

## GOVERNMENT RESPONSE

### RECOMMENDATIONS OF THE SELECT COMMITTEE INTO THE OPERATIONS OF THE ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS WESTERN AUSTRALIA (INC)

Recommendation from Majority Report	Proposed Government position	Comment
<b>Majority Recommendation 1: The Committee recommends that the <i>Animal Welfare Act 2002</i> be reviewed to assess if it adequately serves its intended purpose.</b>	Supported	The 2015 Report on the Independent Review of the investment in and administration of the <i>Animal Welfare Act 2002</i> in Western Australia (Easton Review) recommends that a review of the <i>Animal Welfare Act 2002</i> is undertaken. The Government has supported all of the recommendations of the Easton Review and has made funding available to implement the recommendations.
<b>Majority Recommendation 2: The Committee recommends that RSPCA WA continues its education programs which promote better animal welfare outcomes.</b>	Supported	The Government commends the RSPCA WA's education programs promoting better animal welfare outcomes.
<b>Recommendation 3: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to provide for indictable aggravated cruelty offences, prosecuted by the Director of Public Prosecutions.</b>	Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i> .	Amending the <i>Animal Welfare Act 2002</i> to provide for indictable aggravated cruelty offences, prosecuted by the Director of Public Prosecutions, will be considered in the broader context of the animal welfare regulatory framework as part of the review of the <i>Animal Welfare Act 2002</i> , which has already been agreed and initiated by the Government.
<b>Majority Recommendation 4: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to include an express provision to provide that only the CEO of the Department of Agriculture and Food has the power and discretion to appoint all general inspectors.</b>	Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i> and inspector governance.	The need for and the nature of the discretionary power of the CEO of the Department of Agriculture and Food (DAFWA) in the appointment of inspectors, irrespective of their nominating organisation, will be considered as part of the review of the <i>Animal Welfare Act 2002</i> and the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.

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<p><b>Majority Recommendation 5: The Committee recommends that details of inspectors appointed under the <i>Animal Welfare Act 2002</i> be published in the <i>Western Australian Government Gazette</i> and that the Department of Agriculture and Food maintains a current list of general inspectors on its website.</b></p>	<p>Noted and will be considered as part of inspector governance framework.</p>	<p>Consideration will be given to publishing the names of general inspectors in the <i>Western Australian Government Gazette</i> or an equivalent measure as part of the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.</p>
<p><b>Majority Recommendation 6: The Committee recommends that all general inspectors appointed under the <i>Animal Welfare Act 2002</i> sign their instrument of appointment which must contain the duties, obligations and conditions of a general inspector so as to avoid any doubt as to the nature of the appointment.</b></p>	<p>Noted and will be considered as part of inspector governance framework.</p>	<p>In a recent decision of the Information Commissioner [F2013322 8 December 2014] in relation to an FOI matter between an RSPCA-employed inspector and DAFWA, the Commissioner stated that "it may be desirable to see the scope of appointment and the core responsibilities to be clearly set out in such a document [the instrument of appointment], not the least for avoidance of doubt as to the nature of the appointment and its obligations and duties." The views of the Information Commissioner will be considered as part of the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.</p>
<p><b>Majority Recommendation 7: The Committee recommends that the Attorney General advises the Chief Magistrate to remind the Magistrates Court of Western Australia of sections 82(1)(b) of the <i>Animal Welfare Act 2002</i> and 3(1)(a) of the <i>Criminal Procedure Act 2004</i> so that correct parties are named in court proceedings.</b></p>	<p>Supported</p>	<p>The Magistrates Court of Western Australia will issue an information bulletin to all staff reminding them to record the correct party details into the Court's integrated Case Management System.</p>
<p><b>Majority Recommendation 8: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to provide that all prosecutions are authorised and overseen by the CEO of the Department of Agriculture and Food or a nominated representative.</b></p>	<p>Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i> and inspector governance.</p>	<p>The need for all prosecutions under the <i>Animal Welfare Act 2002</i> to be authorised and overseen by the CEO of DAFWA will be considered as part of the review of the <i>Animal Welfare Act 2002</i> and the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.</p>

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<p><b>Majority Recommendation 9: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to clarify the statutory powers and limitations of RSPCA WA general inspectors conducting prosecutions under the Act on behalf of the Department of Agriculture and Food</b></p>	<p>Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i> and inspector governance.</p>	<p>The need for the <i>Animal Welfare Act 2002</i> to be amended to clarify the statutory powers and limitations of RSPCA WA general inspectors conducting prosecutions under the Act will be considered as part of the review of the <i>Animal Welfare Act 2002</i> and the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.</p>
<p><b>Majority Recommendation 10: The Committee recommends that the Department of Agriculture and Food enact regulations that immediately implement Part 5, Division 3 of the <i>Animal Welfare Act 2002</i> to enable infringement notices to be issued by general inspectors.</b></p>	<p>Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i>.</p>	<p>Access to the fines enforcement scheme under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> will be explored through the development of the Inspector Governance Framework being developed by DAFWA and the review of the <i>Animal Welfare Act 2002</i> as part of the Government's response to the Easton Review.</p>
<p><b>Majority Recommendation 11: The Committee recommends that the Department of Agriculture and Food implements an infringement notice system for prescribed offences and a money collection pathway through the Department, and that any amendment required to implement the above be enacted through amendments to the <i>Animal Welfare Act 2002</i> and any other required consequential amendments to other Acts.</b></p>	<p>Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i> and inspector governance.</p>	<p>Will be considered as part of the review of the <i>Animal Welfare Act 2002</i> and the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.</p>
<p><b>Majority Recommendation 12: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to delete the words 'in relation to the provision of care or treatment' from section 71(1)(b)(i) so that all direction notices are reviewable by the Minister to afford procedural fairness to the parties involved.</b></p>	<p>Not Supported</p>	<p>It is imperative that the <i>Animal Welfare Act 2002</i> allows for directions to be given in emergency situations in relation to food, water and shelter where the direction cannot be suspended upon Objection or Review. As part of the review of the <i>Animal Welfare Act 2002</i>, relevant changes will be considered that limit non reviewable directions to a situation where there is an immediate and urgent need and compliance is required to be undertaken within a short period of time. It would be inappropriate and lead to adverse animal welfare outcomes if the direction was reviewable by the Minister or the SAT as the direction is suspended until the Minister or SAT deal with it. Further training to support inspectors in regard to food, water and shelter issues will be provided as part of the Government's response to the Easton Review.</p>

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<p><b>Majority Recommendation 13: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to:</b></p> <ul style="list-style-type: none"> <li>• insert a clear definition of ‘<i>shelter, care or treatment</i>’</li> <li>• require a general inspector to identify the type of shelter required in any direction notice issued for the provision of shelter.</li> </ul>	Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i> .	The need for and the nature of the changes will be considered as part of the review of the <i>Animal Welfare Act 2002</i> being undertaken as part of the Government’s response to the Easton Review.
<p><b>Majority Recommendation 14: The Committee recommends that the Department of Agriculture and Food remain responsible for the administration of the <i>Animal Welfare Act 2002</i>.</b></p>	Supported	This is a recommendation of the Easton Review.
<p><b>Majority Recommendation 15: The Committee recommends that the Department of Agriculture and Food continue to implement its conflict of interest management framework.</b></p>	Supported	DAFWA will continue to implement its conflict of interest management framework.
<p><b>Majority Recommendation 16: The Committee recommends that an appropriate benchmark of standardised training be developed for general inspectors, that must be completed prior to being appointed by the CEO of the Department of Agriculture and Food, and that regular training be undertaken by all general inspectors to ensure operational competence.</b></p>	Noted and will be considered as part of inspector governance framework.	Appropriate benchmark of standardised training will be included in the Inspector Governance Framework being developed by DAFWA as part of the Government’s response to the Easton Review.
<p><b>Majority Recommendation 17: The Committee recommends that RSPCA WA publicly confirms that no evidence of live baiting has been discovered in Western Australia despite an extensive co-investigation by RSPCA WA and Racing and Wagering WA, and that the RSPCA WA’s \$10,000 reward for information leading to a conviction of animal cruelty remains unclaimed.</b></p>	No comment	This is a matter for the RSPCA WA.
<p><b>Majority Recommendation 18: The Committee recommends that the Minister for Agriculture and Food liaise with the Ministers for Health and Mental Health to develop and implement an inter-agency protocol, involving RSPCA WA to respond to the mental health, social, environmental and animal welfare issues in cases of animal hoarding.</b></p>	Supported	An interagency approach to this issue is supported and could be overseen by the Minister’s Advisory Committee once established.
<p><b>Majority Recommendation 19: The Committee recommends that Recommendation 17 of the Easton Review be adopted.</b></p>	Supported	The Government supports all of the Easton Review’s recommendations and has increased the appropriation to DAFWA for their implementation.

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<p><b>Majority Recommendation 20: The Committee recommends that the Grant Agreement clearly set out a requirement for a more detailed financial report showing budgeted and actual income and expenditure by RSPCA WA.</b></p>	<p>Noted and will be considered in new grant agreement.</p>	<p>The need for a more detailed financial report showing budgeted and actual income and expenditure by RSPCA WA and the nature of those details will be considered when developing the new grant agreement with the RSPCA WA.</p>
<p><b>Majority Recommendation 21: The Committee recommends that the Grant Agreement project annual report be made public within 60 days of receipt of the report by the Department of Agriculture and Food.</b></p>	<p>Noted</p>	<p>The Grant Agreement project annual report will be provided to the Minister for Agriculture and Food who can table the report in Parliament.</p>
<p><b>Majority Recommendation 22: The Committee recommends that the funding to RSPCA WA as part of the service agreement with the Department of Agriculture and Food be increased.</b></p>	<p>Noted</p>	<p>The Government has significantly increased its funding to animal welfare through the implementation of the recommendations of the Easton Review, which will identify further opportunities for service improvement. Any increase in funding would an additional net cost to Government.</p>
<p><b>Majority Recommendation 23: The Committee recommends that the <i>Animal Welfare Act 2002</i> is amended to require:</b></p> <ul style="list-style-type: none"> <li>• <b>general inspectors to report their enforcement activities annually to the CEO of Department of Agriculture and Food</b></li> <li>• <b>the Department of Agriculture and Food to incorporate this data in its annual report tabled in Parliament.</b></li> </ul>	<p>Noted and will be considered as part of inspector governance framework.</p>	<p>Noting the first dot point is a requirement of the RSPCA WA (not of RSPCA-employed inspectors) contained in the existing Grant Agreement and that statutory provisions exist in the <i>Animal Welfare Act 2002</i> to require inspectors to provide such information, this will be considered in the Inspector Governance Framework being developed by DAFWA as part of the Government’s response to the Easton Review.</p> <p>The nature of information suitable for annual reporting by DAFWA will be determined as part of the Inspector Governance Framework being developed by DAFWA as part of the Government’s response to the Easton Review.</p>
<p><b>Majority Recommendation 24: The Committee recommends that the <i>Animal Welfare Act 2002</i> be amended to:</b></p> <ul style="list-style-type: none"> <li>• <b>require the Department of Agriculture and Food to consent to an <i>Animal Welfare Act 2002</i> prosecution</b></li> <li>• <b>give the Department of Agriculture and Food the express power to direct and conduct all prosecutions under the <i>Animal Welfare Act 2002</i>.</b></li> </ul>	<p>Noted and will be considered in the review of the <i>Animal Welfare Act 2002</i>.</p>	<p>Will be considered as part of the review of the <i>Animal Welfare Act 2002</i>.</p>

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<p><b>Majority Recommendation 25: The Committee recommends that additional general inspectors be appointed in regional and remote Western Australia to meet the identified unmet need in animal welfare.</b></p>	<p>Supported for regional appointment.</p>	<p>The Easton Review considered this issue and recommended that five additional general inspectors be appointed to improve animal welfare outcomes in Western Australia. The Government has supported all of the recommendations of the Easton Review and has made funding available to implement the recommendations.</p>
<p><b>Majority Recommendation 26: The Committee recommends that the Minister for Agriculture and Food establish a mechanism involving RSPCA WA and appropriate government agencies (including, but not limited to, WA Police, the Mental Health Commission, the Department of Agriculture and Food and the Department of Local Government and Communities) to monitor the changes in demand for the services provided by general inspectors appointed under the <i>Animal Welfare Act 2002</i>.</b></p>	<p>Noted and will be considered as part of inspector governance framework.</p>	<p>The need for and nature of the mechanism to monitor the changes in demand for the services provided by general inspectors appointed under the <i>Animal Welfare Act 2002</i> will be determined as part of the Inspector Governance Framework being developed by DAFWA as part of the Government's response to the Easton Review.</p>