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Animal Welfare Standards Public Consultation

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### **Submission on Draft Land Transport Standards**

Lawyers for Animals wishes to make a brief submission to the Animal Welfare Standards Public Consultation on the development of the *Australian Animal Welfare Standards and Guidelines for the Land Transport of Livestock* (Draft Land Transport Standards) and its associated Regulatory Impact Statement (RIS).

Lawyers for Animals is a not-for-profit incorporated association run by a management committee of lawyers. Its objectives include: alleviating the suffering of animals by engaging with those who create or administer laws in Australia in order to strengthen legal protection for animals; and promoting better animal welfare practices amongst animal-related industries in Australia.

1. As with most (if not, all) initiatives under the Australian Animal Welfare Strategy (AWWS), Lawyers for Animals applauds the policy objective of the Draft Land Transport Standards: to create a single law with enforceable standards throughout Australia. However, we are (once again) highly critical of what might be described as a 'lowest common denominator' approach toward emulating the existing Codes of Practice; whereby 'welfare' is effectively sacrificed on the altar of 'consistency'. Such an approach undermines the title of the AWWS, while squandering an unique opportunity to generate real welfare

improvements for Australian livestock, that equate to world's best practice. At present, the popular political and bureaucratic line appears to be: that enshrining consistent welfare standards, however low, creates 'something that can be worked on' in the future. Lawyers for Animals recognises the weakness of this position: we question how easily national political will and resources will be generated to upgrade the Draft Land Transport Standards, once they are set in stone; and ask the obvious question: why is world's best practice being deliberately ignored? We submit that the people and livestock of Australia, deserve a progressive policy approach, and we condemn all efforts to send us backwards.

2. A representative of Lawyers for Animals personally attended the Australian Animal Welfare Strategy (AWWS) workshop in Canberra, in December 2007. We take this opportunity to express our concerns over the current process for developing standards. Despite the use of the term 'Welfare' in the title of the Strategy, participants are overwhelmingly from industry backgrounds, with a comparatively tiny number of Animal Welfare representatives, permitted to be involved. Lawyers for Animals submits that it would make far greater sense to allow animal welfare representatives to be equally balanced with industry representatives, to ensure that the outcome of the process is both welfare-friendly and practicable. The adoption of such an approach should allow Animal Welfare Organisations – and animal welfare, itself – to emerge from being merely 'part of the background' of the AWWS, to taking its rightful place in the foreground.
3. Lawyers for Animals submits that the Draft Land Transport Standards do not make the necessary specifications to protect the welfare of livestock while they are transported on land. Instead, the Draft Land Transport Standards duplicate much of the wording of the current Codes of Practice for the transport of animals, which only provide minimal welfare standards and are ambiguous, non-prescriptive and extremely difficult to enforce. For example, draft Standard SA2.1 states:

A person involved in handling, selection, loading, transporting and unloading livestock must be competent to perform their required task, or must be supervised by a competent person.

This infers that an incompetent person may continue to work closely with livestock, for an indefinite period, provided they are supervised by a competent person. While we recognise the need for on-the-job training of stockpersons, we note that a preferable approach would be to fix a time period within which an incompetent stockperson must develop competence:

A person involved in handling, selection, loading, transporting and unloading livestock

must be competent to perform their required task within six months of commencing such employment, and must be supervised by a competent person throughout any period that they are not so competent.

4. In order to be effective, the Draft Land Transport Standards must be more detailed and hence, more enforceable. For example, terms such as 'competent person', 'effective ventilation' and 'qualified' require explicit definition within the enforceable standard (not within unenforceable guidelines).
5. Lawyers for Animals also submits that in order for the Standards to be effective, Federal and State Governments must ensure that those responsible for enforcing animal welfare laws are properly resourced. Current resources are woeful.
6. In addition to proposing corrections to the content and structure of the Draft Land Transport Standards, Lawyers for Animals takes this opportunity to propose uniform change to the Animal Welfare legislation of each State and Territory (or adoption of a national law). In particular, we submit that the standard of proof that 'suffering' has occurred, or that an individual or corporation has failed to 'minimise risk to the welfare of' animals'; which currently falls upon the regulatory authority, should be reduced, such that the regulatory authority only be required to evidence suffering or breach of Standard 'on the balance of probabilities', rather than 'beyond a reasonable doubt'. Once the regulatory authority has discharged this burden, the onus of proof ought to be reversed, requiring the accused to prove that he/she/it (in the case of a corporation or industry body) did not breach the applicable law or Standard beyond a reasonable doubt.
7. Given the serious ramifications of tampering with legally honored principles of standard and onus of proof, Lawyers for Animals understands that such a proposal must be adequately justified. To this end, we note that proving animal cruelty charges is significantly different to proving criminal charges because proof of animal suffering or risk to welfare is presently far more difficult to establish in law. This is partly because when animals communicate their feelings, the human capacity to understand/empathise is commonly diminished by instinctive speciesism – which, unlike its sibling, 'racism', remains politically correct. It is also because attempts to properly understand animal suffering – particularly in prey, as opposed to our own, predatory species – are undermined by a plethora of (national and international) industry-funded research organisations, publishing

'scientific' research that obscures more than it reveals, and can be relied upon to provide 'reasonable doubt' in animal welfare cases.

Lawyers for Animals thanks you for considering this submission and would be pleased to discuss these issues further with you at any stage. Should you have any queries, please feel free to contact our Secretary, Nichola Donovan, via email: [nichola@lawyersforanimals.org.au](mailto:nichola@lawyersforanimals.org.au)

Yours faithfully,

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