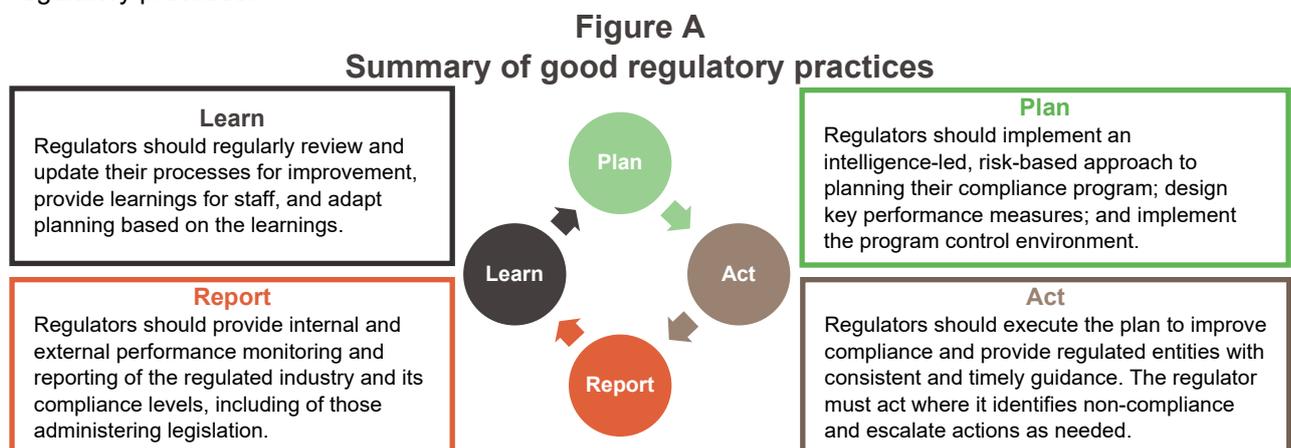
The department has not been proactive and is not as effective as it needs to be in overseeing and supporting RSPCA Queensland in exercising its powers to enforce the Act. These powers include obtaining search warrants and seizing property where there is suspected contravention of the Act.

The department’s engagement framework with RSPCA Queensland—which includes the Act, regulations, an agreement, and procedures and guidelines—lacks key accountability and oversight elements. The department has not been using many of the mechanisms currently provided within the framework. This has led to RSPCA Queensland having greater autonomy in enforcing the Act, without appropriate oversight and support. While RSPCA Queensland may have processes and controls in place, the department has no visibility of those processes and therefore cannot assure itself of their suitability or effectiveness.

Since April 2021, the department has commenced addressing findings from this audit. We have made four recommendations for the department to improve its engagement framework and oversight of RSPCA Queensland’s inspection and enforcement activities.

## Improving regulator performance

Effectively implementing processes for enforcing legislation has been a common failing in most regulatory audits we have undertaken. In Chapter 4, we draw on findings from our audits to provide insights and assist regulators in assessing their regulatory performance. We recommend that all regulators assess their activities and performance against these good practices. Figure A shows a summary of the good regulatory practices.



# 1. Summary of audit findings

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The Department of Agriculture and Fisheries (the department) and RSPCA Queensland provide animal welfare services under the *Animal Care and Protection Act 2001* (the Act). The framework through which the department provides animal welfare services includes the Act, regulations, an activity agreement with RSPCA Queensland, and procedures and guidelines. In order to provide a consistent enforcement approach across the state, the framework requires the department and RSPCA Queensland to use the same procedures and guidelines in enforcing the Act.

We assessed the effectiveness of the department's engagement with RSPCA Queensland and whether the department is using the mechanisms it currently has available within the framework to oversee RSPCA Queensland's enforcement of the Act. We did not audit their enforcement activities.

The framework should be strengthened to provide the department with better means for overseeing RSPCA Queensland inspectors and ensure consistency in enforcement approaches across the state. We also found the department has not been using all the means it has under the current framework to oversee, guide, and support RSPCA Queensland in enforcing the Act. The department is currently reviewing the Act, and in April 2021 it commenced actions to address some of these gaps.



## Appointing and training inspectors

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The Act has provisions for the director-general to appoint RSPCA Queensland employees as inspectors. However, the Act does not explicitly state that RSPCA Queensland inspectors are accountable to the department. As the inspectors are employees of RSPCA Queensland, their accountability is left open to interpretation of their employment contracts and other employment-related legislation.

The department's processes for appointing inspectors do not include confirmation of declaration of any conflicts of interest related to their enforcement activities. These checks are important when appointing individuals with significant law-enforcement powers.

The director-general appoints RSPCA Queensland inspectors without conditions, for an indefinite term. The department does not require RSPCA Queensland to provide regular reports on inspector performance, training and/or independence declarations. This information is necessary to ensure quality, transparency, and performance of inspector functions and to ensure appointed inspectors remain suitable for their role over time. The framework is not clear on the circumstances in which an inspector's appointment may be revoked and the department does not have appropriate processes in place for when an inspector leaves the role.



## Investigating and prosecuting

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The department has responsibility for overseeing that RSPCA Queensland and its inspectors are exercising their powers lawfully, equitably, and according to the principles of natural justice. It has procedures and guidelines to assess and categorise complaints of non-compliance and take timely and appropriate responses, including conducting investigations and prosecutions. These procedures and guidelines apply to both the department and RSPCA Queensland. However, the department does not have oversight mechanisms to ensure RSPCA Queensland has implemented the procedures and guidelines. It does not monitor that RSPCA Queensland's prioritisation processes for animal welfare complaints align with the procedures and guidelines.

The department has not established compulsory and/or voluntary codes of practice for most of the animal types that RSPCA Queensland regulates—this introduces subjectivity in interpreting compliance requirements. Also, it does not have visibility of checks RSPCA Queensland has in place to balance its investigative powers and demonstrate a fair and just process—including applying for and executing warrants, using body-worn cameras, and seizing personal technology devices.



The department has no involvement in, or oversight of, RSPCA Queensland's decisions to prosecute people for alleged breaches of the Act, or of charge and plea negotiations between the defence and the prosecutor. As the inspectors are appointed by the director-general, these prosecutions are undertaken on behalf of the state. The department therefore has a role in ensuring all prosecutions adhere to the model litigant principles and are in the public interest. The legislation does not include provisions for the department to receive information that inspectors collect and present for prosecution.



## Managing complaints about inspectors

Information on complaints is important as it can indicate whether isolated or systemic issues may be occurring that may require the department and RSPCA Queensland to act.

The department's activity agreement states that RSPCA Queensland will manage complaints about its inspectors. The department does not have a structured process to regularly share information on complaints about RSPCA Queensland inspectors, including outcomes of these complaints. As a result, the department does not have a holistic view of complaints about inspectors. This limits the department's ability to increase confidence in the system, consider areas for learning and development, and assess whether inspectors continue to be suitable for their role.



## Managing conflicts of interest

The Act provides significant enforcement powers to RSPCA Queensland inspectors. However, it does not include provisions for RSPCA Queensland to implement controls to manage conflicts of interest and align with the government's good practice guides for regulators. This may give rise to potential and perceived conflicts of interest in the enforcement activities of RSPCA Queensland. While RSPCA Queensland may have controls and processes for managing conflicts of interest and aligning with regulatory good practice, the department has no visibility of them and therefore cannot provide independent assurance of their suitability or effectiveness.

RSPCA Queensland relies on donations and sponsors to fund most of its investigation and prosecution activities. Its reported inspectorate expense for the year ending 30 June 2020 was approximately \$4.6 million, of which the department contributed \$500,000. The department has not required RSPCA Queensland to report on how it is managing its conflicts of interest in light of its reliance on funding sources outside of the department's contribution. As stated previously in this report, we have not audited the conflict management systems at RSPCA Queensland.



## Setting a fee schedule of reasonable costs

It is not our role nor intent to examine or comment on judicial decisions and we did not assess or consider court decisions as part of this audit. Our assessment and comments in this report regarding recovery of costs relates only to the department's role in overseeing the setting and calculation of reasonable and necessary costs related to the seizure, compliance, and destruction of animals.

The legislation allows for, but does not define, necessary and reasonable recovery costs. While costs for caring for animals are not payable until the courts award them to be paid, escalating costs is a factor for defendants to consider when negotiating outcomes with the prosecutor. There is no requirement in the regulations for the department to approve a schedule of reasonable fees or to make these publicly available. The department has not ensured a transparent process is in place for approving a schedule of recovery costs, their escalation rates, or oversee their use as part of negotiated outcomes.



## Monitoring and managing performance

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The department publishes reports on performance of its own activities relating to animal welfare in its annual reports, service delivery statements, and regulator performance framework self-assessment reports (the performance framework reports). Only the performance framework reports mention RSPCA Queensland's activities, but this is minimal, high-level information.

There was a lack of transparency and accountability within the department for overseeing, supporting, and managing the performance of RSPCA Queensland in exercising its powers under the Act. The department is not obtaining assurance that RSPCA Queensland is applying the procedures and guidelines to ensure a consistent regulatory approach to animal welfare across the state. Recently, the department has appointed a manager and a director to oversee the engagement with RSPCA Queensland.

To effectively administer the Act, the department needs to ensure it has regular performance reporting from RSPCA Queensland and processes for evaluating RSPCA Queensland's performance. The department has not developed a financial model to determine the amount of funding needed for the services it requires RSPCA Queensland to provide.



## 2. Recommendations

### Strengthening the legislative framework

1. In reviewing the *Animal Care and Protection Act 2001* (the Act) and associated regulations, we recommend the Department of Agriculture and Fisheries (the department) amends the legislation to:
  - clarify the accountabilities and accreditation of inspectors
  - have oversight of recommendations from inspectors for prosecutions and any related proposals for charge and plea negotiations between the defendants and prosecutors before presenting the case in the court
  - provide it with access to all information that inspectors collect as part of their investigations and prosecutions
  - include requirements for managing conflicts of interest
  - require it to approve a fee schedule of reasonable cost recovery and make it publicly available.

### Clarifying and strengthening the department's role

2. We recommend the department:
  - establishes minimum performance and re-accreditation requirements for inspectors, and oversees inspectors' performance against the requirements
  - maintains a register of current inspectors and implements controls over identity cards
  - establishes minimum standards for the welfare of the majority of animal types RSPCA Queensland regulates
  - increases its oversight and support of RSPCA Queensland investigations by regularly reviewing the investigations and providing feedback for improvement
  - increases its oversight, and participates with RSPCA Queensland in decisions to prosecute
  - actively monitors the outcomes of complaints about RSPCA Queensland investigations and inspectors
  - oversees how RSPCA Queensland is managing conflicts of interest relating to its enforcement function.

### Managing performance

3. We recommend the department assigns responsibility and accountability for overseeing the engagement with RSPCA Queensland to a person with appropriate authority.
4. We recommend the department partners with RSPCA Queensland to:
  - develop effectiveness measures and use them to assess the enforcement activities against intended outcomes
  - develop and use financial reports to ensure accountability for funds the department provides.

### Good practices for all regulators

5. We recommend that all public sector regulators and oversight bodies self-assess against better practices in Appendix C and, where necessary, implement changes to enhance their regulatory performance.

## Reference to comments

In accordance with s. 64 of the *Auditor-General Act 2009*, we provided a copy of this report to the department. We provided a copy of this report to RSPCA Queensland as a party with a special interest under s. 54 (4)(b) of the *Auditor-General Act 2009*. We considered their views and represented them to the extent we deemed relevant and warranted. Any formal responses from the entities are at [Appendix A](#).

### 3. Detailed audit findings

The Department of Agriculture and Fisheries' (the department) engagement framework (the framework) is made up of four key enablers: the *Animal Care and Protection Act 2001* (the Act), the Animal Care and Protection Regulation 2012, the department's activity agreement with RSPCA Queensland, and procedures and guidelines (as shown in Figure 3A). Details about each enabler is in [Appendix B](#).

We found the framework does not have sufficient mechanisms for the department to provide effective oversight of RSPCA Queensland's enforcement activities.

The department has started addressing some of these limitations since April 2021. It has advised that it will partner with RSPCA Queensland to improve transparency and accountability.

**Figure 3A**  
Key enablers of the engagement framework



Source: Queensland Audit Office.

Key aspects of the engagement that need strengthening include:

- appointing and training inspectors
- investigating and prosecuting
- managing complaints about inspectors
- managing conflicts of interest
- setting a fee schedule of reasonable costs
- monitoring and managing performance.



#### Appointing and training inspectors

The Act gives the department powers to appoint inspectors and, as necessary, limit their powers. We found that the department needs to improve the requirements and processes for appointing inspectors, setting conditions of appointment, and keeping records of current appointments.



## Who can be appointed?

The Act provides for the department to appoint a person as an inspector if the person has the necessary experience or expertise and has satisfactorily completed the approved training. The Act also includes a general provision that the department can consider any other factors in appointing an inspector.

However, the department does not have processes in place to use the general provision and has not updated any of the documents within the framework to include mandatory independence assessments, such as declaring conflicts of interest, prior to being appointed. These considerations are particularly relevant as the Act provides inspectors with the ability to exercise significant authority.

## Conditions of appointment for inspectors

The department appoints RSPCA Queensland inspectors without conditions, for an indefinite term. The Act details conditions under which inspectors cease to hold office. These include:

- expiry term as a condition of appointment
- resignation
- any other conditions.

The Act does not explicitly state that inspectors are accountable to the department and the appointments do not include requirements to assess continued suitability.

## Accountability

The accountability of RSPCA Queensland inspectors to the department is left open to interpretation of their employment conditions and various laws and regulations.

This situation casts doubt about the extent of the department's authority to oversee and act to hold the inspectors accountable for their actions.

## Ongoing suitability

The department does not oversee whether RSPCA Queensland inspectors remain suitable for the period of their appointment. It does not receive and review their performance reports. It is not always informed about and does not monitor complaints about the behaviour or conduct of inspectors, individually or collectively.

There is no departmental requirement for inspectors to provide annual declarations about their independence. Such requirements are not uncommon in industries where people exert considerable authority over others.

The activity agreement states that inspectors can hold an instrument of appointment until it is revoked by the department or surrendered. However, there is no information about circumstances in which an inspector's appointment may be revoked. The department has not established clear processes for revoking an inspector's appointment.

The department does not have ongoing training requirements for inspectors. The department advised us that it would implement an annual re-accreditation process for inspectors.

The department is enhancing its learning and development program and intends to provide inspectors with ongoing training.

However, annual re-accreditation is not stated in the Act as a condition of appointment. Neither is it stated in the Act that appointments will be revoked if inspectors are not re-accredited. This increases the risk that the department may not be able to enforce this requirement based on legislative interpretations.

The department's annual re-accreditation process could include:

- re-assessing character and criminal history for changes since appointment
- assessing performance of the inspector for suitability to continue in the role
- determining independence/conflicts of interest
- assessing any other factors that may be relevant to the person's suitability.

#### Recommendations

In reviewing the *Animal Care and Protection Act 2001* (the Act) and associated regulations, we recommend the department amends the legislation to clarify the accountabilities and accreditation of inspectors.

We recommend the department establishes minimum performance and re-accreditation requirements for inspectors and oversees inspectors' performance against the requirements.

## Records of appointment

The department does not have accurate information on current inspector appointments. The list of inspectors the department provided to us was not up to date and included people who were no longer employed by RSPCA Queensland.

The department does not have controls to ensure identity cards are returned and appropriately stored in its record management system when an RSPCA Queensland inspector no longer performs the role.

#### Recommendation

We recommend the department maintains a register of current inspectors and implements controls over identity cards.



## Investigating and prosecuting

The department has developed procedures and guidelines for inspectors to follow when responding to and investigating complaints, and when preparing a brief to submit for prosecution. The activity agreement requires RSPCA Queensland's prosecution procedures to align with the department's prosecution policy and model litigant principles.

#### DEFINITION

Queensland's **model litigant principles** were issued at the direction of Cabinet. According to these principles, 'the power of the State is to be used for the public good and in the public interest, and not as a means of oppression, even in litigation'. The principles recognise that 'the community also expects the State to properly use taxpayers' money and, in particular, not to spend it without due cause and due process'.

All agencies are required to conduct themselves as model litigants by adhering to the principles of fairness, firmness, and consideration of alternative options.

*Source: Queensland Government Model Litigant Principles (4 October 2010), Department of Justice and Attorney-General.*

The department is responsible for overseeing that RSPCA Queensland and appointed inspectors exercise their authority and responsibilities in accordance with the Act and the model litigant principles. This includes ensuring RSPCA Queensland inspectors interpret and apply their legislative authority lawfully, equitably, and according to the principles of natural justice.

However, the department does not partner with RSPCA Queensland to provide the oversight that is needed to assure itself that RSPCA Queensland undertakes its investigations and prosecutions objectively and consistently.



## Overseeing investigations

RSPCA Queensland, through its inspectors, has considerable autonomy and authority to conduct animal welfare investigations.

The department has not established minimum acceptable standards for the animal types that RSPCA Queensland investigates. It does not have mechanisms to ensure RSPCA Queensland is using the procedures and guidelines to determine what to investigate and does not have processes for overseeing how RSPCA Queensland conducts its investigations.

### Minimum acceptable standards

The department has not established compulsory and/or voluntary codes of practice for most of the animal types that RSPCA Queensland regulates. The lack of established codes of practice creates uncertainty and increases the level of subjectivity. Establishing codes of practice would enable the department and RSPCA Queensland to develop a shared understanding with regulated entities about what is required to achieve legislative outcomes. It would help regulated entities understand and comply with the animal welfare directions they receive from regulators.

#### DEFINITION

For the purposes of this report, **regulated entities** are individuals or organisations that are subject to the behavioural expectations, obligations, and/or requirements of the *Animal Care and Protection Act (2001)*.

#### Recommendation

We recommend the department establishes minimum standards for the welfare of the majority of animal types RSPCA Queensland regulates.

## Determining what to investigate

Determining when to (and when not to) investigate is important for regulators. Establishing effective decision-making processes to screen and assess incoming complaints helps to ensure the best use of limited resources and determine if an investigation is in the public interest.

The department and RSPCA Queensland have detailed procedures and guidelines for assessing a complaint or information about an animal welfare incident. They outline processes to categorise it and set priorities that enable a timely and appropriate response. However, the department has not established mechanisms for ensuring RSPCA Queensland follows these procedures and guidelines.

## Conducting investigations

The department's procedures and guidelines describe the course of action to take depending on the category of the incident. The aim is to achieve the most appropriate outcome for all parties and for the welfare of the animals.

Procedures and guidelines describe all elements of the investigation process, including receiving and recording information about animal welfare incidents, preparing an appropriate response, collecting evidence, and preparing and submitting case materials.

Procedures and guidelines require inspectors to maintain the highest professional standards and comply with the department's framework for making regulatory decisions.

However, they do not include the:

- use of a body-worn camera, which has the potential to provide real-time information about an investigation, improve transparency and accountability, and provide better documentation to support accounts of interactions
- seizure of personal technology devices (for example, mobile phones and computers) and obtainment of passwords to access devices with consent or under a warrant. These are intrusive activities, and the legality, limitations and reasonableness of their use needs to be clearly defined and inspectors trained accordingly.

In addition, the department has not conducted reviews to gain assurance that RSPCA Queensland has appropriate controls in place to apply the procedures and guidelines.

The Act provides for regulated entities to apply to the department for internal reviews of investigation decisions. The department reviews the decisions and either upholds the RSPCA Queensland decision or overturns it. Where it overturns an RSPCA Queensland decision, the department notifies RSPCA Queensland, but it does not have processes in place to ensure the cause has been adequately addressed to avoid reoccurrence.

#### Recommendation

We recommend the department increases its oversight and support of RSPCA Queensland investigations by regularly reviewing the investigations and providing feedback for improvement.

## Overseeing prosecutions

The department has no input into, involvement in, or oversight of RSPCA Queensland's decisions to prosecute people for alleged breaches of the Act. RSPCA Queensland's prosecutions are determined by a prosecutions committee made up of RSPCA Queensland staff, including inspectors and prosecution officers. The committee does not include departmental representation.

The activity agreement states that procedures for prosecution should align with the department's most current prosecution policy (November 2018) and model litigant principles. The department's policy includes details on processes for evaluating evidence and key considerations in deciding whether the investigation should progress to prosecution.

The policy states that public interest is key in deciding whether prosecutions are initiated and that public funds should not be wasted on inappropriate matters at the expense of matters that require vigorous prosecution. It lists 20 factors to consider when deciding if a prosecution will be in the public interest. The policy also covers negotiations between the defence and the prosecutor.

While the department has developed this policy, and RSPCA Queensland has committed to it and the model litigant principles, the department has not obtained assurance that RSPCA Queensland has implemented it. The department does not require RSPCA Queensland to report against compliance with policies and procedures and does not have visibility of RSPCA Queensland's processes for prosecutions.

The legislation does not provide for the department to have access to the information inspectors collect and present for prosecution. RSPCA Queensland provides information, on request, at its own discretion.

#### Recommendations

In reviewing the *Animal Care and Protection Act 2001* (the Act) and associated regulations, we recommend the department amends the legislation to:

- have oversight of recommendations from inspectors for prosecutions and any related proposals for charge and plea negotiations between the defendants and prosecutors before presenting the case in the court
- provide it with access to all information that inspectors collect as part of their investigations and prosecutions.

We recommend the department increases its oversight and participates with RSPCA Queensland in decisions to prosecute.





## Managing complaints about inspectors

Information on complaints may identify opportunities to improve processes, guidance, procedures, or training. In some cases, it may identify issues that require disciplinary action or assessment by the department of a person's suitability to continue performing the inspector role.

Analysing information on complaints can indicate whether isolated or systemic issues are occurring.

The activity agreement and guidelines state RSPCA Queensland will manage complaints about inspectors. The guidelines require RSPCA Queensland to notify the department of serious complaints it receives about its inspectors. It does not indicate what constitutes a 'serious complaint' and does not require RSPCA Queensland to detail how it will respond to the complaint or report on its outcome.

Where the department receives a complaint about an RSPCA Queensland investigation or inspector directly from a member of the public, it refers the complaint to RSPCA Queensland, unless the complainant requests otherwise.

The activity agreement does not require RSPCA Queensland to provide annual reports to the department about complaints or serious complaints about investigations or inspectors, the actions it has taken, or the actions' outcomes.

As a result, the department does not have a holistic view of complaints about all investigations or about inspectors. This limits the department's ability to identify systemic issues, consider areas for learning and development, and assess whether inspectors continue to be suitable for their role.

### Recommendation

We recommend the department actively monitors the outcomes of complaints about RSPCA Queensland investigations and inspectors.



## Managing conflicts of interest

While RSPCA Queensland may have controls and processes for managing conflicts of interest and aligning with regulatory good practice, the department has no visibility of them and therefore cannot assure itself of their suitability or effectiveness.

The department provides RSPCA Queensland with \$500,000 annually under the activity agreement to contribute to inspector salaries and vehicle costs. However, RSPCA Queensland relies on other funding—donations, sponsorships, and fundraising—for much of its investigation and prosecution activities. Its reported inspectorate expense for the year ending 30 June 2020 was approximately \$4.6 million.

The activity agreement requires RSPCA Queensland to keep its enforcement functions separate from its other business and advocacy activities. Some of RSPCA Queensland's other activities that conflict with enforcement activities are:

- advocating for the welfare of animals
- owning pet shops, which it is expected to regulate
- receiving donations from pet shop owners it regulates and from other major national and corporate partners/sponsors, including media outlets.

Neither the legislation nor the agreement has provisions requiring:

- RSPCA Queensland to declare to the department any real or perceived conflicts of interest and report on how it is managing them
- the department to oversee RSPCA Queensland's management of conflicts of interest to ensure it is performing enforcement roles fairly, without the influence of its animal welfare advocacy function or its major national, corporate, and supporting partners.

### Recommendations

In reviewing the *Animal Care and Protection Act 2001* (the Act) and associated regulations, we recommend the department amends the legislation to include requirements for managing conflicts of interest.

We recommend the department oversees how RSPCA Queensland is managing conflicts of interest relating to its enforcement function.



## Setting a fee schedule of reasonable costs

Upon application, the courts can, and at times do, award the department or RSPCA Queensland the costs of seizure, compliance, and destruction of animals. These are decisions of the courts. It is not our role nor intent to examine or comment on judicial decisions and we did not assess or consider court decisions as part of this audit.

Our assessment and comment in this report regarding recovery of costs relates only to the department's role in overseeing the setting and calculation of reasonable and necessary costs related to the seizure, compliance, and destruction of animals.

The Act states that entities can recover reasonable and necessary costs incurred in enforcing the Act. Neither the Act nor the regulation defines what are 'necessary and reasonable' costs and how they are to be calculated or determined. These costs can escalate to considerable sums, in some cases up to tens of thousands of dollars.

The department has not ensured a transparent process is in place for approving a schedule of recovery costs and their escalation rates or overseeing their use as part of negotiated outcomes. The department does not monitor how RSPCA Queensland is charging and using recovery costs during investigation and prosecution processes.

This means the department does not know what costs RSPCA Queensland is recovering and whether they are reasonable, necessary, and were actually incurred.

### Recommendation

In reviewing the *Animal Care and Protection Act 2001* (the Act) and associated regulations, we recommend the department amends the legislation to require it to approve a fee schedule of reasonable cost recovery and make it publicly available.



## Monitoring and managing performance

The department publishes reports on the performance of its own activities relating to animal welfare in its annual reports, service delivery statements, and regulator performance framework self-assessment reports (the performance framework reports). The first two of these reports do not include information on RSPCA Queensland's inspectorate activity performance.

In the performance framework reports, the department does include minimal information about some aspects of RSPCA Queensland's performance. The information it provides, however, is insufficient to provide a reasonable indication of how well RSPCA Queensland performs against the regulator performance framework.



There is a lack of accountability within the department for overseeing, supporting, and managing the performance of RSPCA Queensland in exercising its powers under the Act. While the agreement has a nominated contact officer, no one in the department has been responsible for overseeing the day-to-day operations of the engagement. Recently, the department appointed a manager and a director, whose roles include overseeing the activity agreement.

#### Recommendation

We recommend the department assigns responsibility and accountability for overseeing the engagement with RSPCA Queensland to a person with appropriate authority.

To effectively administer the Act, the department needs to ensure it has regular operational and financial performance reporting from RSPCA Queensland and processes for evaluating RSPCA Queensland's performance.

## Operational reports

The activity agreement provides for RSPCA Queensland to submit operational reports within specified time frames and to the satisfaction of the department. These are key reports for the department to evaluate RSPCA Queensland's operational performance.

Some of these reports are to be provided annually and some can be provided at the department's request. These reports are to include information about RSPCA Queensland's operational performance, such as:

- complaints against inspectors, performance of an inspector, or concerns about the exercise of an inspector's powers
- numbers of seizures, welfare directions and forfeitures; numbers and details of prosecution outcomes; and areas of non-compliance with the Act.

Apart from information necessary for the department to make decisions on forfeitures and internal reviews, the department did not request any of the reports outlined in the activity agreement. The department has not designed and implemented performance measures and reporting.

#### Recommendation

We recommend the department partners with RSPCA Queensland to develop effectiveness measures and use them to assess the enforcement activities against intended outcomes.

## Financial reports

The department provides \$500,000 of funding annually to RSPCA Queensland. The funding is a financial contribution to RSPCA Queensland's inspector salaries and vehicle expenses. However, the department has not partnered with RSPCA Queensland to develop a compliance program for achieving regulatory outcomes and compliance. It does not have documentation on how it arrived at the annual funding amount and what level of compliance it expects RSPCA Queensland to achieve for the funding.

The department has not developed and implemented key performance indicators for operational financial reporting. It does not have mechanisms to provide oversight of:

- whether the funds it provides are sufficient for the enforcement activities it requires RSPCA Queensland to undertake
- how RSPCA Queensland currently funds its enforcement activities and, if funded through donations, whether the enforcement is free from the influence of donors.

#### Recommendation

We recommend the department partners with RSPCA Queensland to develop and use financial reports to ensure accountability for funds the department provides.

## 4. Improving regulator performance

We have previously audited public sector entities that perform or oversee regulatory functions, resulting in numerous recommendations to improve their effectiveness.

In this chapter, we draw on the findings of this audit, our previous audits, and better practice guides to provide relevant insights. We present these insights under four themes: plan, act, report, and learn.

In [Appendix C](#), we list a summary of key messages from this chapter as good regulatory practices. These practices align with and are complementary to the Queensland Government’s regulator performance framework in chapter 5 of the *Queensland Government Guide to Better Regulation*.

In [Appendix D](#), we provide references to a selection of our reports and other material that regulators and oversight bodies may find useful.

### Recommendation

We recommend that all public sector regulators and oversight bodies self-assess against better practices in Appendix C and, where necessary, implement changes to enhance their regulatory performance.



### Plan to be intelligence-led

Many Australian and state government regulators are turning to data, information, and operational intelligence as a central element of their regulatory approach. This is often referred to as an intelligence-led regulatory approach.

#### DEFINITION

**Intelligence-led regulation** refers to the effective use of data and information to inform decision-making for effective, efficient, and economical regulatory outcomes and compliance.

An intelligence-led regulatory approach enhances planning and enables entities to make the best use of their resources to target the behaviours and conduct that pose the highest risk. This approach needs to be underpinned by:

- a clear understanding of the entity’s regulatory role, functions, and objectives
- fit-for-purpose systems and plans that support effective data collection and use, and enable a good understanding of the regulated population and industry
- a risk framework and compliance prioritisation framework or model.

These underpinnings are applicable to regulators and entities responsible for overseeing the performance of regulators, such as the Department of Agriculture and Fisheries’ oversight of animal welfare services.

Through our previous audits of Queensland Government regulators, we have found that regulators and entities responsible for overseeing the performance of regulators lack some of these key elements or do not do them well.

### Understand the regulator’s role, functions, and objectives

We have found that regulators and oversight bodies at times fail to clearly document how their operations align with their regulatory roles, functions, and objectives. These are important steps for regulators and oversight bodies in ensuring the objectives and intended outcomes of legislation are achieved. If not done, it can lead to them failing to fulfil some of their legislated functions.



In one of our previous audits, we found that the entity responsible for overseeing a regulatory function had not reviewed its strategic plan, operational plan, structure, resources, systems, and processes to ensure it delivered on its organisational purpose and functions. In many ways, this finding was similar to our finding in this report that the Department of Agriculture and Fisheries is not fulfilling its function of overseeing the performance of RSPCA Queensland and its inspectors.



#### Insight

Check that what is being done aligns with what should be done.

Periodically, regulators need to map and check strategies, operations, activities, processes, and systems to ensure they align and contribute to achieving the legislated and organisational purposes and objectives.

## Implement systems and plans that support effective data collection and use

Complete, accurate, reliable, relevant, and timely access to information is fundamental to regulatory effectiveness. It enables an understanding of the size and nature of the population and industry being regulated. Entities can obtain this information and understanding through engaging with the regulated entities and other regulators. Well-coordinated stakeholder input has the potential to contribute to learning and improving effectiveness of the regulatory framework.

Having fully understood their role, functions, objectives, and regulated population, regulators and oversight bodies can only then determine what data and information they may need to deliver their services. Developing a data collection and use plan can enable the regulator to clearly articulate how data can support its planning and decision-making. Key factors for regulators to consider include:

- the questions the regulator needs to answer
- what data and information the regulator needs to answer those questions
- what data is available (and its quality and reliability) and how the regulator can access it
- how the regulator will use the data, including benefits for regulated entities
- data security, confidentiality, and privacy requirements
- what systems the regulator needs to obtain, store, and analyse the data.

In many cases, regulators fail to integrate data-driven thinking into their planning, thereby unnecessarily limiting the usefulness of the data. In our previous audits, we found that work units within and across regulators used different systems and inconsistent data. This inhibited the production and sharing of intelligence. We made recommendations to the regulators aimed at better coordinating their planning, systems, information, and data sharing to enhance their regulatory planning and practices.

Systems and tools should allow for effective and efficient collection, collation, and use of data to provide regulators with timely, accurate, and usable analysis. This should promote sound and timely decision-making and support organisational reporting.

In one of our previous audits, we found that key information about the regulated items was not accurate or up to date and was no longer fit for purpose. The entity relied on inefficient manual data entry and could not provide the real-time information necessary to support a modern risk and intelligence-based regulatory function.

## Risks need to be managed

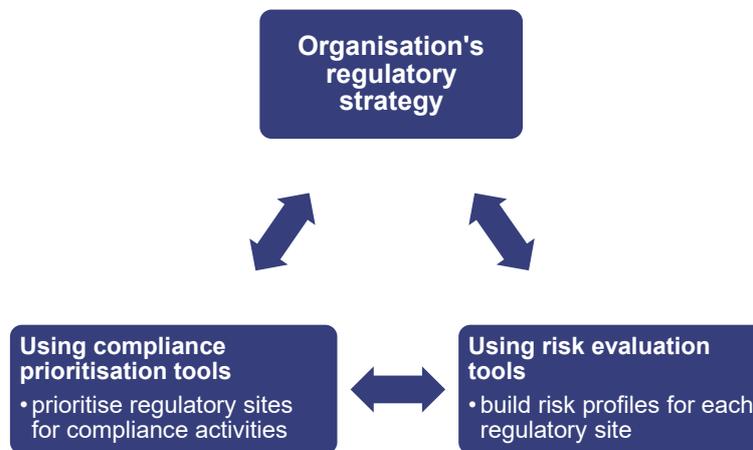
Increasingly, regulators are expected to deliver better outcomes and minimise any unnecessary burden of compliance. Developing a risk framework and a compliance prioritisation framework or model can support regulators to prioritise, focus, and deploy their resources in proportion to the risk of the regulatory outcomes being achieved.

Identifying risk is a necessary variable for regulators and oversight entities to determine their proactive inspection and enforcement priorities.

Risks can be considered in terms of the compliance and safety risks present and emerging within the regulated population and industry. It is also important for the regulator to consider its own organisational (regulator) risk, how these two risk profiles overlap, and the regulator's risk appetite/threshold. The overlap is where a regulator may consider prioritising its efforts and resources.

This does not suggest that other risks should be ignored. Figure 4A shows an example of how one of the regulators responded to findings in our audit to enhance its risk framework. It developed a risk evaluation tool that enabled it to build risk profiles for each regulated site. It also developed a compliance prioritisation model, based on a range of variables including environmental and location factors and compliance history to prioritise sites for compliance activities.

**Figure 4A**  
**Example of prioritising regulated sites for compliance**



Source: Queensland Audit Office.

Tools such as those in Figure 4A can assist compliance officers in proactively addressing priority compliance issues, including high-risk activities and poor performers. Regulators can also use these types of tools where they are unable to inspect all high-risk sites and need to further prioritise them based on other factors, such as compliance history, available resources, and seasonal conditions.

Establishing a consistent risk framework is also important where many public sector entities contribute to enforcing the regulatory environment. We have recommended in our previous reports that entities responsible for overseeing regulators should establish a consistent risk-based framework across the regulated environment. Those responsible for overseeing regulators should have mechanisms in place to ensure regulators have implemented the risk-based framework consistently across the regulated environment.



**Insight**

Regulators should establish risk and compliance prioritisation frameworks to enable them to focus and deploy resources proportionate to the risk to the regulatory outcomes being sought. Where more than one public sector entity contributes to enforcing the regulatory environment, regulators should develop and implement consistent and complementary risk management frameworks across the regulated environment.



## Develop a compliance monitoring and enforcement plan

The planning described in this section should culminate in the regulator (including entities providing regulatory functions on behalf of the government) developing a sound and defensible compliance monitoring and enforcement plan to inform its ongoing and forward activities. The plan should enable flexibility for the regulator to respond to complaints about the regulated industry or individual regulated entities.

One regulator has published on its website that it is moving away from annual compliance planning and reporting, towards a dynamic framework. This approach, if the regulator implements it, will enable a rapid and timely response to emerging trends or changes in risk and greater flexibility for response.

This approach does require a higher commitment to real-time, accurate, and reliable access to information and data, and the ability to quickly process and analyse it. The principles of accountability and transparency still need to be applied.



### Insight

Regulators' risk and prioritisation frameworks should inform the development of a sound and defensible compliance monitoring and enforcement plan (regardless of whether it is an annual plan or a dynamic plan).

This plan will inform proactive monitoring and enforcement activities and provide a basis for assessing performance.

Communicating compliance monitoring and enforcement plans to the regulated population/industry and to the public helps the regulator promote:

- public trust and confidence in the regulator
- goodwill with those being regulated (a no-surprises approach)
- self-regulation and compliance assurance among those being regulated
- deterrence of non-compliance.



## Act to ensure compliance

Regardless of how well regulators conduct their compliance monitoring and planning, this will provide little value if the regulators do not implement the plans.

To be effective, regulators need to ensure they act to implement their compliance monitoring and enforcement plans (proactive) and act on complaints (reactive).

In addition, regulators need to provide timely decisions, clearly articulate expectations, and explain the underlying reasons for decisions. This will help regulated entities to understand what is expected of them and how to achieve the compliance outcomes.



### Insight

Establishing and communicating a clear enforcement framework can assist regulators and guide staff in how to act on identified non-compliance appropriately and proportionately. It provides regulated entities with an understanding of how their regulator will address non-compliance.

Figure 4B provides an example of an enforcement continuum approach. Depending on the type and nature of non-compliance identified, the regulator may act by trying to educate or warn the non-compliant client and progress to higher levels of enforcement if the non-compliance is not addressed. In other situations, the circumstances or nature may warrant the regulator moving directly to enforcement orders or prosecutions.

**Figure 4B**  
**An enforcement continuum approach**



Source: Queensland Audit Office from *Managing coal seam gas activities (Report 12: 2019–20)*.

After taking action to address non-compliance, it is important for the regulator to follow through and make sure the regulated person or organisation has become compliant. This does not always occur.

In one of our previous audits, we found the regulator often failed to perform the necessary follow-up to ensure regulated entities rectified the non-compliance.



**Insight**

Regulators should establish processes to ensure staff not only act when they identify non-compliance but follow through to ensure the non-compliance issue is subsequently rectified.

The regulator's primary outcome being sought should be to bring the regulated entity to compliance.

Some industries are subject to multiple regulatory frameworks, often enforced by more than one regulator. All too often where this occurs, we find that individual regulatory bodies plan and conduct their activities in isolation, resulting in limited information sharing, duplication, inefficiency, and client frustration. To ensure equitable services, regulators need to be consistent in their interpretations and application of the legislation.

In previous reports we have recommended regulators implement consistent processes, clear communication, and collaboration when more than one entity delivers a regulatory service. To address these recommendations, one of the regulators established a dedicated office to provide oversight and coordination across multiple regulators. This led to consistent and documented processes for compiling and sharing information, making decisions, and managing the compliance program.





### Insight

Where more than one public sector entity contributes to enforcing the regulatory environment, regulators should collectively work towards developing consistent and complementary approaches to legislative compliance and enforcement.



## Report transparently for accountability

Having implemented the risk-based plans to achieve legislative outcomes, regulators need to report against the achievement of those plans and evaluate their efficacy and efficiency.

In our regulatory audit reports, we have recommended that regulators regularly report against key performance measures with a focus on outcomes to increase transparency and accountability of their activities. All too often we see regulators reporting on their activities and failing to assess and report the outcomes of their activities. Our recommendations on performance measures for regulators include:

- a cost allocation framework that is cost-effective and defensible
- clear service outcomes and measures to track the status and effectiveness of those goals, and management-level efficiency indicators to monitor and report on their operations and services
- accuracy of evidence gathered for escalating non-compliance cases, efficiency of the regulator and timeliness of decision-making
- trends in compliance or reduction in non-compliance.

When regulators develop performance reporting, they should incorporate the measures into their existing monitoring and reporting frameworks and ensure they have evidence to support the performance reports.



### Insight

Regulators need to publicly report on indicators of their performance in meeting regulatory objectives. The performance reporting should include efficiency, economic, and quality measures against expectations, and the impact (or outcomes) of regulatory activities (for example, compliance trends).



## Learn through continuous improvement

It is important for regulators to identify where their regulatory activities are working and what needs to be improved. By analysing and reviewing their activities, regulators can identify issues, gaps, and where they need better education and resourcing. Regulators can plan future activities and continuously improve approaches to ensure they remain consistent with legislation and community expectations.

We have made recommendations in our audit reports about regulators reviewing the relevance, appropriateness, effectiveness, and efficiency of their processes and programs. Regular review, learning, and improving processes can help regulators to proactively identify improvement opportunities.

Through regular review, regulators can ensure legislation remains relevant over time. Continuous improvement processes aim to ensure regulatory activities:

- are prioritised with reference to impact on stakeholders and the community
- are risk-based
- leverage technological innovation.

In many of our audits, we have recommended regulators implement fit-for-purpose systems to collect and analyse data for insights on improving their planning, conduct, and monitoring functions. These systems should enable analysis of compliance trends and intelligence from stakeholders' input. An analysis of complaints can highlight areas that work well and any systemic issues the regulator needs to address.

Through continuous improvement, regulators can work towards ensuring they have the best approach to achieve regulatory outcomes effectively and efficiently. An integral part of continuous improvement is to ensure that staff have the necessary training and support to perform their duties effectively, efficiently, and consistently.



#### **Insight**

Regulators need to implement processes for reviewing and continually improving the efficiency, effectiveness, and quality of their services. Their review can include input from internal and external stakeholders and from analysis of their complaints management systems. The review also needs to assess whether staff have necessary training and support to perform their role effectively and consistently.



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# A. Entity responses

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We gave a copy of this report with a request for comments to the Department of Agriculture and Fisheries and the Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities.

We also provided a copy of this report with an invitation to respond to the:

- Premier and Minister for the Olympics
- Director-General, Department of the Premier and Cabinet
- Chief Executive Officer, RSPCA Queensland.

This appendix contains the detailed responses we received.

The heads of these entities are responsible for the accuracy, fairness, and balance of their comments.



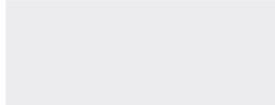
## Comments received from Director-General, Department of Agriculture and Fisheries



Department of  
**Agriculture and Fisheries**

Our ref: CTS 22852/21

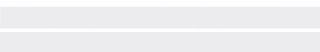
16 NOV 2021



Dear Mr Brown *Darwin*

Thank you for your email of 28 October 2021 containing the Queensland Audit Office (QAO) Report to Parliament – Regulating Animal Welfare Services (the Report) and the opportunity for the Department of Agriculture and Fisheries to respond to the recommendations contained in the Report.

The department's response to the recommendations made by the QAO in the Report are contained in the attached QAO template response.

If you require any further information, please contact 

Yours sincerely

  
**Robert Gee**  
**Director-General**  
**Department of Agriculture and Fisheries**

Attachment 1 – Department of Agriculture and Fisheries response to QAO Report to Parliament – Regulating Animal Welfare Services recommendations

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Queensland 4001 Australia  
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## Responses to recommendations



### Department of Agriculture and Fisheries

#### Regulating animal welfare services

Response to recommendations provided by Mr Robert Gee, Director-General, Department of Agriculture and Fisheries

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and financial year)	Additional comments
1. In reviewing the <i>Animal Care and Protection Act 2001</i> (the Act) and associated regulations, we recommend the department amends the legislation to: <ul style="list-style-type: none"> <li>clarify the accountabilities and accreditation of inspectors</li> <li>have oversight of recommendations from inspectors for prosecutions and any related proposals for charge and plea negotiations between the defendants and prosecutors before presenting the case in the court</li> <li>provide it with access to all information that inspectors collect as part of their investigations and prosecutions</li> <li>include requirements for managing conflicts of interest</li> <li>require it to approve a fee schedule of reasonable cost recovery and make it publicly available</li> </ul>	Agree	Q4 2022	The department has taken steps to progress possible amendments to the Act for consideration by Government in relation to appointment of inspectors, oversight of prosecutions, access to information held by the RSPCA and managing conflicts of interest as part of the review of the Act.  A schedule of fees will be developed in consultation with the RSPCA.



Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and financial year)	Additional comments
<p>2. We recommend the department:</p> <ul style="list-style-type: none"> <li>establishes minimum performance and re-accreditation requirements for inspectors, and oversees inspectors' performance against the requirements</li> <li>maintains a register of current inspectors and implements controls over identity cards</li> <li>establishes minimum standards for the welfare of the majority of animal types RSPCA Queensland regulates</li> <li>increases its oversight and support of RSPCA Queensland investigations by regularly reviewing the investigations and providing feedback for improvement</li> <li>increases its oversight, and participates with RSPCA Queensland in decisions to prosecute</li> <li>actively monitors the outcomes of complaints about RSPCA Queensland investigations and inspectors</li> <li>oversees how RSPCA Queensland is managing conflicts of interest relating to its enforcement function.</li> </ul>	Agree	<p>Q4 2022 (re-accreditation programs, register of appointment and increase in oversight of RSPCA inspectors)</p> <p>Q4 2025 for establishing minimum standards for the welfare of animal types</p>	<p>The department has already taken steps to address the recommendations relating to the appointment of inspectors, oversight of RSPCA investigations, managing conflicts of interest, and monitoring complaints about RSPCA inspectors.</p> <p>The department has commenced working with the RSPCA to improve the response to animal welfare complaints, review investigations and provide feedback for improvement.</p> <p>The department is now participating with the RSPCA in the decision to prosecute.</p> <p>Developing minimum standards for all animals that are regulated under the Act is a significant body of work which will also require consideration by Government for possible amendments to the Animal Care and Protection Regulation 2012.</p>
<p>3. We recommend the department assigns responsibility and accountability for overseeing the engagement with RSPCA Queensland to a person with appropriate authority.</p>	Agree	Q3 2021	<p>This has been completed with the appointment of an acting Director, Animal Welfare Program and acting Manager, Inspectorate to oversee engagement with the RSPCA.</p>

Recommendation	Agree/ Disagree	Timeframe for implementation (Quarter and financial year)	Additional comments
<p>4. We recommend the department partners with RSPCA Queensland to:</p> <ul style="list-style-type: none"> <li>develop effectiveness measures and uses them to assess the enforcement activities against intended outcomes</li> <li>develop and use financial reports to ensure accountability for funds the department provides.</li> </ul>	Agree	Q2 2022	<p>The department has measures in place against which to assess the effectiveness of the response to animal welfare complaints by departmental inspectors. These measures are being introduced to the RSPCA inspectorate and a review of enforcement activities has commenced.</p> <p>The department is well progressed in replacing the current procedures and guidelines for undertaking animal welfare complaint investigations, delivering a new learning and development program and reviewing and assessing effectiveness of response to animal welfare complaints.</p>
<p>5. We recommend that all public sector regulators and oversight bodies self-assess against better practices in Appendix C and, where necessary, implement changes to enhance their regulatory performance.</p>	Agree	Q2 2022	<p>The department is well progressed in delivering a new learning and development program (L&amp;D program) and reviewing and assessing the effectiveness of responses to animal welfare complaints.</p> <p>The new L&amp;D program and Procedures and Guidelines have adopted best practice guidelines for regulatory performance.</p> <p>The department has developed key criteria for assessing the effectiveness of the response by inspectors to animal welfare complaints focusing on regulatory excellence based on integrity, engagement and competence.</p>



# Comments received from Chief Executive Officer, RSPCA Queensland



17 November 2021

Mr Brendan Worrall  
Auditor General, Queensland Audit Office  
PO Box 15396  
City East QLD 4002

Dear Mr Worrall,

Thank you for the opportunity to provide a formal response to your *Regulating Animal Welfare Services* report.

RSPCA Qld has appreciated a positive partnership with the Department of Agriculture and Fisheries (DAF) for the benefit of animal welfare since the inception of the Animal Care and Protection Act 2001 (the Act). During that time we have improved the provision of training and educational resources for Inspectors and developed a framework of best practice policies and procedures for our prosecutions, including adoption of the Director of Public Prosecutions Guidelines and Model Litigant Principles.

The review of the Act will be important as we believe the submissions that both RSPCA Queensland and others have made will help to modernise the Act and bring it in line with community expectations. This will be beneficial in providing the animals the best possible care and protection they need and deserve.

We welcome the audit findings and support the recommendations outlined in the *Regulating Animal Welfare Services* report. Some of these recommendations have already been implemented and are working well. Our Inspectorate looks forward to further engaging with DAF to continue developing a collaborative and productive relationship in accordance with the recommendations, and particularly in relation to ongoing training and development, formalised reporting and establishing consistent governance structures.

This progressive evolution will require a substantial funding increase to sustain performance and achieve desired outcomes for animals consistent with community expectations. We are confident that Government, the community they represent and the animals that rely on them, would benefit from this investment in the future of animal welfare.

Yours sincerely



Darren Maier  
CEO

The Royal Society  
for the Prevention of  
Cruelty to Animals  
Queensland Inc.

ABN 74 851 544 037

Animal Care Campus

139 Wacol Station Road  
Wacol QLD 4076

Locked Bag 3000  
Archerfield BH QLD 4108

P 07 34 26 99 99  
F 07 32 58 56 10  
E admin@rspcaqld.org.au  
W rspcaqld.org.au

Animal Care Centres

**Bundaberg**  
Doblo Street  
West Bundaberg QLD 4670  
P 07 41 55 17 49

**Cairns**  
Arnold Street  
East Stratford QLD 4870  
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Dakabin QLD 4503  
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**Gympie**  
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Gympie QLD 4570  
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**Ipswich**  
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West Ipswich QLD 4305  
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**Kingaroy**  
Warren Truss Drive  
Kingaroy QLD 4610  
P 07 41 62 55 01

**Mackay**  
Cnr of Strickland Rd / Mount  
Bassett Cemetery Rd  
Mackay Harbour, QLD 4740  
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**Noosa**  
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Noosaville QLD 4666  
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**Toowoomba**  
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Toowoomba QLD 4350  
P 07 46 34 13 04

HELPING ANIMALS • ENLIGHTENING PEOPLE • CHANGING LIVES



## B. The engagement framework

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The framework of the Department of Agriculture and Fisheries' engagement with RSPCA Queensland is made up of the legislation (*Animal Care and Protection Act 2001* (the Act) and the Animal Care and Protection Regulation 2012), the department's activity agreement with RSPCA Queensland, and the Animal Care and Protection Act operational procedures and guidelines.

### Legislation

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The legislative component of the framework is the cornerstone of the engagement between the Department of Agriculture and Fisheries (the department) and RSPCA Queensland.

The department is responsible for administering the Act and the director-general is accountable for the effective delivery of animal welfare enforcement.

The Act has provisions for the director-general to appoint RSPCA Queensland employees as inspectors if satisfied the person has the necessary expertise or experience to be an inspector and has satisfactorily finished training (s. 115). The director-general can limit an inspector's functions or powers and require the inspector to provide information or a report about the performance of their functions or the exercise of their powers (s. 116).

Once appointed by the director-general, an RSPCA Queensland inspector can investigate and enforce animal welfare legislation. This includes using powers relating to entry, warrants, animal seizure and forfeiture, issuing animal welfare directions, and animal destruction.

The Animal Care and Protection Regulation 2012 is the subordinate legislation to the Act. It guides how the Act is to be applied, includes codes on managing the welfare of animals, and identifies people approved for appointment as an inspector.

### Activity agreement

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The department has had an activity agreement (the agreement) with RSPCA Queensland since 2001. The department's current three-year agreement is due to expire in June 2022.

The agreement details areas of responsibility, obligations, and reporting requirements. It includes clauses relating to conflicts of interest, management of complaints about inspectors, media policy, and prosecution requirements.

### Operational procedures and guidelines

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The department and RSPCA Queensland have jointly developed and use the Animal Care and Protection Act operational procedures and guidelines (the guidelines), which outline the procedures for inspectors to follow when enforcing the Act. The guidelines include steps for inspectors to follow when receiving and responding to animal welfare complaints, investigating complaints, and preparing investigations to proceed to prosecution.



## C. Good regulatory practices

The practices described in this section are principles-based and are not intended to be applied rigidly. They do not override any legislative requirement or authority concerning regulatory functions nor the need to ensure effective regulatory outcomes are achieved. Entities can self-assess against these practices and other better practices listed in [Appendix D](#).

**Figure C1**  
**Good regulatory practices**

<b>Plan to be intelligence-led</b>
<p><b>Understand the regulator's role, functions, and objectives</b></p> <ul style="list-style-type: none"> <li>Do the operations (what is being done) align with what should be done under the legislation?</li> <li>Do systems and processes contribute to achieving the legislative and organisational purposes and objectives?</li> </ul> <p><b>Implement systems and plans that support effective data collection and use</b></p> <ul style="list-style-type: none"> <li>Do systems allow for effective and efficient collection and use of data for timely decision-making and planning?</li> </ul> <p><b>Develop and implement a risk management framework</b></p> <ul style="list-style-type: none"> <li>Are there risk and compliance prioritisation frameworks in place? Do these enable focus and deployment of resources proportionate with the risks to the regulatory outcomes being sought?</li> <li>Have regulators collectively worked towards developing consistent and complementary approaches to risk-based compliance and enforcement planning?</li> </ul> <p><b>Develop a compliance and monitoring plan</b></p> <ul style="list-style-type: none"> <li>Does a defensible monitoring and enforcement plan exist, based on risks and proportionate actions in response to non-compliance?</li> <li>Are compliance monitoring and enforcement plans communicated to the regulated entities and to the public to help promote public trust and confidence in the regulator, goodwill with those being regulated, and self-regulation and compliance among those being regulated?</li> </ul>
<b>Act to ensure compliance</b>
<p><b>Implement a compliance monitoring and enforcement plan</b></p> <ul style="list-style-type: none"> <li>Does the compliance monitoring and enforcement plan include both pro-active monitoring and enforcement (based on the regulator's own risk assessments) and re-active monitoring and enforcement (acting on complaints)?</li> <li>Is the enforcement framework clear? Does it assist regulators and guide staff in how to act on non-compliance?</li> <li>Is it clear to the regulated entities how their regulator will address non-compliance?</li> <li>Do processes ensure staff not only act when they identify non-compliance but follow through to ensure the non-compliance issue is subsequently rectified?</li> </ul>
<b>Report transparently for accountability</b>
<p><b>Implement systems and processes for internal and external reporting</b></p> <ul style="list-style-type: none"> <li>Are there clear efficiency, economic, and quality measures in place? Are these reported publicly and internally to monitor regulator performance, including the impact of regulatory activities (for example, compliance trends)?</li> <li>Do performance measures include the efficiency with which services are delivered, timeliness of decision-making, and accuracy/quality of evidence gathered for escalating non-compliance cases?</li> </ul>
<b>Learn through continuous improvement</b>
<p><b>Implement processes for reviewing and continually improving the efficiency, effectiveness, and quality of services</b></p> <ul style="list-style-type: none"> <li>Is input from internal and external stakeholders sought for addressing what is working well and what is not working well?</li> <li>Are there adequate resources and training to support staff to perform their roles effectively?</li> </ul>

Source: Queensland Audit Office.

## D. References used for audit insights

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### Queensland Audit Office reports

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We used a selection of our reports to draw insights for regulators and their administrators in Chapter 4 of this report. These are:

- *Environmental regulation of the resources and waste industries* (Report 15: 2013–14)
- *Follow-up of Report 15: 2013–14 Environmental regulation of the resources and waste industries* (Report 1: 2017–18)
- *Follow-up of Managing water quality in Great Barrier Reef catchments* (Report 16: 2017–18)
- *Access to the National Disability Insurance Scheme for people with impaired decision-making capacity* (Report 2: 2018–19)
- *Managing transfers in pharmacy ownership* (Report 4: 2018–19)
- *Managing consumer food safety in Queensland* (Report 17: 2018–19)
- *Managing coal seam gas activities* (Report 12: 2019–20)
- *Licensing builders and building trades* (Report 16: 2019–20)
- *Regulating firearms* (Report 8: 2020–21).

### Better practice guides

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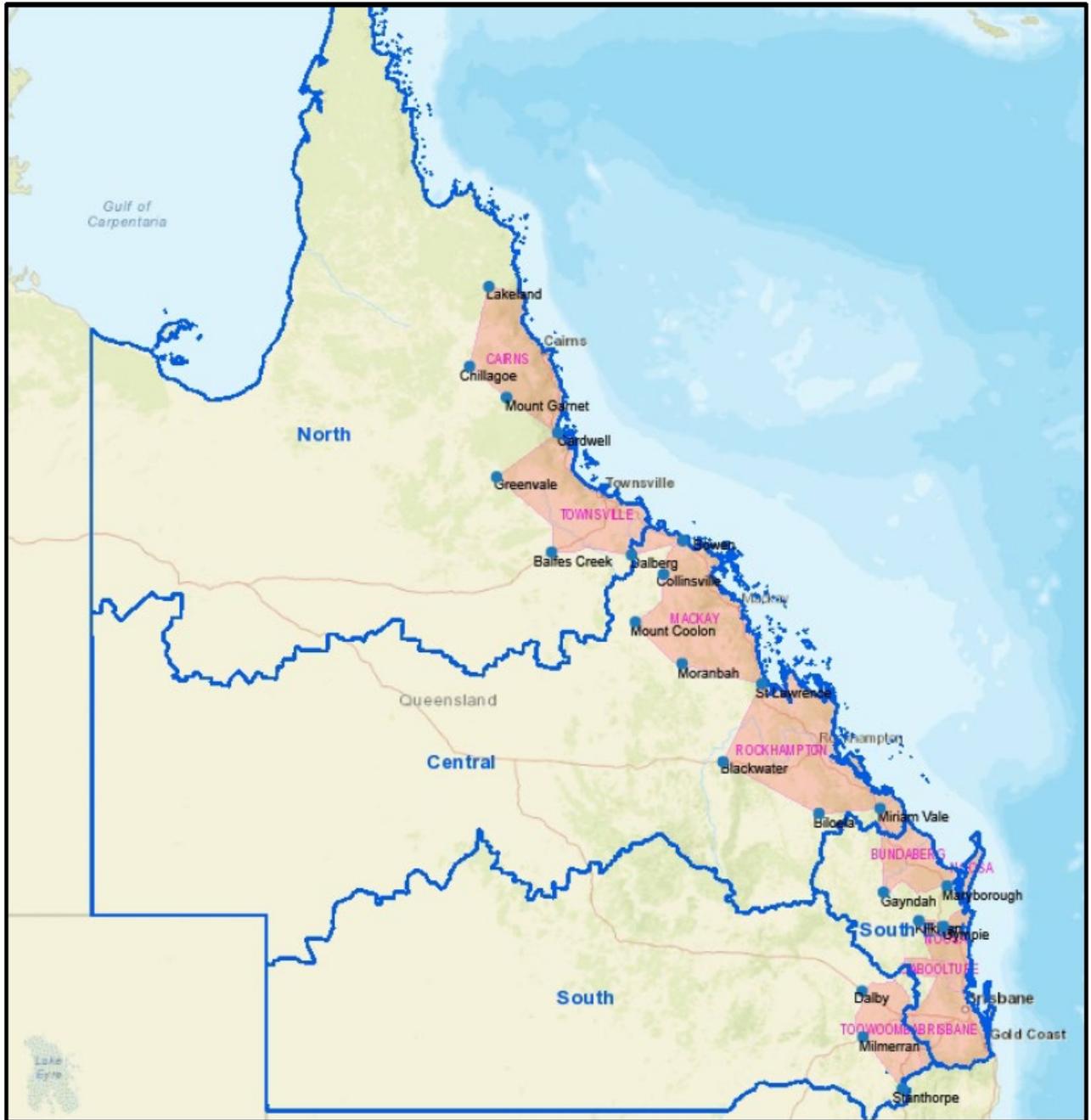
Better practice guides are available and can assist public sector entities to deliver regulator services that are efficient, effective, and/or economical.

Four better practice guides for regulatory activities available to public sector entities are:

- Queensland Productivity Commission's *Improving regulation* (March 2021)
- Queensland Treasury's *Queensland Government Guide to Better Regulation* (May 2019)
- Australian Government Productivity Commission's *Regulator Audit Framework* (March 2014)
- Canadian Audit and Accountability Foundation's *Characteristics of a Regulatory Inspection and Enforcement Function* (2013).



# E. Areas for animal welfare services



**LEGEND**

- DAF Regions
- RSPCA MoU

Notes: DAF—Department of Agriculture and Fisheries; MoU—Memorandum of Understanding.

Source: Department of Agriculture and Fisheries.



## F. How we prepared the audit

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### Objective and scope

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The objective of this audit was to assess:

- the effectiveness of the department's engagement with RSPCA Queensland to deliver animal welfare services and exercise powers under the Act
- how well the department manages that engagement.

We audited the Department of Agriculture and Fisheries' engagement with RSPCA Queensland in accordance with Standard on Assurance Engagements ASAE 3500 *Performance Engagements* issued by the Auditing and Assurance Standards Board.

We also developed key messages and audit insights from our previous audits in Chapter 4 of this report. For the audit insights, we also considered better practice guides to assist public sector regulators in assessing and enhancing their regulatory performance.

### Entities subject to this audit

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- Department of Agriculture and Fisheries.

RSPCA Queensland is not subject to this audit. However, we engaged with RSPCA Queensland as a stakeholder with special interest under the *Auditor-General Act 2009* (Qld).

Departmental and RSPCA Queensland staff provided full cooperation during this audit.

We received public submissions during the course of the audit and considered this information in the context of the overall evidence gathered during the audit.

### Audit scope and methods

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This audit has been performed in accordance with the *Auditor-General Auditing Standards*, incorporating, where relevant, the standards on assurance engagements issued by the Auditing and Assurance Standards Board.

The work we carried out to complete this audit included:

- review of documents and data provided by the department
- interviews with staff from the department
- review of jurisdictional inquiries on RSPCA's delivery of animal welfare services in other states and territories
- review of other audits on outsourcing of government services
- consultation with relevant stakeholders, such as RSPCA Queensland.







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### **Appendix 3**

#### **Speech by Robbie Katter – Member for Tragear**



Speech By  
**Robbie Katter**

**MEMBER FOR TRAEGER**

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Record of Proceedings, 20 April 2021

**MATTER OF PUBLIC INTEREST**

**RSPCA**

 **Mr KATTER** (Traeger—KAP) (2.38 pm): I rise to talk about the RSPCA. ‘All creatures great and small’—I remember the ad. It depicted some lovely animals on the screen. Everyone delightedly donated money to them. My wife did, but once I told her what they are really about she changed her view, as would many people in country towns around Queensland if they knew.

Let us put the microscope on some of the things they do and the impact they have on people in rural and regional areas particularly. The RSPCA publicly states that it: opposes recreational hunting, even that which occurs to control pest species such as feral pigs, cats and dogs; opposes the live export of sheep, cattle and goats for slaughter; opposes the hunting of wild animals for meat such as kangaroos; promotes extreme changes to Queensland’s horse sports and other animal industries—they are opposed to rodeos entirely, thanks a lot; and wants changes to the on-farm treatment of animals.

As I said, everyone thinks that the RSPCA is about dogs and cats. We have a wonderful animal rehoming program in Mount Isa—Paws Hoofs and Claws. A beautiful lady by the name of Sue Carson dedicates her life to that organisation. She ruins about a car a year transporting animals around the place. I got a rescue dog from her. I have two rescue horses at home. That is real action. Most people do that willingly because most people have compassion. Usually in a rural area people live amongst these things. We seem to forget that we do not need to legislate for and control everything in people’s lives. Most of the time we sort things out pretty well ourselves. We do a wonderful job of that in Mount Isa.

The RSPCA is a big corporation that had \$58 million in revenue in 2019-20. It had a profit of \$8.7 million last year. The other day it sold a designer dog for rehoming purposes for \$4,500. I get my dogs from Paws Hoofs and Claws for \$100 or \$150. These people seem to have an encroaching influence on policy. We are even engaging them to help us write policy.

These people have gone way beyond where they should. I have had multiple reports of them going into veterinary practices and pet shops without warrants. I have an example of an unqualified person saying to someone, ‘Those six chooks look underweight.’ After closer scrutiny it was found that there was nothing wrong with the chooks. They just had an unqualified person trying to create mischief around the place, which they consistently do. There are more and more stories like this.

It is not hard to join the dots here. There is a wonderfully fertile environment out there for people who support veganism, have progressive attitudes and believe everyone is doing bad things. It is wonderfully fertile ground for these people to operate on. Now they have moved onto pig hunting. They are always at us in terms of horse sports. A lady was prosecuted for pig hunting the other day. Now they are going to target us for that. I shoot pigs and feral cats. I am doing a good job for the Queensland environment. If we are talking about all creatures great and small, I point out that one feral cat will kill 370 invertebrates, 44 frogs, 285 reptiles, 130 birds and 390 mammals per year. Thank you very much.

I shoot cats and pigs for the good of others. I do not send the government an invoice at the end. I do not want to be judged or criticised for it. Many people out there are doing the job for the taxpayers of Queensland. We are keeping hold on the numbers of feral pigs, cats and dogs. The government is not doing a good enough job of this. That is why people out there are doing it for free. If the government wants them to start charging for this because it is going to legislate and bring the hammer down around this then they will stop doing it, but it will still have the problem. The government might have to start paying for it.

The government should think about this when it is engaging organisations like the RSPCA. They come in and tell them what to do. It will win lots of votes in Brisbane because all those people donating money think they are looking after all creatures great and small. It is a nice little political bubble it can live in but there will be real consequences. These problems will not go away. They are only going to get worse. They are biosecurity problems. As I said, the government has people doing this for free and they will continue to do it if it leaves them alone. It needs to understand that most people have compassion. It is not urban people who have a mortgage on compassion for animals. People in rural and regional areas love them too. The rodeo horses get cared for a hell of a lot better than horses in the wild.

The government continually encroaches on these things and it is done without due consideration of the damage it does, not just to our lifestyle but to biodiversity. We have to understand what the RSPCA is about. It is a very wealthy corporation that is engaging well beyond its reach and where it should be influencing people. Some of those things are destructive to our way of life in Queensland and Australia.

## **Appendix 4**

**Complaint relating to RSPCA NSW purposely inflicting harm to an emu in order to prove animal cruelty.**

RSPCA endorsed animal abuse.

Emmett was a handraised from egg emu who escaped from our neighbours.

He turned up in our cafe carpark after escaping from their property.

We contacted them and a four hour attempt to reclaim him was unsuccessful.

As we are on the main Putty Rd and the traffic is quite heavy, after the neighbours gave up I managed to move Emmett into our back paddock.

Emmett was very happy there and interacted with the customers, who we instructed to only feed him with our supplied food and only over the gate not the barb wired fence. Occasionally a caravaner would feed him over the fence and Emmett would end up with a scratch which we treated with antiseptic.

He walked to the dam with us and ran to the dam with us when we drove. He swam and was a happy and contented bird.

On the 29th of January, cafe was closed and we were preparing for a funeral for a NSW police officer.

The cafe was blocked off and marked as "Closed for Private Function".

Shortly before the event was to commence. a car drove in and a man with RSPCA marked on his back and an assortment of tools attached to him emerged and used the toilet facilities. At around the same time a small blue car drove in and a girl with multicoloured hair also used the toilet facilities.

They then had a conference in the car park and drove off but stopped to the north of the property.

I asked to be driven there to see what they were doing.

RSPCA man was watching the girl who had dragged Emmett's head through the bottom rung of the barbed wire fence and was feeding it a bucket of non nutritional lettuce. Emmett was unsettled and unhappy.

I asked what this was all about? RSPCA man said that he had had a complaint about the emu.

I replied that it would have been manners to introduce themselves and we could have worked together to solve whatever problem there was.

He stated that he was not required to do this. I asked why?...The police do. He again reiterated that he did not have to do this. I said ....I thought the RSPCA dealt with domestic animals. He stated.... That's why I bought a wildlife expert , and pointed to the girl.

I requested her credentials , which were denied to me. The girl was pulling Emmetts head through the barb wire fence so they could take photos of her feeding the emu. A Wildlife "expert" feeding an emu lettuce in a bucket?

I became angry, as you would expect and RSPCA man said words to the effect that they should leave the property and reconvene down the road.

When they left, and I went to calm Emmett I realised that the girl by pulling head through the barb wire fence had actually lacerated his neck. Not scratched but lacerated.

It took 40 minutes to stop the bleeding with pads and the like. Emmett just stood quietly while

we did this obviously understanding we were helping him.

We managed to patch him up and could see that the healing was starting next morning.

The question now begs as to their true intentions. Was it the well being of the emu Emmett who is loved and cared for several times daily by our staff family and patrons? Or were they trying to convince each other in some way they indeed truly matter?

Or was there motivation to try and make a quick buck through some type of litigation or fines? Especially given they now had photos of a bleeding emu.

The point of this is if they handled themselves in a somewhat professional manner instead of walking in here all branched up with attitude and self importance and concentrated on the subject, the entire experience would have ended somewhat amicably.

We could have all walked through the gate together and called the emu up safely for inspection to which they would have called "no joy" to the complainant and we could have all gone on our way merrily.

The RSPCA and the wildlife expert obviously reported us to a number of organisations and NPWS eventually visited us to seek a solution.

I realised that someone in a caravan was always going to give him a sandwich over the fence. My criteria to NPWS, who were unbelievably sympathetic to Emmett's plight and our loss, was that he must not be released into the wild as he would not survive and that he must have human contact.

They found a placement for our Emmett at a wildlife sanctuary at Dural, which is open to the public and where we are able to visit him.

Kim Grace  
Grey Gum Cafe

## **Appendix 5**

**Submission to the Inquiry into the Raid on the Waterways  
Wildlife Park from former Police Prosecutor Gunnedah Local  
Court – regarding seizing of koalas and their death while in  
RSPCA custody ('care').**

Submission  
No 2

**INQUIRY INTO THE RSPCA RAID ON THE WATERWAYS  
WILDLIFE PARK**

**Name:** Mr Leon Mills

**Date received:** 9/06/2010

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3<sup>rd</sup> June, 2010.

The Honorable Members

General Purpose Standing Committee No. 5

Inquiry into the R S P C A raid on the Waterways Wildlife Park

Dear Members,

My full name is Leon Andrew Mills and I have resided in Gunnedah since 1982. I moved to Gunnedah as a result of my applying for the Police Prosecutors position for the Gunnedah Local Court Circuit. I continued in that position until my retirement in 2006. In 2008 I stood in the Local Government elections and was successful in gaining office as a Gunnedah Shire Councillor. I am still in that position today.

The two submissions I would like the Honorable Committee to consider are that the compliance section of the R S P C A (R S P C A Inspectors) be disbanded and that all the duties that they try to perform in relation to the investigation and brief preparation for alleged offences under the Prevention of Cruelty to Animals Act 1979 (the Act), be given to sworn Constables of the N S W Police Force in particular the Rural Crime Unit. My second submission is that all prosecutions under the Act be done by Police Prosecutors in the Local Court Jurisdiction.

R S P C A Inspectors obtain their powers as a result of being issued an Authority under Section 24D(2) of the Act. In relation to this inquiry it is clear that Inspectors Prowse and French have no idea of their powers. I say that on this basis, the Act is clear in relation to what an Inspector can do and is set out in Division 2 of the Act. On the Friday following the taking of the Koalas a report was broadcast on the 6.30am local A B C news that Officer Prowse said the reason for taking the Koalas was that they were "stressed". There is no power under the Act to take an animal that is stressed. It is also clear that if one gives Officers Prowse and French the benefit of the doubt that they are alleging distress, as referred to in Section 24H subsection (5) of the Act, there is no evidence at all that any of these animals were suffering debility, exhaustion or significant physical injury. To support what I am submitting, the Honorable Committee would note that the Officers examined the Koalas at about 10.30-11am. They gave no treatment to these Koalas from that time until after 4.30pm, why? there was nothing wrong with them, and of course we are talking about Officers that would be expected to take immediate action if an animal was suffering debility, exhaustion or significant physical injury. These two Officers

2.

had to do something and they illegally removed these Koala for the sole purpose of the T V show R S P C A Animal Rescue. To further support this submission the head of the R S P C A Mr Steve Coleman said no proceedings would be taken against Nancy Small as a result of community outrage. I completely reject this statement. As a former Police Prosecutor of 28 years both in the city and country, on rare occasions there is community outrage when some proceedings are taken. I have never before heard of proceedings for a criminal matter being abandoned or not brought because of community outrage. The reason there were no proceedings brought was that there was nothing wrong with these animals.

Offences under the Act are Criminal. Officers French and Prowse were supposed to be "investigating" this matter. It is interesting to note the quality of this so called investigation. No interview with Nancy Small or any other carers of these Koalas. No exhibits such as , stool samples, feed provided in the Koala enclosure , water quality provided in the Koala enclosure, photos for identification of each Koala, no tagging for identification. When one looks at the R S P C A Seizure Notice re this matter S N 010 16 these Officers have not even identified the Koalas to the extent of their sex. This so called investigation is absolutely pathetic and shows the quality of how R S P C A Inspectors carry out their duties.

The N S W Police have a branch now called the Rural Crime Unit. These branches operate both in the city and country. They are staffed by sworn Police who have been fully trained in investigation techniques. Many of these Officers are fully trained Detectives. It would be my respectful submission that these officers should take over the compliance section of the R S P C A. Of course it would require extra staff and resources. It would be my suggestion that appropriate funding could be transferred from the funding the State Government gives to the R S P C A to the Police Budget.

Another benefit of a transfer to Police is that all Police investigations are subject to review by independent authorities such as the Ombudsman or I C A C. This is not the case with R S P C A Inspectors , they answer to no one other than themselves. On the 18<sup>th</sup> of February last I attended the local branch meeting of the R S P C A as the head of the organization Mr Steve Coleman was attending. During the course of the meeting he answered a number of questions re the Waterways incident. Mrs. Dodd asked him a question being, "who can I complain to", Mr Coleman's response was "the Chief Inspector of the R S P C A ". From a community point of view in this day and age it is totally unacceptable that we have an organization such as this, that when a complaint comes in they investigate themselves.

The subject Koalas were living in a happy well cared for environment when they were illegally removed by Inspectors French and Prowse. One of the females had a baby Koala in her pouch that Mrs Small was aware of. I have been told that the R S P C A Inspectors became aware of this fact over the 48hrs following their removal. One of the other Koalas was an elderly female that Mrs Small has described as the "Old Lady". Mrs Small has never denied that this Koala was elderly and whilst ever in good health could live out her days in the Koala Enclosure. Both these Koalas that were supposed to being cared for by Inspectors French and Prowse are now dead so I ask this question what investigation has the R S P C A done in relation to the deaths of these Koala or am I correct in

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assuming that when an animal dies because of the ignorance or lack of care by that Inspector no investigation takes place. This is another example as to why the Police should take over these responsibilities so that when this type of incident occurs it can be properly investigated or reviewed by an appropriate authority.

I referred earlier in this document to the fact that prior to my retirement I was the Police Prosecutor for the Gunnedah Court Circuit. During the 1980s and 1990s and in some cases still to this day besides representing Police informants in Court Police Prosecutors represent many other entities, for example, Probation and Parole, National Parks and Wildlife, D O C S , Roads and Traffic Authority and the R S P C A. Over the years until about 2000, every so often I would receive a brief from an R S P C A Inspector who would be the informant usually in more than one information. If the matter was a "not guilty" plea I would present the case on behalf of the Informant. If the offence or offences were proved some costs would be sought by the informant that would usually be for witness expenses and any fodder that may have been required to give to the animals in question. No Legal Professional costs were ever sought. In addition a fact I feel is relevant is that Police Prosecutors , D P P Prosecutors and Crown Prosecutors have a duty to place all the evidence before the Court even evidence that may be detrimental to their case. The Parliament through its Legislation views the most serious offence under the Act (aggravated cruelty) in a similar way as a common assault under Section 61 of the Crimes Act. Each can only be dealt with by a Magistrate in the Local Court. Each carries a custodial penalty of 2 years imprisonment. True there is a difference in the monetary penalty but goal is the most severe penalty for a Criminal Offence. A common assault is one where the victim suffers no serious injury. For some reason the Parliament does not view aggravated cruelty as a serious offence at law.

The R S P C A since about 2000, to my knowledge, have been engaging private Solicitors to conduct their prosecutions and one might ask why did they move to this system.

It is my submission that this practice should cease and that Police Prosecutors should conduct the prosecutions for the R S P C A . I say that on this basis. By engaging private Solicitors or Barristers there is no obligation on them to place before the Court evidence that may disadvantage their case. Legal and Professional Costs come into play. If their prosecution is successful they would ask for these costs. It seems unbelievable that recently in one of their prosecutions at Narrabri an amount in excess of a quarter of a million dollars was sought for costs in a matter heard in the Local Court, and as I said before, an offence not serious at law.

In conclusion it is my humble opinion that Inspectors French and Prowse have no knowledge in respect to their obligations under the Act and it is clear they see their careers more in the field of T V and to add insult to injury when asked a question by myself about the T V show R S P C A Animal Rescue and their role in this incident when he attended Gunnedah on the 18<sup>th</sup> February last, Mr Coleman's explanation was and I quote, "the Officers had been on another job with them and when they said they were going to Gunnedah the crew said we might just tag along" end quote, I informed him that I did not accept that explanation at all. Its a sad situation when the head of such an organization is trying to assist the coverup.

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Yours Faithfully

A handwritten signature in blue ink, appearing to be 'M. Hill', written in a cursive style.

Councillor

Gunnedah Shire Council

## **Appendix 6**

**Complaint relating to RSPCA recent seizing and euthanising of a beloved family pet.**

## Loved Family Pet

Dog was seized on Friday – euthanized within the next week. Despite dog being under vet care, vet even contacted RSPCA to discuss case.

RSPCA refused to talk with owner, refused to communicate with treating vet.

Dog was seized, placed into a cage too small for the dog. Dog was 11 years old. The breed generally live to 6 years of age. So this dog was obviously being cared for well.

Despite constant contact no inspector would correspond other than to state, 'we have the right to hold the dog for 60 days' – leading owner to believe dog was still alive.

No attempt at a plan to improve health of dog at the home. No acceptance to accompany owner and dog to their local vet just 5 mins drive away – instead was taken to Yagoona – over an hour away.

Why was the owner informed the dog was being seized based on a particular concern – and yet was not charged on the basis of that concern – instead was charged on other minor health issues that were treatable? Is that because after seizing the RSPCA realized they couldn't prosecute on the grounds of their seizure so desperately sought other options to justify the seizure?

Dog stopped eating over 4-5 day period – RSPCA implied due to ill health and euthanised. Common sense would tell you it was mourning and fretting from ripped away from its loving family of over a decade. A simple return to the owner with medical instruction very well could have seen the dog improve again – once back with its loving family.

Why was the dogs welfare sacrificed to pursue a case against the owner?

Why was the owner not advised that the dog was being euthanised?

Why was another Inspector or a supervisor not assigned to the case while the inspector on was on leave to deal with the vet and owners enquiries? Why was the owner not notified of his dogs death for 6 days?

This entire scenario was filmed and is that footage available to justify a dog under vet treatment being seized and crammed into a cage that was too small?

Owner has requested the return of the body – to be told it can't be returned. Why not?

This Committee has further details of this case. This owner has submitted to this Inquiry – seeking full confidentiality due to it being an active case.

## **Appendix 7**

**Response to an ACA Survey (2019) relating to animal welfare and the charitable organisations.**

**(Respondent was contacted and details are permitted to be shared).**

## **Rabbits – RSPCA Issue**

### **Animal Welfare**

**Do you feel the welfare of your animals improved because of the action taken by the organisation involved? Explain with specific examples.**

Certainly not. I am referring to the RSPCA. 8 of my 10 rabbits were seized on the 24th of May 2019 even though 3 of my Rabbits had only been to the vet 4 days earlier. I finally had the 3 rabbits returned 19 days later as my psychologist had phoned them a number of times to say it was affecting my mental health greatly. When they were returned the abscess that had been getting treated by myself had not been touched by them. Mia, rabbit with the abscess was quite aggressive and standoffish for a period of not less than 2 weeks. She still is a little fearful. My other rabbits feet required attention having not been looked after. Both were not exhibiting their usual behaviour, both seeming hesitant.

### **Education**

**Was education provided to you? Discuss the benefits.**

No. It would very beneficial however if the RSPCA were educated on the care and welfare of rabbits. They didn't recognise head tilt/ wry neck on one of our rabbits and did unnecessary risky tests on him. Putting him under general anaesthesia. Mia never had her abscess treated as even their vets did seem to be aware of what it was. They don't know the different breeds or anything behavioural wise to do with them. They don't seem comfortable at all handling them. They showed no concern for the unnecessary stress being caused to the rabbits. The RSPCA officers are also in great need of learning respect, conflict resolution and following protocol and procedures.

### **Priorities**

**Do you feel the organisation had your animals' welfare as a priority?**

No. They didn't even ask what the rabbits names were, their ages, breed or sexes. They didn't ask for any history. No transition feed was taken- which is important. They were all given the Cylap vaccine (For Calici Virus strain One) - Not recommended for unwell rabbits and they seized them saying they were unwell? One rabbit died ten days after being seized. He would of been terrified being out of the area he knew. New smells, sounds, strange people, cages and food. If they do not have their food they are use to, it can cause gut problems.

### **Anything else?**

**What was the outcome? What happened to the animals? What happened to you?**

One rabbit has died in their care and I haven't seen the other four of my babies for going on seven months now. The RSPCA have been asked on numerous occasions for proof of life but keep stalling.

My court case is still ongoing.

My mental health has suffered greatly, my depression is chronic and the fear of the RSPCA coming back again and not being able to protect my animals has left me very anxious. I also have bouts of hopelessness.

Any organisation that has been given the powers of the police need to have an independent governing body to address any complaints from the public. Currently you make a complaint and hear nothing.