

Submission re Inspector-General of Animal Welfare: Consultation Paper

According to the consultation paper, the government's commitment to establish an Inspector-General of Animal Welfare will be achieved by expanding the role of the current IGLAE. While the consultation paper states that the 'IGLAE review program is independent from other departmental assurance programs', the IGLAE is appointed by the Minister for Agriculture and shares premises with the Department of Agriculture, Fisheries and Forestry. According to its website, the Department works to support 'agriculture, fishery, food and forestry industries. So [sic] they can remain competitive and sustainable.'

Under the *Inspector-General of Live Animal Exports Act 2019*, the IGLAE's functions are limited to reviewing and reporting on the functions and exercise of powers by livestock export officials. There are no formal consequences if the Department fails to implement the IGLAE's recommendations or is tardy in doing so. In this context, I note that the current position appears to be modelled on that of the Inspector-General of Biosecurity, as legislated under the *Biosecurity Act 2015* (Cth), which reviews a different aspect of the Department of Agriculture's work. In its Review Report No. 2021-22/01, the Inspector-General of Biosecurity reported (p 1) that:

The department has struggled to come to an appropriate understanding of the independent Inspector-General role. It has therefore not capitalised on the benefits of the independent assessments that the Inspector-General provides. It appears that the department has approached Inspector-General recommendations as an administrative, rather than transformative, process and not treated them with the level of importance that seemed to be envisaged by the Australian Parliament when it established the statutory role.

The IGLAE cannot review specific or individual cases and none of the suggested objectives for the expanded position include this function either. On the contrary, they are also limited to a role of reviewing/reporting on the Department's functions and exercise of its powers and on the Commonwealth's interaction with state and territory animal welfare enforcement agencies (it is unclear what the latter envisages). The suggested objectives to increase accountability and transparency are also confined to a reviewing/reporting role.

I note that the IGLAE's current review concerns communication and engagement in livestock export regulation and that the Law Council of Australia's submission to that review identifies serious deficiencies in current departmental policy and practice with respect to animal welfare. Reviews play an important role in highlighting regulatory failings but information alone is not enough to strengthen animal welfare without powers to compel relevant change. For example, we now know that 'insufficient space' was the reason

given for the lack of an independent observer on board 33 of the 78 voyages that met the relevant criteria in the last quarter of 2022; in response, the Department is merely '*trying to work out* exactly whether there is a pattern as to why there is no space ... and what we can do to actually implement a revised independent observer policy that *perhaps starts* to fill *some* of those issues' (Mr Koval, Senate Estimates, 14 February 2023, p 99, emphasis added).

Further, the consultation paper states that where the appointed IGAWLAE lacks animal welfare expertise, a person could be appointed to carry out the additional functions in the capacity of a Deputy or Assistant Inspector-General or a senior person with relevant expertise. It would seem odd to create a new position specifically to address animal welfare only to fill it with a person who lacks the appropriate expertise. In any case, this nomenclature suggests a subservience of the expanded role to the existing position, with the animal welfare appointee responsible to the IGAWLAE. I note that the IGLAE was legislated as a direct result of public exposure of the dire consequences of the Department's regulatory failures and that the IGLAE already makes findings in relation to animal welfare, as the Review of ESCAS, Report No. 2021/01 illustrates. What would be the point of the existing position if the office holder lacks animal welfare expertise and those functions are carried out by another? And how would the overlap between the two roles be managed?

In summary, on the limited information available, expansion of the existing position to an IGAWLAE appears to be a confusing and inadequate means of addressing the ongoing serious challenges in the live export trade. These difficulties are symptomatic of a broader governance deficit: the way animal welfare matters are routinely tacked onto departments with other, often conflicting, priorities. Although a statutory position provides a measure of independence, the proposed IGAWLAE has insufficient power and remains too closely aligned with the Department of Agriculture to ensure 'robust oversight, accountability and transparency of animal welfare in livestock exports.' That the department responsible for ensuring the competitiveness of the live export trade is also tasked with 'working to establish and implement' the very statutory office that will oversee its animal welfare functions illustrates the highly problematic nature of current and proposed arrangements.

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