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Mr Peter Zeroni
Director Policy & Legislation
Department of Primary Industries and Resources
Northern Territory Government

By email: peter.zeroni@nt.gov.au

Dear Mr Zeroni

Department of Primary Industry and Resources (DPIR) Overview of draft Animal Protection Regulations 2020 (the Overview)

The Central Land Council (CLC) welcomes the opportunity to comment on the Overview. The CLC has statutory responsibilities to ascertain, represent and protect the rights and interests of Aboriginal people living in the CLC region. One of the CLC's central roles is to protect the interests of Aboriginal people with an interest in Aboriginal land, by assisting constituents to make land claims, negotiate agreements with third parties, protect sacred sites and utilise land and other financial resources for the benefit of their communities.

The CLC supports the Regulations as outlined in the Overview. The following comments and recommendations are aimed towards assisting DPIR in implementing the Animal Protection Act (the Act) and the Animal Protection Regulations (the Regulations).

1. Education on animal cruelty under section 24 of the Act

Section 24 of the Act lists a number of offences relating to animal cruelty. Under section 24(6) of the Act it is an offence if a person in control of an animal which is suffering fails to take action that is reasonable in the circumstances and the person knows would alleviate the animal's suffering. The maximum penalty for such an offence is a fine of up to 200 penalty units (currently \$31,400) or imprisonment for up to two years. Section 24(5) of the Act allows for prescribing under regulations additional conduct that is to constitute cruelty.

CLC Land Management staff have reported CLC constituents experiencing confusion regarding who is in control of an animal, and therefore has a duty of care towards the treatment of livestock and other domesticated animals. In Aboriginal communities, livestock is both personally and collectively owned. In response, CLC staff have previously engaged in education with its constituents regarding their obligations under the old Animal Welfare Act. This includes a roadshow conducted in June and September 2014. The roadshow included a presentation by Dr Peter Saville, Regional Veterinary Officer from DPIR on how to care for horses, and a presentation from CLC staff regarding the law under the Animal Welfare Act. This included culturally appropriate and plain-English explanations of key responsibilities and terms under the Act, such as who is in control of an animal, duty of care, minimum level of care, penalties for breaking the law, the powers of the Animal Welfare Inspectors under the Act, including the power to enter Aboriginal land without a permit if they believe a person is breaking the law or they think an animal is suffering, and traditional owners' responsibilities for feral animals.

Recommendation 1

- The CLC recommends that DPIR produce and disseminate appropriate educational material regarding the new Animal Protection Act and Regulations. This should include material directed at Aboriginal traditional owners and communities in order to appropriately explain their duties and responsibilities under the Act.

2. Animal Welfare Advisory Committee

Section 19 of the Act creates an Animal Welfare Advisory Committee (the Committee). The Committee's functions include providing advice to the Minister or the CEO on animal welfare issues or on any other matter that is relevant to the operation of the Act (section 19(3)(a)) and providing advice to bodies, organisations or the general community on programs for the improvement of community awareness about animal welfare (section 19(3)(d)).

The Committee's membership is to be constituted in accordance with the Regulations (section 19(2)). The Overview provides an extensive list of members to be appointed from a range of organisations. The CLC notes that there are no Aboriginal organisations listed in the Overview. The CLC believes a Land Council representative would assist in advising the Minister or CEO of animal welfare issues as they relate to Aboriginal people undertaking their responsibilities under the Act, the need for improved awareness in Aboriginal communities of issues about animal welfare, and Aboriginal cultural practices and hunting and fishing activities in accordance with their traditional laws and customs, as relates to a defence under section 110(2) of the Act.

Recommendation 2

The CLC recommends that the Regulations be amended so that one Land Council representative from the CLC representing covering desert country, drought and animal welfare issues in southern NT as well as one representative from the Top End (NLC in terms of capacity) for fishing, sea and waterways issues.

- be appointed to the Committee.

3. Section 110 – Aboriginal laws and customs

Section 110(1) of the Act recognises the right of Aboriginal communities to conduct cultural practices and hunting and fishing activities in accordance with their traditional laws and customs.

Section 110(2) provides a defence to a prosecution against charges of cruelty to an animal (section 24), and aggravated cruelty (section 25) if the person is an Aboriginal person and the conduct complied with Aboriginal law or custom. A person cannot use this as a defence if they intentionally abuse or torture an animal (section 24(3)).

The CLC understands that section 110 will not create a defence for people who have neglected their duty of care under the Act that results in the suffering of livestock, such as horses or cattle. It will only create a defence for conduct relating to cultural practices and hunting and fishing activities in accordance with their traditional laws and customs.

The CLC supports section 110 as protecting the rights and interests traditional owners as they relate to cultural practices and hunting and fishing activities in accordance with their traditional laws and customs.

The right to engage in traditional hunting and fishing activities remains despite changing hunting methods, such as the use of firearms. The CLC would support DPIR working with traditional owners to provide education about hunting and fishing methods as they continue to develop.

As recommended above, the presence of two Land Council representatives (North and South) on the Committee may assist in advising the Minister of issues relating to hunting or fishing

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practices in accordance with traditional laws and customs. Based on this advice, DPIR may produce and disseminate appropriate educational material regarding animal treatment when hunting and fishing.

Recommendation 3

- The CLC recommends DPIR work with Aboriginal communities to produce and disseminate appropriate educational material regarding animal treatment when hunting and fishing.

4. Feral animal management

The CLC understands that where no one is in control of an animal, such as a horse, traditional owners do not have any responsibilities to take care of these animals under the Act. Traditional owners may have a responsibility to control or eradicate feral animals if an area is declared to be a feral animal control area by the Department of Environment and Natural Resources under the *Territory Parks and Wildlife Conservation Act*. If traditional owners do not control or eradicate the feral animals, the Department could undertake the cull themselves, normally after consulting with traditional owners.

CLC constituents report seeing feral horses suffering during the summer months, particularly due to recent drought conditions. The CLC and traditional owners have in the past successfully worked with the Department of Environment and Natural Resources to cull feral animals. The CLC would welcome future communications with the Department regarding how to standardise coordination to control or eradicate feral animals on Aboriginal land.

Recommendation 4:

- The CLC, traditional owners and the Department of Environment and Natural Resources standardise coordination for the control or eradication of feral animals on Aboriginal land.

If you have any questions about these comments and recommendations, please contact Josie Douglas at (08) 8951 6212 or josie.douglas@clc.org.au.