

# The Recreational Fishing Alliance of NSW

## Promoting Sustainable Fishing



13 September 2021

The Hon. Adam Marshall MP  
Minister for Agriculture and Western New South Wales  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister,

### Re: Animal Welfare Reform Discussion Paper

The NSW Department of Primary Industries, Animal Welfare Reform Discussion Paper is now open for public consultation. The Recreational Fishing Alliance of NSW (RFA) does not want to see any unintended consequences to the way recreational fishers and spearfishers currently engage in the legal activity of fishing and the way they catch, prepare and store their fish, including cephalopods and crustaceans.

*The Prevention of Cruelty to Animals Amendment Bill 2021* assented on Thu 17 Jun 2021 - Act No 15 of 2021 (GG No. 275, 25/06/2021, n2021-1351) and you were the Member with Carriage. As Minister you initiated this process on November 2020 and it was completed only a few months ago on the 17<sup>th</sup> June 2021.

The RFA is confused about why now you are seeking to introduce new legislation via the Animal Welfare Reform Discussion Paper. It seems a completely illogical process—was your *Prevention of Cruelty to Animals Amendment Bill 2021* so flawed, that this is another attempt to keep the animal rights movement happy? We don't doubt that they are licking their lips at the prospect of a second bite at the legislation, and that they see this as an opportunity to get at recreational fishing in NSW.

Even the RSPCA was heralding your new *Bill* as a great achievement, and on February 10<sup>th</sup> 2021 said 'RSPCA NSW welcomes the Prevention of Cruelty to Animals Amendment Bill 2021, presented by Adam Marshall MP in parliament yesterday, passing the second reading as it is a step towards increased animal welfare penalties in New South Wales. The proposed changes in this Bill will see some of the toughest penalties and sentences in Australia, increasing the range of tools available to courts to effectively deal with animal welfare cases.'<sup>1</sup>

Due to the limited range of stakeholders being consulted, the RFA has only just recently discovered that this Animal Welfare Reform Discussion Paper exists. We can see that it could have unintended consequences for recreational fishers in NSW. The lack of consultation and communication between DPI-Fisheries and fishers in NSW is a great concern to us. The RFA cannot find any evidence that DPI-Fisheries sought advice from recreational fishers during the drafting of the Issues Paper in 2020, or this current Paper in 2021.

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<sup>1</sup> <https://www.rspcansw.org.au/blog/media-releases/bill-passes-second-reading/>

The changes proposed in the Animal Welfare Reform Discussion Paper are far-reaching and include for the first time the introduction of new attempt to define what cruelty means. The Paper proposes a new overarching concept of 'harm'. Also, for the first time, psychological suffering is included as a form of animal cruelty and potentially makes any interaction with any animal an offence—including the activity of fishing.

The Animal Justice Party (AJP) has already painted a target on fishing in NSW and it seems the Animal Welfare Reform Discussion Paper will give them the ammunition they need.

The defence offered for fishing in the Paper is only just that, a 'defence' to an allegation of cruelty after the event. How is one reasonably expected to prove that harm wasn't done to a fish, cephalopod or crustacean if it is caught on a hook, in a trap, or used as bait and ultimately killed?

This change will impact all recreational fishers, businesses and trades that catch and use fish, crabs, lobster, octopus, and squid, and any other saltwater or freshwater catch as part of their processes. As part of this Paper you have provided the AJP with a means to sidestep normal scientific processes. This will arm political/animal rights activists with a process which includes, amongst other things, covering marginal animal groups such as crustaceans considered under welfare legislation.

The RFA does not want to see the any form of fishing impacted by any changes that are not evidence based. The storage of legally caught live bait, whether by recreational anglers or commercial businesses like tackle shops and bait companies will be impacted by these changes and need to be considered. The simple extension to 'live seafood' will be the next logical step for the AJP to attack, whether it's keeping caught fish in boat live wells, keeper nets in rock pools, prawns or nippers in a bucket or even a few crabs as bait in your bait bucket.

The RFA does not want to see numerous community catch-and-release fishing competitions targeted under any legislative changes. Nor do we want to see any impact on the charter boat fishing industry, the seafood industry, fish markets and commercial fishers. The unintended consequence of 'harm' should be of concern to everyone who interacts with animals in a wide range of other occupations and sports.

The RFA is concerned that the stakeholders engaged in the drafting of the Paper do NOT provide a balanced stakeholder representation and that the full impacts of combining the *Prevention of Cruelty to Animals Act 1979*, *Animal Research Act 1985 (ARA)* and *Exhibited Animals Protection Act 1986*, replacing them with a single, modern animal care and protection law has not been fully explored when it comes to unintended consequences to fishing.

The RFA is concerned about the introduction of the concept of 'psychological suffering' and how this this is to be judged, how is it to be measured and who will examine the animal as to its psychological condition.

'Harm' is purely a subjective concept open to judgement of the enforcement agency and its agents. This all rests on the assumption that 'scientific evidence' of physiological capacity of the experience of pain, let alone consciousness, is accepted. This is a stretch at best, and the RFA cannot see how the proposed animal cruelty laws could be applied. Studies claiming to demonstrate that 'fish feel

pain' showed selective use of evidence, use poor definitions and have inconsistent and trivial results that are often unrepeatable.

The RFA appeals to you to stop this process and listen to what recreational fishers and groups like the RFA are saying about the unintended consequences that these changes might deliver.

As Minister responsible for fishing in NSW, what support are you giving fishers to fight the extreme views of the AJP, who appear to have the intention of banning recreational fishing under animal welfare legislation?

The RFA is gravely concerned that statements made in Parliament by Emma Hurst, Member of the Legislative Council, Animal Justice Party, target fishing and eating of fish:

*'Fishing is not a sport, it is animal cruelty'. Emma Hurst June 4 2020.*

*"Fish feel pain, they are self-aware, they remember, they build relationships and exhibit emotional responses. Deliberately inflicting pain and suffering on these sentient animals cannot be ignored - especially when the fishing industry kills more individual animals than any other form of animal slaughter". Emma Hurst March 27 2021*

Finally the RFA asks you what actions you will be taking to ensure that the Animal Welfare Reform – Discussion Paper that DPI introduced will not open the door to groups like the AJP to escalate their attacks on recreational fishing and lead us down the path of having fishing banned in NSW.

Will you stop this process and listen to what fishers have to say?

Yours faithfully

A handwritten signature in black ink that reads "S. Konstantaras". The signature is written in a cursive, slightly slanted style.

Stan Konstantaras  
President  
Recreational Fishing Alliance of NSW