



A COMMISSIONER FOR ANIMALS IN NEW ZEALAND

ALISON VAUGHAN

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FOREWORD

The first two sentences of this thoughtful treatise deserve reflection. The author says that: “New Zealand’s relationship with animals is complicated. Animals are companions, food, pests, entertainment and a source of income.”

What might be additionally asserted is that New Zealand’s relationship with animals is undergoing continuous change, and the direction of travel is nearly always towards improved animal welfare.

Change persists because, on average, society considers the status quo to be inadequate for this or that reason. Inadequacy is almost always expressed as too little attention to animal welfare, rather than too much. Sadly there are exceptions.

Into this milieu enters the argument for a Commissioner for Animals, and the independence a Commission might deliver. Such an idea carries with it an implicit criticism of the status quo. Yet current arrangements, with blurred accountabilities and inadequate resourcing, operate as well as they do because of the professionalism of individuals who serve.

New Zealand’s governance arrangements include many examples of independent watchdogs, starting with the ‘Officers of Parliament’: the Auditor-General, Ombudsman and the Parliamentary Commissioner for the Environment.

Sensibly, the author proposes an ‘Independent Crown Entity’, examples of which include the Commission for Children and the Privacy Commissioner. New Zealand now has considerable experience with such structures. We trust them.

Not that they are any panacea. Children still live in poverty and privacy concerns persist. An Animals Commission would undoubtedly raise unmet expectations for some. But it would offer an independent perspective for the public and our media.

Given our complicated relationship with animals, and given society’s ongoing appetite for improvement, it might now be time to make progress.

Hon Pete Hodgson BVSc, MPP

EXECUTIVE SUMMARY

This report has been commissioned by the New Zealand Animal Law Association (NZALA) with the generous support of Save Animals from Exploitation (SAFE). In it, author Alison Vaughan provides a comprehensive outline of the various regulatory systems that govern human-animal relationships, and the problems that have arisen and persisted in that complicated network. It advances a compelling argument for reform; reform that takes the form of a new Commissioner for Animals. It is in three parts.

Part I outlines the various legislative and regulatory regimes that govern human-animal relationships in New Zealand, chief amongst them the Animal Welfare Act 1999.

Part II explains the problems with New Zealand's current approach to animal welfare law and oversight of those various regimes. It argues there are three core problems with the status quo:

- The body charged with the administration and oversight of animal welfare law in New Zealand – the Ministry for Primary Industries (MPI) – deprioritises animal welfare as a goal when it conflicts with its other, competing goals as an organisation;
- The body charged with the development and oversight of codes of animal welfare and regulations lacks sufficient independence and suffers from under-resourcing; and
- A lack of centralised oversight of the various regimes regulating human-animal relationships (and the bodies that administer them).

Part III examines the potential scope, limits and benefits of establishing a Commissioner for Animals in New Zealand, and whether it has the capacity to ameliorate some of the problems identified in Part II. It looks to models overseas and other commissioner roles within New Zealand, before proposing a Commissioner in form of an Independent Crown Entity. In order to address some of the problems identified, the report concludes overall that any Commissioner must:

- Have formal and legal independence;
- Report directly to the Prime Minister
- Receive direct, adequate and dedicated funding
- Possess the ability to publish reports and make submissions to relevant fora;
- Engage in appropriate stakeholder engagement; and
- Possess suitable investigative powers, including an ability to present reports in judicial proceedings when requested, and the capacity to facilitate monitoring, education and advocacy.

As the report author acknowledges, this is far from the first call for reform of New Zealand's animal welfare regulatory system, nor even the first call for the establishment of a Commissioner. However, it is the most comprehensive report of its kind, and its conclusions are difficult to resist. In circumstances where there are clear threats to the positive progression of animal welfare in this country, the clarion call to sensible, effective and thoughtful reform of that sector has never been more urgent. This report charts the pathway forward.

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I. BACKGROUND

“ The greatness of a nation and its moral progress can be judged by the way its animals are treated – Mahatma Gandhi”

New Zealand’s relationship with animals is complicated. Animals are companions, food, pests, entertainment and a source of income.² As this report will illustrate overall, New Zealand’s current approach to animal welfare law oversight and enforcement has much room for improvement.³

To understand why there is room for improvement, we must first understand how New Zealand’s animal welfare regulatory system operates. This part will show that while multiple pieces of legislation govern human-animal interactions, the Animal Welfare Act 1999 (the AWA) is the most significant. It first provides a brief history of the AWA before explaining its current legal framework and the bodies responsible for its oversight and enforcement. Finally, it explains other ways New Zealand’s law impacts animals.

A. THE AWA’S HISTORY

The AWA came into force on 1 January 2000, repealing the Animals Protection Act 1960 (APA).⁴ These statutes were not the first pertaining to animal protection in New Zealand; they were preceded by the Cruelty to Animals Act 1835 (UK), which became part of New Zealand’s law under the English Laws Act 1858, followed by the Cruelty to Animals Act 1878, the Cruelty to Animals Act 1880, then from 1884, several iterations of the Police Offences Act.⁵

The AWA resulted from a protracted legislative review process, primarily driven by the agricultural industry and international trade pressure stemming from increased consumer awareness of animal welfare issues.⁶ A government body – the Animal Welfare Advisory Committee – undertook an initial review of the APA in 1990, which was followed by a private member’s Bill introduced by Pete Hodgson in 1997, a Government Bill in 1998, and finally, a Select Committee process which considered both Bills in 1999.⁷

The AWA reflected a focus change, “away from preventing cruelty to animals, to establishing a duty of care for people in charge of animals.”⁸ According to the Ministry for Primary Industries (MPI), the AWA “is a clear statement to New Zealanders – and to the rest of the world – that animals in New Zealand have a right to proper and sufficient care.”⁹

1 Shalini Saxena “Gandhi’s Ten Commandments for World Peace: A Concord for Globe” (2015) 76 Indian J Pol Sci 723 at 723.

2 Ministry for Primary Industries “Animal welfare overview” (3 March 2025) <www.mpi.govt.nz>.

3 This report is a significantly expanded version of work already undertaken by the author as part of the degree of LLB (Hons), University of Auckland, 2025.

4 Animal Welfare Act 1999, ss 1(2) and Title para (b).

5 Neil Wells and MB Rodriguez Ferrere *Wells on Animal Law* (2nd ed, Thomson Reuters, Wellington, 2018) at 47-50.

6 Peter Sankoff “Five Years of the New Animal Welfare Regime: Lessons Learned from New Zealand’s Decision to Modernize Its Animal Welfare Legislation” (2005) 11 Animal L 7 at 12-13.

7 Wells and Rodriguez Ferrere, above n 5, at 66-74.

8 *Safeguarding our Animals, Safeguarding our Reputation: Improving Animal Welfare Compliance in New Zealand* (Ministry of Agriculture and Forestry, July 2010) at 5.

9 Ministry for Primary Industries “Animal welfare legislation” (15 February 2022) <www.mpi.govt.nz>.

B. LEGAL FRAMEWORK UNDER THE AWA

The AWA creates a framework that includes both regulations and codes of welfare.¹⁰ This section briefly explains how that framework operates.

1. OVERVIEW OF THE AWA

MPI describes the AWA as providing “high level” animal welfare obligations, offences, and associated penalties.¹¹

The term “animal” under the AWA specifically excludes humans and is defined broadly as meaning “any live member of the animal kingdom”, extending to mammalian fetuses and pre-hatched young of birds and reptiles past halfway in their development or gestation, but excludes other unborn or unhatched animals, and larvae.¹² The AWA’s long title was amended to incorporate a recognition of animal sentience in 2015.¹³

Sections 10 and 11 of the AWA set out statutory obligations for owners and those in charge of animals about meeting the “physical, health, and behavioural needs of the animal”, and if an animal is ill or injured, an obligation to alleviate its distress or pain.¹⁴

At its core, the AWA imposes obligations on people who own or control animals, as well as rules against specified conduct towards animals.¹⁵ It also regulates other activities involving animals, including surgical procedures, trapping, export, transport, and research, testing and teaching.¹⁶

2. REGULATIONS

Regulations made under the AWA provide for specific penalties relating to particular circumstances and species of animals.¹⁷ For example, “dogs left in vehicles” and “goats with ingrown horns”.¹⁸

Notably, on the Minister’s recommendation, the Governor-General may make standard of care regulations which “do not fully meet” s 10 and 11 obligations under the AWA, provided they meet statutory time limit requirements, and the Minister is satisfied that there is an absence of “feasible or practical alternatives” available, or not doing so would have an unreasonable economic impact on either an industry or sector of the public, or on New Zealand’s economy generally.¹⁹

3. CODES OF WELFARE

Codes of welfare (codes) are secondary legislation issued under s 75 of the AWA.²⁰ Because of the “many types of animals and situations” that can arise under the AWA, the codes are a practical supplement to the parent Act’s obligations; they are more specific and provide more flexibility in modification when improvements are required.²¹ The codes establish minimum care and conduct standards and best practice recommendations for animals under a person’s charge or ownership.²²

10 Ministry for Primary Industries “Animal welfare overview” (3 March 2025) <www.mpi.govt.nz>.

11 Ministry for Primary Industries, above n 10.

12 Animal Welfare Act, s 2(1).

13 Long title.

14 Sections 10 and 11.

15 Parts 1 and 2 respectively.

16 Parts 1, 2, 3 and 6.

17 Ministry for Primary Industries “Guide to the Animal Welfare (Care and Procedures) Regulations (28 November 2024) <www.mpi.govt.nz>.

18 Animal Welfare (Care and Procedures) Regulations 2018, regs 14 and 17.

19 Animal Welfare Act, ss 183A(2), (3), (5) and (6).

20 Section 75.

21 Ministry for Primary Industries “All animal welfare codes” (3 March 2025) <www.mpi.govt.nz>.

22 Animal Welfare Act, s 68.

Best practice recommendations are unenforceable but instead are intended to “encourage higher standards of animal welfare”.²³ Minimum standards are also not directly enforceable but instead serve important prosecutorial and defence purposes; failing to meet them can support a prosecution case, whereas defendants can use evidence to prove minimum standards were either met or exceeded.²⁴

Codes can apply either to a specific animal species, such as companion cats or dairy cattle, or activities involving animals, such as their transport or their use in zoos.²⁵ In some situations, multiple codes can apply; for example, sheep transportation invokes the application of two codes, one related to sheep and beef, the other to animal transport.²⁶

C. KEY BODIES RESPONSIBLE FOR OVERSIGHT AND ENFORCEMENT OF THE AWA

MPI administers the AWA.²⁷ Subject to specific evidential criteria, the Minister can declare an organisation to be an “approved organisation”.²⁸ The AWA is primarily enforced jointly by MPI and the Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA).²⁹ The SPCA derives its enforcement power from being an approved organisation under the AWA; it is currently the only such organisation.³⁰

Police also have enforcement powers under the AWA, some of which are more expansive than those of MPI and SPCA inspectors, such as the ability to stop vehicles for inspection purposes and additional powers of search and detention.³¹

1. WHO ARE MPI AND THE SPCA?

MPI is a large government department responsible for overseeing primary production in New Zealand, and its role includes management of New Zealand’s “biosecurity, food safety, forestry, fisheries management, and animal welfare” regulatory systems.³² MPI has six business units; animal welfare compliance fits within MPI’s “Agriculture and Investment Services” unit.³³ The Director-General is MPI’s “chief executive”.³⁴ Currently, the Director-General leads the “senior management team at MPI”, who are responsible for overseeing MPI’s “strategic direction”.³⁵ The Associate Minister of Agriculture, Hon Andrew Hoggard, has delegated responsibility for “animal welfare, including legislative changes”.³⁶

The SPCA is a long-standing charitable organisation that is predominantly funded by donations, with only 10 per cent of its annual operating costs currently funded by government contributions.³⁷ It is an incorporated society

23 Ministry for Primary Industries, above n 21.

24 Ministry for Primary Industries, above n 21.

25 Ministry for Primary Industries, above n 21.

26 Ministry for Primary Industries, above n 21.

27 Animal Welfare Act, Note, Title notes and s 2(1). The Note is available on the web version: Parliamentary Counsel Office “Animal Welfare Act 1999” (27 May 2025) New Zealand Legislation <www.legislation.govt.nz>.

28 Animal Welfare Act, ss 2(1), and 120-123.

29 Ministry for Primary Industries, above n 9.

30 Marcelo Rodriguez Ferrere, Mike King and Levi Mros Larsen *Animal Welfare in New Zealand: Oversight, Compliance and Enforcement* (University of Otago, 2019) at 47.

31 Animal Welfare Act, ss 124(5), 127(2) and s 131(4); and Search and Surveillance Act 2012, ss 118 and 119.

32 Ministry for Primary Industries “MPI’s structure” (13 November 2024) <www.mpi.govt.nz>.

33 Ministry for Primary Industries “Business units of the Ministry for Primary Industries (MPI)” (13 March 2025) <www.mpi.govt.nz>.

34 Animal Welfare Act, s 2(1).

35 Ministry for Primary Industries “Senior leadership team at MPI” (22 May 2025) <www.mpi.govt.nz>.

36 Chris Bishop *Schedule of Responsibilities Delegated to Associate Ministers and Parliamentary Under-Secretaries* (Department of the Prime Minister and Cabinet, 10 June 2025) at 6.

37 SPCA “SPCA in New Zealand” <www.spcan.z>.

with a CEO, a voluntary board of directors, and 54 warranted inspectors throughout New Zealand.³⁸ The SPCA envisages “a world where all animals are treated with respect and kindness” and says its purpose is “to advance animal welfare and prevent cruelty.”³⁹

2. INSPECTORS AND AUXILIARY OFFICERS

MPI and the SPCA have a memorandum of understanding, dividing their responsibilities for complaint investigations.⁴⁰ There were adjustments made to inspectorate duty allocations in 2023.⁴¹ The SPCA are currently responsible, for example, for small companion animals, birds (except for ostriches and emus), poultry in urban areas, and “one-off” acts of cruelty to pets.⁴² Examples of animals that fall within MPI’s responsibilities are pigs, emus and ostriches, cattle and other large animals (regardless of location or quantity), and poultry outside of urban areas.⁴³

Inspectors are appointed under the AWA; the Director-General may appoint state sector employees, police constables are deemed inspectors by their office, and the Minister may appoint any person on an approved organisation’s recommendation.⁴⁴ For appointments made on the recommendation of an approved organisation, the Minister must be satisfied that the person has the requisite “experience, technical competence, and other qualifications to undertake the functions of an inspector”.⁴⁵ The Director-General may “appoint any person to be an auxiliary officer” on an approved organisation’s recommendation.⁴⁶ All inspectors and auxiliary officers act under the Director-General’s direction when exercising their imposed powers, functions and duties under the AWA, with the AWA obligations taking precedence over any approved organisation’s employment or membership obligations.⁴⁷

Although not enforcement bodies, two statutory advisory committees also facilitate oversight of the AWA.

3. OTHER KEY BODIES

The AWA established two statutory advisory committees, the National Animal Welfare Advisory Committee (NAWAC) and the National Animal Ethics Advisory Committee (NAEAC).⁴⁸ The purpose of the two statutory committees includes advising the Minister and, in the case of NAEAC, also the Director-General.⁴⁹

NAWAC’s statutory purpose, “among other things”, focuses on developing and providing the Minister with advice on codes of welfare, making regulatory recommendations to the Minister, and advising the Minister on animal welfare-related issues.⁵⁰ NAWAC, the Minister, “or any other person” may prepare draft codes; however, all drafts must be forwarded to NAWAC if they were not the drafting party.⁵¹ The Minister decides whether a code will be issued, considering recommendations made by NAWAC.⁵²

38 SPCA, above n 37.

39 SPCA, above n 37.

40 Memorandum of Understanding between The Ministry for Primary Industries (MPI) and The Royal New Zealand Society for the Prevention of Cruelty to Animals Incorporated (SPCA) Contract Number C0035891 (Obtained under Official Information Act 1982) at cl 3.

41 Ministry for Primary Industries “Changes in responsibilities for MPI and SPCA animal welfare inspectors” (27 February 2023) <www.mpi.govt.nz>.

42 Ministry for Primary Industries, above n 41.

43 Ministry for Primary Industries, above n 41.

44 Animal Welfare Act, ss 2(1) and 124(1), (2) and (5).

45 Section 124(4).

46 Section 125(1).

47 Sections 126(1) and (2).

48 Sections 55-67.

49 Sections 55(1), (2) and (3).

50 Sections 55(2)(a), (b) and (c).

51 Sections 70(1) and (2).

52 Section 75(1).

Section 57 of the AWA sets out NAWAC's functions, which include advising the Minister "on any matter relating to the welfare of animals in New Zealand."⁵³ The advice includes, but is not limited to, animal welfare research requirements and animal welfare legislative proposals.⁵⁴ Other functions include making recommendations to the Minister on codes of welfare and regulations, developing and promoting guidelines related to hunting and killing animals in a wild state, and discharging its statutory functions related to traps and devices.⁵⁵

NAEAC focuses on animals used in research, testing, and teaching (RTT).⁵⁶ NAEAC's statutory purpose, "among other things", is to advise the Minister and the Director-General on ethical conduct codes and animal welfare and ethical issues arising from RTT.⁵⁷

NAEAC'S functions include advising the Minister on RTT-related animal welfare and ethical issues, making recommendations to the Minister or Director-General on specified RTT-related matters, providing animal ethics committees with advice and information, and considering the reports of "independent reviews of code holders and animal ethics committees."⁵⁸

D. OTHER RELEVANT LEGISLATION AND BODIES

Beyond the AWA, there are other ways that New Zealand regulates societal treatment and interaction with animals. Although not exhaustive, this section demonstrates that animals are regulated in multiple ways, with various governing bodies overseeing other aspects of New Zealand's legal framework relating to animals.

1. DEPARTMENT OF INTERNAL AFFAIRS AND TERRITORIAL AUTHORITIES

In addition to the AWA, the Dog Control Act 1996 (DCA) applies to dog owners and is enforced by territorial authorities (district and city councils).⁵⁹ The DCA is administered by the Department of Internal Affairs (DIA); all councils must report to the DIA on dog control practices and policy administration.⁶⁰ The DCA makes "provision in relation to damage caused by dogs" and "better provision for the care and control of dogs."⁶¹ Under the DCA, dog owners must fulfil responsibilities related to their dogs, and councils have enforcement and administrative responsibilities.⁶²

The DIA administers or enforces a long list of legislation, which includes the Impounding Act 1955 and the Racing Industry Act 2020 (RIA).⁶³

2. DEPARTMENT OF CONSERVATION

The Department of Conservation (DOC) was established under the Conservation Act 1987 and is under the control of the Minister of Conservation, with a focus on conservation, including management of land, natural and historic resources for conservation purposes, "to preserve so far as is practicable all indigenous freshwater fisheries", and protection of "recreational freshwater fisheries" and their habitats.⁶⁴ DOC also regulates aspects of dog control under the Conservation Act, relating to the control of dogs on specified land.⁶⁵

53 Section 57(a).

54 Section 57(a).

55 Sections 57(b), (c), (d), (e) and (f).

56 The National Animal Ethics Advisory Committee "Animals in research, testing and teaching" (22 January 2025) <www.naeac.org.nz>.

57 Animal Welfare Act, s 55(3)(a).

58 Sections 3(3), 63(a), (b), (c), (e), (f), (g), (i), (j), 85 and 118(3).

59 Dog Control Act 1996, ss 2 and 6.

60 Title notes and s 10A(1).

61 Section 4.

62 Department of Internal Affairs "Dog Control" <www.dia.govt.nz>.

63 Department of Internal Affairs "Legislation we administer" (September 2024) <www.dia.govt.nz>.

64 Conservation Act 1987, ss 2(1), 5 and 6.

65 Sections 26ZS - 26ZZT, 51M, 51N and 51O(1)(g).

DOC enforces multiple statutes, with administrative responsibility for some and enforcement powers under others.⁶⁶ Schedule 1 of the Conservation Act contains a list of other enactments administered by DOC.⁶⁷ Many of the enactments involve distinct aspects of governance over human-animal interactions. The list includes the Marine Mammals Protection Act 1978, the Marine Reserves Act 1971, the Trade in Endangered Species Act 1989, the Game Animal Council Act 2013, the Wild Animal Control Act 1977 and the Wildlife Act 1953.⁶⁸

3. MPI

In addition to the AWA, MPI administers the Fisheries Act 1996.⁶⁹ The Fisheries Act relates to fishery resources, recognises New Zealand's international fishing obligations and provides for "related matters".⁷⁰ Fishing is defined in the Fisheries Act as meaning "the catching, taking, or harvesting of fish, aquatic life, or seaweed".⁷¹ Although the Fisheries Act does not specifically refer to the welfare of fish or aquatic life, its purpose is to provide for use of fishery resources while protecting sustainability, requiring fishery resources to be maintained for "the reasonably foreseeable needs of future generations" and protecting the aquatic environment from adverse impacts of fishing.⁷²

MPI also oversees various other legislation related to animals, such as the Veterinarians Act 2005, the Pork Industry Board Act 1997, the Primary Products Marketing Act 1953, the Meat Board Act 2004 and the Animal Products Act 1999.⁷³

4. OTHER AREAS OF LAW APPLIED TO ANIMALS

Before moving to the next part, it is notable that other areas of law govern human-animal interactions, such as aspects of the common law, family law, and criminal law. Under the common law, animals are "property that is capable of being owned by persons."⁷⁴ Family law treats "household pets" differently to other "family chattels", giving the pet's "welfare and best interests" primary consideration in deciding which partner in a relationship will retain its ownership.⁷⁵ Finally, the Crimes Act 1961 contains provisions referring to animals, including provisions related to indecency, theft of livestock or other animals that are the property of another and unlawfully or without reasonable excuse "causing disease or sickness in animals", with the provision not focusing on animal welfare, but the risk of damaging New Zealand's economy.⁷⁶ The Crimes Act is enforced by the Police.⁷⁷

Against this background, while the AWA is central to regulating animal and human interactions in New Zealand, it operates in a broader web of legislation and a profusion of bodies that regulate human-animal interactions. The next part analyses some of the issues that arise under New Zealand's current approach to animal welfare law.

66 Department of Conservation "Acts, regulations and bylaws we enforce" <www.doc.govt.nz>.

67 Conservation Act, sch 1.

68 Schedule 1.

69 Fisheries Act 1996, Title notes.

70 Long title.

71 Section 2(1).

72 Sections 8(1) and (2).

73 Ministry for Primary Industries *Agriculture / Ahuwhenua Portfolio Briefing 2023* (2023) at 3.

74 *Kondratyeva v Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA)* [2022] NZHC 449 at [51].

75 At [53].

76 Crimes Act 1961, ss 142A – 144, 220A and 298A.

77 Policing Act 2008, s 9(c).

II. THE PROBLEM

This part will explain how New Zealand's current approach to animal welfare is problematic. First, it explains underlying concerns related to animal welfare being a secondary goal for MPI, the government department responsible for overseeing animal welfare law. It then analyses issues arising from NAWAC's apparent lack of independence and funding concerns. Finally, it will outline the problems arising from a lack of centralised oversight of animals in New Zealand.

A. MPI'S CONFLICTING ECONOMIC AND ANIMAL WELFARE GOALS

MPI's "conflicting goals" have raised concerns.⁷⁸ This section explains why MPI's focus on primary sector export growth conflicts with its role administering animal welfare legislation and why that is a problem.

Generally, New Zealand's public sector rules focus on conflicts of interest arising at an individual level.⁷⁹ As a government department, MPI is expected to identify, assess, and monitor conflicts of interest amongst its personnel and should have conflict of interest standards integrated into its policies and processes.⁸⁰ Although MPI confirms it has a "Conflict of Interest Policy" under which *individual* conflicts of interest are managed – including "between animal welfare compliance and other services" – MPI's policy does not address the *structural* conflict between its economic export growth and animal welfare goals.⁸¹ The Public Service guidelines or standards do not anticipate conflicting goals of a structural or institutional nature; there is no apparent requirement to avoid, declare, or manage them.⁸²

MPI is required, however, to take a non-partisan approach to supporting the Government's policy development and implementation, and in doing so, it must adhere to public service principles, including the proactive promotion of stewardship for the legislation it administers.⁸³ Therefore, it must support the current Government, but in doing so, it must uphold the AWA.

Conflicting goals are a recognised aspect of the public sector, MPI's position is not unique.⁸⁴ In New Zealand, the Controller and Auditor-General acknowledges that "public sector governance" differs from that of companies, recognising the possible presence of "conflicting objectives" such as "profit or public good; risk or return".⁸⁵ This work does not address the overall issue of conflicting goal management in the public sector, but demonstrates why external and independent oversight of animal welfare is necessary to improve MPI's approach to managing its two conflicting goals of primary sector export growth and administration of animal welfare legislation.

78 Jared McCulloch "Calls for independent animal commissioner falls on deaf ears" (1 October 2024) 1 News <www.1news.co.nz>.

79 Controller and Auditor-General *Managing conflicts of interest: A guide for the public sector* (June 2020) at 3.

80 Public Service Commission *Acting in the Spirit of Service: Conflicts of Interest* (New Zealand Government, February 2025) at 1, available on the website Public Service Commission "Model standards: Conflicts of Interest" <www.publicservice.govt.nz>; and Public Service Act 2020, ss 5, 10(a), 17(2), 19(1) and sch 2, pt 1.

81 Letter from Andrew Curtis (Acting Director Compliance and Response, Agriculture & Investment Services Compliance & Response, MPI) to author regarding various animal welfare matters reference OIA25-0260 (13 May 2025) (Obtained under Official Information Act 1982 Request to Ministry for Primary Industries) (emphasis added).

82 Public Service Commission *Acting in the Spirit of Service: Conflicts of Interest* (New Zealand Government, February 2025) at 1, available on the website Public Service Commission "Model standards: Conflicts of Interest" <www.publicservice.govt.nz>; and Public Service Act, ss 5, 10(a), 17(2), 19(1) and sch 2, pt 1.

83 Public Service Act, ss 5, 11, 12(1) and sch 2, pt 1.

84 For example, see Julian Christensen and others "How Do Elected Officials Evaluate Performance? Goal Preferences, Governance Preferences, and the Process of Goal Reprioritisation" (2018) 28 J-PART 197 at 197-198.

85 Controller and Auditor-General *Reflections from our audits: Governance and accountability* (April 2016) at [1.7].

1. ANIMAL WELFARE IS AN APPARENT SECONDARY GOAL FOR MPI

Academic literature has recognised that conflicting goals undermine a government agency's performance.⁸⁶ Balancing competing missions can impede an agency's performance and make agency staff uncertain about "how their work connects to agency goals and priorities".⁸⁷ Although when faced with conflicting goals and "competing objectives", organisations can "alleviate the confusion" that staff experience by prioritising one goal over the other, the emphasis comes at the cost of neglecting the other goal.⁸⁸

To explain the trade-off decisions government agencies must make when faced with conflicting goals, Eric Biber draws an analogy with individuals, who "generally have a range of interests and purposes that motivate their life".⁸⁹ Biber notes that a person's "interests and purposes", such as family life, career success and leisure activities often conflict, providing the example of a workaholic who regularly chooses work activities over attending a child's sports events or birthday celebrations.⁹⁰ Explaining that when goals conflict "it is perhaps inevitable that to some extent one goal will consistently supersede others", Biber likens the personal conflict with that of "federal public land management agencies" in the United States of America, who have faced accusations related to "systematically privileging one or more of their goals – often related to economic development – over others – often related to environmental protection."⁹¹ Superseded goals are deemed "secondary goals".⁹² In the current context, MPI's economic goals can be likened with the workaholic, whose success is generally financially quantifiable. Ensuring high standards of animal welfare is more analogous to attending a child's birthday and investing in quality family time; the benefits of doing so are not easily quantifiable, but there is no question they are important and inherently valuable.

A lack of demarcation between "MPI's various roles" has been identified; research undertaken in 2019 observed the inherent confusion in "setting and enforcing standards, and advocating for higher standards", and in "the interaction between market and private approaches to animal welfare."⁹³ In the current context, despite having a standalone legislative framework, animal welfare appears to have been subsumed into MPI's broader strategic vision. In stating its vision, MPI incorporates animal welfare into "protection", referring to it in the context of consumer knowledge and trust in the ethics of New Zealand food products, with the desired impact being to maintain "New Zealand's reputation for a strong animal welfare system".⁹⁴ The *MPI Action Plan 2025-2026* refers to animal welfare only twice, in both instances as part of an economic growth goal, with MPI's mission being to "grow the value of New Zealand's food and fibre sector", with the four goals including:⁹⁵

- Goal one: "Double the value of exports by 2034", which includes developing a live export system that "prioritises animal welfare"; and
- Goal four: "Back the primary sector to win", with the animal welfare goal being to "maintain and enhance New Zealand's Animal Welfare system so that consumers and trade partners have confidence in the quality of New Zealand's food...".

MPI knows animal welfare is important to New Zealand society. In 2013, MPI published an *Animal Welfare Strategy*, where it recognised that New Zealand, "as a humane society", has a responsibility to meet the needs of

86 Christopher Carrigan "Unpacking the Effects of Competing Mandates on Agency Performance" (2018) 78 Pub Admin Rev 669 at 668-670.

87 At 679.

88 Christopher Carrigan "Clarity or collaboration: Balancing competing aims in bureaucratic design" (2018) 30 Journal of Theoretical Politics 6 at 7.

89 Eric Biber "Too Many Things To Do: How to Deal With the Dysfunctions of Multiple-Goal Agencies" (2009) 33 Harv Envtl L Rev 1 at 3.

90 At 2-4.

91 At 2-4.

92 At 4.

93 MW Fisher and others "Barriers to the adoption of animal welfare standards: shelter on pastoral farms" (2019) 79 New Zealand Journal of Animal Science and Production 37 at 41.

94 Ministry for Primary Industries *Strategic Intentions 2024-2028* (October 2024) at 15-16.

95 Ministry for Primary Industries *MPI Action Plan 2025-2026* (Ministry for Primary Industries) available at: Ministry for Primary Industries "Our action plan and strategy" (13 March 2025) <www.mpi.govt.nz>.

animals, noting their sentience and ability to “feel pain and distress”.⁹⁶ MPI also acknowledged in the *Strategy* that welfare standards must “keep pace” with evolving concepts of what constitutes “humane treatment” of animals and that, generally, New Zealanders care about the treatment of animals.⁹⁷ The tenor of the *Strategy* was echoed by the High Court, when it recently acknowledged the AWA’s “animal welfare approach” that “permits the use of animals... provided it occurs humanely.”⁹⁸ Nevertheless, MPI’s apparent agricultural priority is economic growth, which can come at the cost of animal welfare priorities.⁹⁹

The concern stems from MPI’s conflicting goals. Under MPI’s current structure, animal welfare appears to be its secondary goal. Animal welfare may “interfere with the completion of what are to be perceived as the agency’s primary goals” and – unlike economic growth, which is statistically and monetarily quantifiable – animal welfare is a goal that is not “easily measured or monitored by outside parties”.¹⁰⁰ Therefore, there is an increased risk of MPI underperforming in its oversight of animal welfare legislation.¹⁰¹

2. MPI’S ECONOMIC FOCUS

The Director-General set out MPI’s vision to incoming primary sector ministers in 2023: “New Zealand will be the world’s most sustainable provider of high-value food and primary products”, with the primary sector powering New Zealand’s economy as the “top export earner”.¹⁰² MPI’s view was that the Minister of Agriculture’s “key role” is to ensure the fibre and food sector “thrives as a key pillar of our nation’s economy and society, now and into the future.”¹⁰³

New Zealand heavily commodifies animals and animal agriculture contributes billions of dollars to New Zealand’s export economy annually.¹⁰⁴ Agriculture, including some non-animal products such as horticulture, is New Zealand’s largest tradeable economic sector; in the year to June 2023, the sector generated \$48.9 billion, with the figures excluding seafood and forestry.¹⁰⁵ Seafood is, of course, another animal product, with the AWA recognising fish as sentient.¹⁰⁶ MPI treats fisheries as a distinct “business unit”.¹⁰⁷

MPI’s focus on industry growth is apparently working. February 2025 statistics indicated an increase of \$954 million, or 16 per cent, in goods exports compared to February 2024, with many of those increases coming from animal derived products, including dairy products.¹⁰⁸ As tradeable commodities, animal-derived export products are predicted to grow in economic forecasting for the year ending June 2025.¹⁰⁹

Employment is another significant economic factor; recent figures indicate that “meat and wool” combined are the highest employers within the agricultural sector, with dairy third after horticulture.¹¹⁰ With approximately 38 per cent of New Zealand’s land used for agricultural purposes, the sector also contributes significantly to New Zealand’s regional economies.¹¹¹

96 Ministry for Primary Industries *Animal welfare matters; New Zealand Animal Welfare Strategy* (May 2013) at 3, available on the website Ministry for Primary Industries “Animal welfare overview” (3 March 2025) <www.mpi.govt.nz>.

97 At 4.

98 *New Zealand Animal Law Association v Attorney-General* [2022] NZHC 1844 at [8].

99 See Kari Schmidt and others *Farmed Animal Welfare Law in New Zealand: Investigating the Gap Between the Animal Welfare Act 1999 and its Delegated Legislation* (New Zealand Animal Law Association, February 2021) at 58-59.

100 Biber, above n 89, at 4.

101 See Biber, above n 89, at 4.

102 Ministry for Primary Industries *Briefing to Incoming Ministers 2023* (released February 2024) at 3, available from Ministry for Primary Industries “About MPI – Corporate Publications – Briefings to incoming ministers from the Ministry for Primary Industries (MPI) – Briefings released in February 2024” (02 April 2024) <www.mpi.govt.nz>.

103 Ministry for Primary Industries *Agriculture / Ahuwhenua Portfolio Briefing 2023* (2023) at 4.

104 At 15-17

105 At 3.

106 Animal Welfare Act, s 2(1).

107 Ministry for Primary Industries “Business units of the Ministry for Primary Industries (MPI)” (13 March 2025) <www.mpi.govt.nz>.

108 Stats NZ “Overseas merchandise trade: February 2025 (21 March 2025) <www.stats.govt.nz>.

109 Ministry for Primary Industries *Situation and Outlook for Primary Industries* (Ministry for Primary Industries Economic Intelligence Unit, June 2025) at 3 and 12.

110 Ministry for Primary Industries *Agriculture / Ahuwhenua Portfolio Briefing 2023* (2023) at 3.

111 At 3.

Primary industries are therefore an important part of New Zealand's economy, and animal welfare laws positively contribute to the sector. Because of the value good animal welfare practices add to exports, New Zealand essentially trades on its "reputation for integrity" in animal welfare.¹¹²

Notably, although the AWA incorporates some provisions related to economic and industry factors, these are limited, either being factors that "may" be considered by NAWAC or the Minister, or requiring the Minister to be satisfied any impact on a "particular industry sector" or "New Zealand's wider economy" is "unreasonable".¹¹³ Nothing in the AWA's text or purpose indicates that MPI should prioritise a broader goal of economic growth over the welfare of animals.¹¹⁴

3. WHY IS ANIMAL WELFARE OVERSIGHT SUBORDINATE TO MPI'S OTHER GOALS?

Some economic motivators with associated animal welfare obligations – such as international trade agreements and consumer demand – may encourage greater focus on animal welfare matters.¹¹⁵

Free trade agreements may incorporate animal welfare obligations; the New Zealand-European Union Free Trade Agreement (NZEUFTA) is an example.¹¹⁶ With a focus on farmed animals, the NZEUFTA recognises "that animals are sentient beings", setting out requirements for the Parties to cooperate in both promoting and implementing "science-based animal welfare standards", with a particular focus on reinforcing and broadening the scope and implementation "of the World Organisation for Animal Health animal welfare standards".¹¹⁷

New Zealand's inclusion of animal welfare provisions into free trade agreements is a relatively new development; it first agreed to incorporate animal welfare considerations into a free trade agreement with the United Kingdom in 2022.¹¹⁸ Nevertheless, not all free trade agreements New Zealand enters include these obligations. For example, in January 2025, New Zealand signed an agreement with the United Arab Emirates, which, despite including animal products, contains no animal welfare chapter.¹¹⁹

Despite some positive impacts, trade and economic motivators can skew the focus towards protecting New Zealand's reputation for animal welfare, rather than prioritising animal welfare advancement.¹²⁰ World Animal Protection recognised the conflict when rating New Zealand as a "C" for animal welfare, stating "MPI is primarily concerned with promoting and increasing exports, which conflicts with its animal welfare responsibilities"; also noting that New Zealand's economic dependence on animal agriculture could incentivise "not uncovering animal cruelty" or publicising it.¹²¹

Overall, MPI's incompatible economic and animal welfare goals are in direct conflict with one another. It seems impossible to pursue economic growth without some negative impact on the welfare of animals. That is not to say MPI does not care about animal welfare; but its structure prevents it from giving both goals equal priority.

While MPI is responsible for administering the AWA and provides "information and advice" to the Minister responsible for animal welfare, ministers are "ultimately responsible for setting the government's policy priorities

112 Ministry for Primary Industries *Animal welfare matters; New Zealand Animal Welfare Strategy* (May 2013) at 5, available on the website Ministry for Primary Industries "Animal welfare overview" (3 March 2025) <www.mpi.govt.nz>.

113 Animal Welfare Act, ss 73(3), 183A(3) and (8)

114 Animal Welfare Act.

115 Katie Sykes *Animal Welfare and International Trade Law: The Impact of the WTO Seal Case* (Edward Elgar Publishing, Cheltenham, 2021) at 2-5.

116 New Zealand-European Union Free Trade Agreement, New Zealand – European Union (signed 9 July 2023, entered into force 1 May 2024), ch 8.

117 Articles 8.2(1) and (3).

118 Department for Business and Trade and Department for International Trade "UK-New Zealand FTA Chapter 6: Animal Welfare" (28 February 2022) GOV.UK <www.gov.uk>.

119 New Zealand-United Arab Emirates Free Trade Agreement, New Zealand – United Arab Emirates (signed 14 January 2025, entered into force on 28 August 2025).

120 Schmidt and others, above n 99, at 58-59.

121 World Animal Protection "Animal Protection Index (API) 2020 New Zealand" (March 2020) at 1 and 40.

and objectives”.¹²² MPI reports to five ministers over six portfolios; one of the portfolios is agriculture.¹²³ Four of the five ministers hold an agriculture portfolio, one of which is the Minister of Agriculture, the other three are associate ministers.¹²⁴ The role of the Minister of Agriculture and the Associate Minister of Agriculture (Animal Welfare) “includes setting the overall policy and direction of the animal welfare system”, with “two independent ministerial advisory committees”, including NAWAC, providing advice to the responsible Minister.¹²⁵ The second committee is NAEAC.¹²⁶ As mentioned earlier, the Minister of Agriculture has delegated animal welfare responsibilities to the Associate Minister of Agriculture, Hon Andrew Hoggard.¹²⁷

Notably, MPI’s advice can extend to making recommendations to the Minister on standards of care regulations and codes of welfare under the AWA. Although s 183A(10) of the AWA requires the Minister to consult NAWAC before making regulations under that section, unless NAWAC “already proposed” the regulations, the section does not oblige the Minister to accept NAWAC’s recommendations, or prevent further advice being sought directly from MPI.¹²⁸ Under s 75(1) the Minister has the discretion to make changes the Minister considers appropriate to draft codes before issuing them, to refer them back to NAWAC for reconsideration, or to decline to issue a code.¹²⁹

While the next section explains the crucial role NAWAC plays in ensuring animal welfare is not overshadowed by MPI’s primary economic goals, in practical terms, it can only perform this function if its advice is not overridden by contrasting advice provided directly to the Minister by MPI.

An example of MPI providing direct advice to the Minister is a briefing it provided to the Minister about pig welfare.¹³⁰ As background to the current issues, it is relevant to note that a 2020 High Court decision found regulations related to the use of farrowing crates and mating stalls, along with the associated minimum standards in the code of welfare, were “unlawful and invalid.”¹³¹ Regulations that subsequently established a “phase-out period, that allowed the continued use of current farrowing and mating stall systems by the pork industry”, will be revoked on 18 December 2025.¹³²

In its briefing, MPI recommended the Minister progress alternative proposals to those offered by NAWAC in relation to “farrowing crates, manipulable and deformable materials, and spacing requirements for grower pigs.”¹³³ MPI, at the request of the Minister, had conducted its own scientific research and economic analysis, and directly consulted with New Zealand Pork.¹³⁴

122 Cabinet Office *Cabinet Manual 2023* at 3.26(d).

123 Ministry for Primary Industries “Government ministers for the Ministry for Primary Industries” (2 April 2025) <www.mpi.govt.nz>.

124 Ministry for Primary Industries, above n 123.

125 Ministry for Primary Industries *Briefing to Incoming Ministers 2023* (14 September 2023) at 14, 31 – 32, available from Ministry for Primary Industries “About MPI – Corporate Publications – Briefings to incoming ministers from the Ministry for Primary Industries (MPI) – Previous briefings” (02 April 2024) <www.mpi.govt.nz>.

126 At 31-32.

127 Chris Bishop *Schedule of Responsibilities Delegated to Associate Ministers and Parliamentary Under-Secretaries* (Department of the Prime Minister and Cabinet, 10 June 2025) at 6.

128 Animal Welfare Act, s 183A(10). MPI noted the Minister fulfilled the requirement to consult NAWAC in relation to pig welfare by meeting with NAWAC and asking for advice on “MPI’s three proposals for regulations”, which NAWAC provided and, at the Minister’s request, MPI subsequently responded to: Julie Collins and Karen Adair, Ministry for Primary Industries Decisions on regulations associated with the Code of Welfare: Pigs (Reference B25-0291, 9 June 2025) at [23]-[25] and footnote 4. Available from: <<https://www.mpi.govt.nz/dmsdocument/70718-B25-0291-Decisions-on-regulations-associated-with-the-Code-of-Welfare-Pigs>>.

129 Animal Welfare Act, s 75(1).

130 Julie Collins and Karen Adair, Ministry for Primary Industries *Decisions on regulations associated with the Code of Welfare: Pigs* (Reference B25-0291, 9 June 2025). Available from: <<https://www.mpi.govt.nz/dmsdocument/70718-B25-0291-Decisions-on-regulations-associated-with-the-Code-of-Welfare-Pigs>>.

131 *New Zealand Animal Law Association v Attorney-General* [2020] NZHC 3009 at [186] and [201], Animal Welfare (Care and Procedures) Regulations 2018, regs 26 and 27, Code of Welfare: Pigs (2018), minimum standards 10 and 11, and Animal Welfare (Regulations for Management of Pigs) Amendment Bill 2025 (207-1), Explanatory note.

132 Animal Welfare (Regulations for Management of Pigs) Amendment Bill 2025 (207-1), Explanatory note, and Animal Welfare (Care and Procedures) Regulations 2018, regs 26(3) and 27(4).

133 Julie Collins and Karen Adair, Ministry for Primary Industries *Decisions on regulations associated with the Code of Welfare: Pigs* (Reference B25-0291, 9 June 2025) at 1 and 14. Available from: <<https://www.mpi.govt.nz/dmsdocument/70718-B25-0291-Decisions-on-regulations-associated-with-the-Code-of-Welfare-Pigs>>.

134 At [18].

In its submission opposing the subsequent Bill to promulgate new regulations, the New Zealand Animal Law Association (NZALA) has raised various concerns, including:¹³⁵

- that regulations proposed under the Bill will “permit unacceptable welfare standards”,¹³⁶
- issues about MPI’s scientific evaluation,¹³⁷
- that it is not MPI’s “mandate to provide expert and scientific advice” because, under the AWA, NAWAC is “responsible for advising the Minister on matters relating to animal welfare science”,¹³⁸
- that the proposed regulations cannot be justified by “economic impact to industry”,¹³⁹
- concerns about the legislative process behind the Bill, which results in regulations being promulgated outside the AWA’s “existing provisions”.¹⁴⁰
- that “NAWAC and the intent behind that agency” is undermined by the Bill,¹⁴¹ and
- that a 2022 consultation is undermined by the Bill.¹⁴²

The approach taken to pig welfare described above indicates that while NAWAC is an important advisory body, in its current form, its voice is not determinative, and its advice risks being overshadowed by political preferences.

B. THE NATIONAL ANIMAL WELFARE ADVISORY COMMITTEE

As a statutory advisory body tasked with providing the Minister advice and recommendations on various matters relating to animal welfare, NAWAC’s role is essential to the oversight and development of animal welfare law.¹⁴³ The Public Service Commission’s website explains that ministerial advisory committees are established to “provide ministers with external advice on particular issues”.¹⁴⁴ Although legislative authority is not required for a minister to set up an advisory committee,¹⁴⁵ NAWAC is a statutory advisory committee established under the AWA.¹⁴⁶

The AWA recognises animal sentience.¹⁴⁷ Because animals cannot advocate for themselves, it is imperative that the Minister, when setting animal welfare policy, can rely on NAWAC’s advice as being free from any negative impact of MPI’s conflicting economic goal. NAWAC’s ability to provide the Minister with independent advice related only to animal welfare is a crucial check on MPI’s pursuit of its primary economic goal.

Factors that protect the independence and quality of advice ministers can receive from advisory committees are the committee’s “terms of reference”, that committees usually “report directly to the minister” rather than a department’s chief executive, and “the quality of the people appointed.”¹⁴⁸ NAWAC reports to the Minister and, unlike MPI, NAWAC’s legislated functionality focuses solely on animal welfare.¹⁴⁹ The Minister appoints the members with broad discretion.¹⁵⁰

135 New Zealand Animal Law Association “Submission to the Primary Production Committee on the Animal Welfare (Regulations for Management of Pigs) Amendment Bill 2025”. Available at <<https://www.nzala.org/submissions>>.

136 At 4-5.

137 At [12].

138 At [13].

139 At 5-6.

140 At 6-12.

141 At 15-16.

142 At 17-19.

143 Animal Welfare Act, ss 55(2)(a), (b), (c) and 57.

144 Public Service Commission “Establishing a ministerial advisory committee” (28 July 2025) <www.publicservice.govt.nz>.

145 Public Service Commission, above n 144.

146 Animal Welfare Act, s 56.

147 Title notes acknowledge animal sentience.

148 Public Service Commission, above n 144.

149 Animal Welfare Act, s 57.

150 Section 58(3). Although the section sets out areas of “knowledge and experience” the Minister must consider in making appointments, s 58(3)(j) allows for “any other area the Minister considers relevant”.

Nevertheless, ministers are human, their ideologies and political preferences may impact how they interpret the departmental advice they receive, particularly when faced with conflicting goals.¹⁵¹ Because the animal welfare portfolio is part of the broader agricultural portfolio, an associate minister responsible for animal welfare policy is vulnerable to the same conflicting goal issues as those faced by MPI: animal agriculture growth and animal welfare. An associate minister with delegated responsibility for animal welfare exercises functions on behalf of the Minister of Agriculture “under authority of section 7 of the Constitution Act 1986”.¹⁵² While the relevant minister is appropriately responsible for the determination of policy decisions related to animal welfare, the minister is also “responsible for ...defending policy decisions, and answering in the House on both policy and operational matters.”¹⁵³

Animals are subject to law and policy decisions but, because they lack the capacity to participate in the democratic processes that shape New Zealand’s legal system, they cannot vote or influence the policy decisions that affect them.¹⁵⁴ Jessica Eisen explains it well when saying “[animals] think, and feel, and communicate, but not in the ways that allow them to speak for themselves in the languages of formal law.”¹⁵⁵ Ensuring ministers receive advice unencumbered by conflicting goals and political influence would not prevent ministers from making decisions, but would instead ensure the interests of animals, as sentient beings, are independently represented while supporting a well-informed ministerial policy-making process.

With its current structure, NAWAC lacks the independence and resources it needs to be effective in its role as a provider of independent advice to the Minister on animal welfare matters.

1. CONCERNS ABOUT NAWAC’S REVIEW PROCESSES

A report prepared for the NZALA raised concerns “that codes of welfare and regulations are undermining the requirements of the Act”, because they effectively “act to legitimise practices that would otherwise be disallowed under the Act.”¹⁵⁶ The report identified NAWAC’s code preparation methodology as an issue behind it often failing to ensure codes achieve “at least the minimum necessary to ensure that the purposes of the Act are met”, which s 73(1)(a) of the AWA mandates, noting the cause was often “inadequate and inconsistent review of the available scientific literature, and a failure to adequately consult with the public.”¹⁵⁷

Amendments to the AWA in 2015 repealed the allowance for what has been termed “code pre-emption”, where “standards otherwise in breach of the act” could be issued as codes of welfare “where feasibility, practicality and economic issues meant transitioning to higher standards was too costly.”¹⁵⁸ Nevertheless, legacy concerns remain with some codes of welfare appearing to be “published no later than 1 October 2018”, while the “updating process was cosmetic at best”, with some codes being reissued “in 2018 to incorporate relevant parts of the care and procedure regulations” promulgated that year, rather than a full review process taking place.¹⁵⁹ With no compulsory review period limit, the concerns may remain if comprehensive reviews of reissued codes are not prioritised by NAWAC or the Minister.¹⁶⁰

151 See Julian Christensen and others “How Do Elected Officials Evaluate Performance? Goal Preferences, Governance Preferences, and the Process of Goal Reprioritization” (2018) 28 *Journal of Public Administration Research and Theory* 197 at 200.

152 Cabinet Office *Cabinet Manual 2023* at 2.35-2.40.

153 Cabinet Office *Cabinet Manual 2023* at 3.9.

154 See Jessica Eisen “Animals in the constitutional state” (2017) 15 *ICON* 909 at 925, 930 and 941.

155 At 941.

156 Schmidt and others, above n 99, at 67.

157 At 22-23.

158 MB Rodriguez Ferrere “The Failure of Codes of Welfare in New Zealand” in Jane Kotzmann and Joanna Kyriakakis (eds) *Animal Law in Australasia: A Quiet Crisis* (The Federation Press, Sydney, 2025) 60 at 64, and Animal Welfare Act, ss 73(3) and (4) (repealed).

159 Rodriguez Ferrere, above n 158, at 65. Rodriguez Ferrere provides the example of the code of welfare for Zoos, pointing out that the minimum standard 11(g) is about the requirements for animal performance training and the evolution of society’s views on animals performing in zoos since 2005.

160 Animal Welfare Act, ss 78(1) and (2).

Another issue is that because anyone can draft a code, industry groups can and have done so, raising concerns that the process can favour industry interests who are “incentivised to advocate for lower minimum standards” and essentially get a head start on the process.¹⁶¹ Peter Sankoff has noted how “the code review process” can be difficult and “time-consuming” for advocacy groups.¹⁶² Therefore, resulting positional inequities are a “structural” defect in the process of code drafting.¹⁶³

“Concerns about the nature of consultation undertaken” and disagreements “about the requirements of good practice and scientific knowledge” were “common themes” the Regulations Review Committee observed in complaints they received about secondary legislation made under the AWA.¹⁶⁴ Concluding that the number of complaints highlighted “issues with the process for developing secondary legislation under the Animal Welfare Act”, it recommended:¹⁶⁵

...that the Government conduct a prompt and substantive review of the process for developing secondary legislation under the Animal Welfare Act 1999; and whether all existing secondary legislation, particularly codes of welfare, are consistent with the objects and intentions of the Act.

NAWAC has subsequently updated its guidelines for “development, review, and content of Codes of Welfare”¹⁶⁶ and for the recommendation of “care and conduct towards animals” regulations.¹⁶⁷ However, as of May 2025, the Government has not responded to the report produced by the Regulations Review Committee; therefore, it has not substantively reviewed the secondary legislation review process.¹⁶⁸

The following considers NAWAC’s lack of independence from MPI, why its current direction is problematic and its resource challenges.

2. NAWAC’S LACK OF INDEPENDENCE

A minister’s department is usually involved in establishing, funding and administering an advisory committee, “subject to the instruction of the minister responsible.”¹⁶⁹ MPI is the government department responsible for administering the AWA, nothing in the AWA explicitly indicates NAWAC is independent of MPI or the Minister.¹⁷⁰ As a statutory advisory body, NAWAC’s functions include advising and recommending on various aspects of animal welfare to the Minister, including legislative proposals, research areas and codes of welfare.¹⁷¹ Members of NAWAC are appointed by the Minister, with the Minister being obliged to have regard to NAWAC’s need to possess experience and knowledge in legislatively specified areas, along with a broad discretion for the Minister to have regard to “any other area the Minister considers relevant.”¹⁷²

Nevertheless, despite the absence of any explicit statutory acknowledgement, both NAWAC and MPI refer to NAWAC as an independent committee. NAWAC’s website states that it “was established under the Animal Welfare Act to provide independent advice to the Government minister responsible for animal welfare.”¹⁷³ MPI’s

161 Marcelo B Rodriguez Ferrere “Codes vs regulations: How best to enforce animal welfare in New Zealand?” (2018) 43 *Alternative Law Journal* 250 at 252.

162 Peter Sankoff, above n 6, at 15-16, as cited in Rodriguez Ferrere, above n 161, at 252.

163 Rodriguez Ferrere, above n 161, at 252.

164 Regulations Review Committee *Briefing on Animal Welfare Secondary Legislation* (July 2023) at 6.

165 At 2 and 10.

166 National Animal Welfare Advisory Committee *Guideline 01: Guidance for the development, review, and content of Codes of Welfare* (4 July 2024).

167 National Animal Welfare Advisory Committee *Guideline 03: Recommending regulations for the care and conduct towards animals* (4 July 2024).

168 Rodriguez Ferrere, above n 158, at 76.

169 Public Service Commission, above n 144.

170 Animal Welfare Act, Note and ss 55 – 61. The Note is available on the web version: Parliamentary Counsel Office “Animal Welfare Act 1999” (27 May 2025) New Zealand Legislation <www.legislation.govt.nz>.

171 Animal Welfare Act, ss 55 – 57.

172 Section 58.

173 National Animal Welfare Advisory Committee “National Animal Welfare Advisory Committee” <www.nawac.org.nz>.

website also refers to NAWAC (and NAEAC) as being “independent ministerial advisory committees”, with roles in assisting the setting of laws and policies, “while representing society’s views on animal welfare.”¹⁷⁴ Independence naturally implies a degree of autonomy in how NAWAC approaches its advisory function.

NAWAC’s strategic plans and work programmes help demonstrate what independence means, or at least could be expected to mean, in this context. NAWAC’s 2021 strategic plan’s purpose was to provide ministers with “independent advice” and promote “best practice in animal welfare”.¹⁷⁵ Its 2024-2025 work programme echoes that purpose, describing three key aspects of its operations as strategic pillars:¹⁷⁶

- A. Pillar I: “Strengthening codes”; reaffirming the provision of “independent advice to strengthen codes of welfare”, the advice promoting “positive welfare...based on evidence and good practice”, with work programmes and priorities regularly reviewed and agreed.
- B. Pillar II: “[Acting as a] credible and trusted adviser”; aiming to enhance “its reputation as a credible and trusted adviser” by providing Ministers with “an independent view of animal welfare concerns and priorities”, engagement in “constructive dialogue with our Minister”, communicating effectively with stakeholders and interested parties, and encouraging stakeholders to recognise animal sentience.
- C. Pillar III: “[Engaging in] transparent decision-making”; with an inclusive approach to welfare standard development and the decision-making process through appropriate engagement with “relevant stakeholders and interested parties”, an independent and publicly accessible NAWAC website, and inclusive, publicly accessible committee meetings (where appropriate).

NAWAC has undertaken a review of its guidelines as part of its “2023-2024 workplan period”,¹⁷⁷ however, an earlier guideline for its “prioritisation framework” indicates that NAWAC, with its limited resources, automatically gave direct requests from the Minister the “highest priority” because NAWAC’s function under the AWA “is to provide advice to the Minister.”¹⁷⁸ Although a more recent guideline does not state ministerial requests will automatically be given top priority, NAWAC still “considers Ministerial expectations and priorities in relation to its work programme”, and “remains in contact and available to the Minister to ensure opportunity for alignment on strategic issues and priorities.”¹⁷⁹ As explained later in this work, ministerial directions have resulted in NAWAC reviewing its work schedule.¹⁸⁰ Reflecting the impact of external, government and ministerial priorities, NAWAC’s 2025-2026 work programme shows that work on its own priorities that arose from “external drafting” or reviews “after 10 years” have been paused.¹⁸¹

Prior to 2015 amendments to the AWA, there was a provision requiring NAWAC to review codes of welfare every 10 years.¹⁸² Code of welfare reviews are now either at NAWAC’s discretion, or if the Minister makes a written request to NAWAC.¹⁸³ A government of the day’s priorities combined with the lack of a compulsory review period means that issues NAWAC may itself identify as the highest welfare priorities will unavoidably give way to those priorities, while some out-dated codes of welfare may remain unreviewed and unchanged.¹⁸⁴

174 Ministry for Primary Industries, above n 10.

175 National Animal Welfare Advisory Committee *Annual Report 1 January to 31 December 2021* (September 2022) at 2 and 4.

176 National Animal Welfare Advisory Committee *National Animal Welfare Advisory Committee Work Programme 2024-2025* at 1-4.

177 National Animal Welfare Advisory Committee “National Animal Welfare Advisory Committee guidelines” (29 August 2025) <www.nawac.org.nz/guidelines>.

178 National Animal Welfare Advisory Committee *NAWAC Guideline 12: Prioritisation framework* (March 2016) at 1, available at <<https://www.nawac.org.nz/assets/NAWAC-documents/Guideline-12-Prioritisation-framework.pdf>>.

179 National Animal Welfare Advisory Committee *Guideline 01: Guidance for the development, review, and contents of Codes of Welfare* (4 July 2024) at 2 and 13.

180 Refer: 3 Ministerial directions risk undermining NAWAC’s independence

181 National Animal Welfare Advisory Committee *National Animal Welfare Advisory Committee Work Programme 2025-2026* at 1-2.

182 See Rodriguez Ferrere, above n 158, at 66, and Animal Welfare Amendment Act (No 2) 2015 s 34(1) replacing the earlier provision under the Animal Welfare Act 1999, s 78(1).

183 Animal Welfare Act, s 78(1) and (2).

184 See Rodriguez Ferrere, above n 158, at 65.

NAWAC's budget is not independent of MPI.¹⁸⁵ Its members invoice MPI "for time and travel expenses in accordance with the relevant Cabinet's fees framework"¹⁸⁶ and it "relies on a technical secretariat hosted in the MPI Animal Welfare team."¹⁸⁷ When developing and reviewing codes of welfare, MPI Animal Welfare Policy input is required due to its responsibility "for developing any regulations associated with Codes."¹⁸⁸ This means NAWAC's work programme is constrained not only by NAWAC resource constraints, but also "by that of the MPI teams."¹⁸⁹

In theory, NAWAC's strategic plan indicates what it wants to achieve: stronger codes of welfare, a good reputation for independently drawing animal welfare priorities and concerns to the Minister's attention, and a transparent, accessible decision-making process.¹⁹⁰ Still, without adequate resources and a reliance on resources outside its control, recognisable animal welfare concerns, including those that NAWAC identify as a high priority, risk remaining unaddressed or delayed through lack of capacity. Perceived and actual inaction can undermine NAWAC's credibility and ability to strengthen codes of welfare.

In practice, although NAWAC can provide the Minister with advice, it relies on MPI to provide the resources to do so, and the Minister's direct priority requests can detract from its theoretical goal of providing the Minister with independent advice on priorities. Nevertheless, accepting priority directions from the Minister does not breach the AWA,¹⁹¹ and it is legitimate public service conduct.¹⁹² A concern, however, is that the Minister's ability to prioritise NAWAC's work enables him to prioritise work related to economic growth and New Zealand's trade reputation, which, as the next section demonstrates, he has done.

NAWAC's chairperson, Matthew Stone, appeared to confirm that NAWAC's independence now risks being undermined by MPI's focus on trade. In the context of a discussion about NAWAC's change in approach to considering live export, media quoted him as stating:¹⁹³

When we're talking about exports, there are economic imperatives and trade relationship imperatives that sit alongside animal welfare imperatives – it's that complex policy mix that governments have to work within.

Although trade reputation and economic growth are legitimate MPI policy goals, they conflict with MPI's animal welfare goals. Trade relationships and market growth are not things NAWAC should consider when giving the minister advice on animal welfare.¹⁹⁴

185 Letter from Andrew Curtis (Acting Director Compliance and Response, Agriculture & Investment Services Compliance & Response, MPI) to author regarding various animal welfare matters reference OIA25-0260 (13 May 2025) (Obtained under Official Information Act 1982 Request to Ministry for Primary Industries) at 3.

186 At 3.

187 National Animal Welfare Advisory Committee *National Animal Welfare Advisory Committee Work Programme 2024-2025* at 1.

188 At 1.

189 At 1.

190 At 4.

191 Animal Welfare Act, s 57 and 78(2).

192 Cabinet Office *Cabinet Manual 2023* at 3.78.

193 Emma Hatton "Animal welfare committee must consider more than just animal welfare" (24 July 2024) Newsroom <www.newsroom.co.nz>.

194 Animal Welfare Act, ss 73, 74 and 75.

3. MINISTERIAL DIRECTIONS RISK UNDERMINING NAWAC'S INDEPENDENCE

Directions given to NAWAC by the Minister contribute to increased concerns about MPI's economic interests superseding animal welfare goals. In May 2024, NAWAC received a "letter of expectations" from the Minister that led to it reviewing its 2024-25 work programme.¹⁹⁵ The letter notified NAWAC:¹⁹⁶

- A. That the Government intended to reform NAWAC to "ensure its function, membership and mandate are appropriate";
- B. That the Minister expected the Committee to prioritise Government interest areas, including livestock and poultry codes;
- C. NAWAC was expected to pause work on codes related to rabbits and "other companion" animals, along with any opinion pieces.

The letter is the first time a Minister has given NAWAC directions of this kind.¹⁹⁷

The letter also relayed the Minister's expectation that NAWAC give "elevated consideration of economics and practicality" in making recommendations for codes and regulations when "questions of feasibility arise" or if an industry stakeholder is "likely to incur significant outlay".¹⁹⁸ He wanted to ensure that "affected persons are highly engaged throughout the process of code of welfare reviews", because he wanted to be satisfied that people affected by any changes felt heard and had their concerns "given due consideration."¹⁹⁹ The Minister set out that, "in line with the principles of good regulatory practice", the imposition of legal obligations "on owners and persons in charge of animals" would require consideration of whether the "obligations are practical...and proportional".²⁰⁰

As noted above, when developing codes of welfare under the AWA, NAWAC "may take into account practicality and economic impact, if relevant", but this is not mandatory.²⁰¹ Nothing in the AWA mandates the proportionality analysis referred to by the Minister.²⁰² NAWAC's guidelines make no mention of proportionality either, but do set out that "economic analysis to quantify impacts is likely to be important" when there are "significant practical or economic challenges" in the context of potentially recommending the invocation of s 183A(2), because the requirements or standards would "not fully meet the obligations of the Act".²⁰³ By requiring NAWAC to undertake a proportionality analysis – namely whether "the costs being imposed are proportional to the anticipated benefits"²⁰⁴ – the Minister's direction potentially runs contrary to the text of the AWA.²⁰⁵ NAWAC appears to be alive to the risk of judicial review, with the Chairperson noting:²⁰⁶

...the discussion on practicalities and economics and that NAWAC need to be open and upfront that NAWAC's work is about finding a balance that recognises the circumstances. What will keep NAWAC safe in judicial review process is that what NAWAC is proposing is reasonable given the evidence-base and that NAWAC have worked alongside required processes that are documented.

195 National Animal Welfare Advisory Committee "NAWAC" <www.nawac.org.nz>.

196 Letter from Andrew Hoggard (Associate Minister of Agriculture) to Matthew Stone (Chairperson of NAWAC) regarding Letter of Expectations for NAWAC reference MIN24-0217, available at National Animal Welfare Advisory Committee "NAWAC" <www.nawac.org.nz>.

197 Emma Hatton "Fury at order to support farming, not protect pets" (18 July 2024) Newsroom <www.newsroom.co.nz>.

198 Letter from Andrew Hoggard, above n 196.

199 Letter from Andrew Hoggard, above n 196.

200 Letter from Andrew Hoggard, above n 196.

201 Animal Welfare Act, s 73(3).

202 Section 73(3).

203 National Animal Welfare Advisory Committee *Guideline 01: Guidance for the development, review, and content of Codes of Welfare* (4 July 2024).

204 Letter from Andrew Hoggard, above n 196.

205 Animal Welfare Act, ss 9 and 10.

206 National Animal Welfare Advisory Committee "Minutes General Meeting" (6 August 2024) (Released under the Official Information Act 1982 Released by the National Animal Welfare Advisory Committee) at 8. Available at <<https://www.nawac.org.nz/meetings>>.

In the letter, the Minister said prioritising livestock sector codes of welfare is “in line with the Government’s desire to support the primary sector” and that it is important to him that New Zealand’s animal welfare standards “continue to rank highly” for New Zealand’s “international reputation with customers and consumers” and “for people in charge of animals”.²⁰⁷

Notably, the Minister’s letter indicated his criteria were not intended to “override animal welfare requirements, but they do need to be considered where relevant to ensure any proposed minimum standard or regulation is workable.”²⁰⁸ In a media interview, the Minister claimed the directive was appropriate, saying:²⁰⁹

The Committee’s role is to provide advice to me as the responsible minister. It’s completely appropriate for me to clearly articulate my expectations ... and to indicate what the Government considers to be priorities in their work programme.

In contrast, media said the Labour Party’s spokesperson for animal welfare thought that “the directive”, along with the planned resumption of “live exports, sent the message that economic gain was more important than animal welfare.”²¹⁰

There are also other concerns with the Minister’s letter. For example, the Minister’s priorities for NAWAC are at the expense of other tasks, such as a review of companion animal codes. Despite the review on dogs, cats and rabbits being “initiated some years ago by mutual agreement between NAWAC, MPI and SPCA, with the support of the then Minister of Animal Welfare” and a belief in the importance of honouring “previous commitments between regulatory partners”, NAWAC noted the Minister’s “direction to pause work” on those codes, pausing its work on dogs and cats until after “higher priority items have progressed.”²¹¹ Because the rabbit code was “already close to being ready to recommend to [the Minister] for consultation”, NAWAC adjusted its timeline to “not before early 2025, after the dairy cattle, deer and sheep [and] beef cattle Codes have achieved their intended milestones in 2024.”²¹² The pause has frustrated the SPCA, not only because there is no current rabbit code of welfare, but also because the dog and cat codes were 14 and 17 years old respectively, meaning the SPCA relies on outdated codes for bringing prosecutions under the AWA.²¹³ The SPCA’s chief scientific officer expressed concerns that “outdated minimum standards” can be raised as a defence to prosecution, allowing a defendant to show that a minimum standard was met.²¹⁴ Interestingly, because of NAWAC’s resource limitations, the SPCA had made a good faith agreement with it “to do all the work”, saying “this took hundreds...thousands of hours of the animal welfare science team at SPCA”.²¹⁵

Additionally, as discussed earlier, the Minister has legislative power to ignore NAWAC’s advice; provided the Minister meets consultation obligations, the Minister has the discretion to rely on MPI’s advice instead of NAWAC’s.²¹⁶ Although doing so is not illegitimate use of the Minister’s power, as raised in the NZALA’s submissions on the Bill, choosing to reject NAWAC’s advice in favour of MPI’s indicates that NAWAC can essentially be sidelined.²¹⁷

Overall, the Minister’s directions compound existing concerns that economic growth interests compete with animal welfare goals. Although MPI claims that NAWAC plays an important, independent role in helping it manage animal

207 Letter from Andrew Hoggard, above n 196.

208 Letter from Andrew Hoggard, above n 196.

209 Hatton, above n 197.

210 Hatton, above n 197.

211 Letter from Matthew Stone (Chairperson of the National Animal Welfare Advisory Committee) to Andrew Hoggard (Associate Minister of Agriculture) regarding the National Animal Welfare Advisory Committee (NAWAC) 2023 Annual Report and 2023-24 Work Programme (28 May 2024) (Obtained under Official Information Act 1982 Request to the National Animal Welfare Advisory Committee).

212 Letter from Matthew Stone, above n 211.

213 Hatton, above n 197.

214 Hatton, above n 197.

215 Hatton, above n 197.

216 As discussed above, refer n 128.

217 New Zealand Animal Law Association “Submission to the Primary Production Committee on the Animal Welfare (Regulations for Management of Pigs) Amendment Bill 2025” at [59]-[63]. Available at <<https://www.nzala.org/submissions>>.

welfare,²¹⁸ NAWAC cannot truly operate independently of MPI or its goals; it must prioritise direct requests from the Minister and rely on MPI to provide resources.²¹⁹ If its advice is contrary to Ministerial preferences, it risks being sidelined.²²⁰ Because NAWAC's capacity constraints directly impact its work programme, resourcing issues further demonstrate why NAWAC's role does not adequately address animal welfare concerns.²²¹

4. NAWAC'S RESOURCING ISSUES

The pressure on NAWAC's resources is evident; the SPCA carried out work to assist them because of this concern.²²² Regarding the Minister's directions, consideration of practicality and economics are factors that NAWAC might not have elected to evaluate in the absence of the Minister's directive.

Notably, in an incoming ministers briefing, MPI's projected budget figures from the 2024-2025 period through to 2027 do not indicate any forthcoming increases for animal welfare resourcing.²²³ The entire 2024-2025 projected animal welfare budget, including enforcement and education, is less than three per cent of MPI's total budget.²²⁴ Funding for animal welfare within MPI is minimal in proportion to that of agriculture, in the incoming minister's briefing, MPI listed agriculture's budget at \$412.7 million for the 2024-25 period, which is considerably higher than the amount budgeted for animal welfare, which was \$34.4 million during the same period.²²⁵

Under-resourcing of NAWAC is another problem for animal welfare oversight. Despite forecasted economic growth of animal derived export products, there is no apparent plan to increase NAWAC's budget.²²⁶ NAWAC's resource constraints and reliance on MPI for resources leave it exposed to MPI's pressure to prioritise existing codes at the expense of others, which it has identified as a priority.

5. NAWAC SHOULD BE INDEPENDENT OF MPI AND THE MINISTER

Whilst it is appropriate for the Minister to make decisions and set priorities based on government policy, given the clear vulnerability of animals, it is important that an advisory committee tasked with providing a minister with independent advice on animal welfare can focus solely on that task, thereby ensuring the advice can be relied on as "the best available evidence", unencumbered by competing interests.²²⁷

Although animal welfare is included within the purview of the broader Agriculture Portfolio, and as such is administered by MPI, the AWA is a stand-alone piece of legislation, recognising the sentience of animals and established to prevent "their ill-treatment".²²⁸ The AWA's purposes focus on animal welfare matters; the AWA does not include animal commodification or trade goals.²²⁹ For the reasons explored above, NAWAC's lack of independence from MPI means it is susceptible to being impacted by MPI's conflicting primary sector trade growth goal. To ensure NAWAC's advice can lead to well-informed policy decisions, it is important to provide NAWAC with the independence it needs to effectively perform its statutory advisory role under the AWA.

218 Ministry for Primary Industries, above n 10..

219 As discussed above, refer n 179, 185, 186, 187.

220 See New Zealand Animal Law Association "Submission to the Primary Production Committee on the Animal Welfare (Regulations for Management of Pigs) Amendment Bill 2025" at [59]-[63].

221 National Animal Welfare Advisory Committee *National Animal Welfare Advisory Committee Work Programme 2024-2025* at 1.

222 Hatton, above n 197.

223 Ministry for Primary Industries *Briefing to Incoming Ministers 2023* (released February 2024) at 32-33, available from Ministry for Primary Industries "About MPI – Corporate Publications – Briefings to incoming ministers from the Ministry for Primary Industries (MPI) – Briefings released in February 2024" (02 April 2024) <www.mpi.govt.nz>.

224 At 32-33.

225 At 32-33.

226 See Ministry for Primary Industries *Situation and Outlook for Primary Industries* (Ministry for Primary Industries Economic Intelligence Unit, June 2025) at 12.

227 See Cabinet Office *Cabinet Manual 2023* at [3.79].

228 Ministry for Primary Industries *Agriculture / Ahuwhenua Portfolio Briefing 2023* (2023) at 3-4 and Animal Welfare Act, Title Notes.

229 Animal Welfare Act, ss 9, 27, 38, 55, 68, 80, 106 and 120. Although s 38 says the purpose of part 3 includes "protect[ing] New Zealand's reputation as a responsible exporter of animals and products made from animals", the part does not support an inference that trade factors are in conflict with animal welfare, the sections under part 3 focus on the welfare of live animals being exported and s 39 confirms that part 3 does not "limit the other provisions" of the AWA.

As mentioned earlier, the quality of appointments made to a ministerial advisory committee can affect the independence and advice provided to a minister.²³⁰ This work does not seek to comment on the quality of NAWAC's current appointments, or to question the commitment of any members. Nevertheless, the current legislative appointment provisions, which allow members to be appointed with broad ministerial discretion, risk appointments being made in alignment with a minister's potential predilection towards agricultural growth, particularly considering animal welfare sits within the broader agricultural portfolio.²³¹ Moving NAWAC appointment responsibilities to an external body would ensure advice received by the Minister is formally independent and free from any conflict of interest concerns. Appointments being made independently of the Minister would not prevent the Minister from making policy decisions, or detract from the Minister's ability to recommend regulations under the AWA.²³² The Minister's power to issue, refer back to NAWAC for reconsideration, or decline to issue codes of welfare would remain.²³³ Independent appointment of committee members would, however, arguably enhance NAWAC's legitimacy in terms of ensuring appointments cannot be viewed by the public as being influenced by politics, the agricultural industry or, more broadly, conflicting primary sector growth interests that sit within the agricultural portfolio.

Therefore, there is an argument that NAWAC should be funded independently of MPI and have the capacity to set its own goals and priorities. While ministerial requests to consider areas of policy concern, such as the welfare of farmed animals, are legitimate, NAWAC, as the body charged by Parliament as having expertise and authority in animal welfare, should have the capacity to independently identify what animal welfare matters are a priority, and to advocate for additional funding or resources if faced with multiple priority matters.²³⁴ After all, delays can result in animals suffering.

While moving oversight, funding and appointment responsibilities of NAWAC away from MPI and the Minister would help ensure competing economic trade goals do not impact NAWAC's ability to focus on its legislated animal welfare advisory role, more is needed. NAWAC's role as a ministerial advisory committee means that its own priorities may still be validly displaced by political ones if the Minister directs it to do so, particularly if NAWAC cannot obtain additional funding or resources to maintain its other identified priorities. With no legislative mandate for a Minister to follow advice provided by NAWAC, there will also remain a risk that NAWAC's advice can be undermined or overridden if it runs against political preferences.

Overall, despite being a significant concern, issues related to MPI's current approach to animal welfare oversight are not the only problem. The required oversight improvements must focus on more than just the issues within either NAWAC or MPI's purview. New Zealand regulates human-animal interactions under a broader legislative framework which, with no centralised oversight, leads to negative animal welfare outcomes. A separate body, independent of politics, is needed to oversee New Zealand's overarching approach to animal welfare law in a way that is not only neutral and objective but also empowered to draw Parliament's, and the public's, attention to political decisions that negatively impact animal welfare.

230 Public Service Commission "Establishing a ministerial advisory committee" (28 July 2025) <www.publicservice.govt.nz>.

231 See Animal Welfare Act, s 64(3)(x) which allows the Minister to "have regard to...any other area the Minister considers relevant" when making appointments.

232 Animal Welfare Act, section 183A.

233 Section 75.

234 See part 4.

C. LACK OF CENTRALISED OVERSIGHT

Although central to regulating interactions between humans and animals, the AWA is just one piece of legislation amongst many. New Zealand has numerous laws that apply to animals, but no central body exists to ensure consistent, neutral and adequate oversight. There is no scrutiny of policy or law making to ensure ministers do not overlook animal welfare, or general oversight to consider approaches to overarching concerns that may arise regarding animal welfare.

As explored earlier, animals are impacted by many aspects of New Zealand's legal framework, traversing various aspects of New Zealand's regulatory system and overseen by multiple government departments and bodies. Without any ability to represent their own interests, animals can be inadvertently impacted by various aspects of law and policy. A decision-maker may fail to consider animal welfare interests because animals are not front of mind, the effects on them are not specifically recognised in the legislation, or a decision-maker does not realise animal welfare interests are affected when making a policy decision. Unlike human interests, animal interests are not the default focus of many legislative or policy decisions, nevertheless, animals can be negatively impacted. Ensuring a dedicated body focuses on representing animal welfare interests across New Zealand's legal framework will help ensure animal welfare is not unintentionally overlooked and that systemic deficiencies are both recognised and addressed. Centralised, broad and systemic oversight will better reflect the value New Zealand society places on animal welfare.²³⁵

1. CROSS-DEPARTMENTAL OVERSIGHT IS NEEDED

A consistent approach, with an ability to represent animal interests across the various policy, departmental and legislative decisions that impact their welfare is needed.

To provide a comparison, we can look at some of the recognised intersectional interests of children. Much like animals, children can be impacted by various facets of New Zealand's legal and regulatory framework with no ability to participate in democratic processes, such as elections.²³⁶ Although children, depending on factors such as their age and education, may be able to communicate their interests verbally if asked, they generally need adults to advocate for their interests, particularly in terms of the impacts of policy and law on their lives.

Although this report does not seek to draw parallels between the interests of children and the interests of animals, reports and submissions by the Mana Mokopuna the Children's Commissioner help show the value of establishing a central body to represent vulnerable interests in policy and regulatory decisions.²³⁷ The reports and submissions demonstrate how children, like animals, can be impacted across various aspects of law and policy, and how a Commissioner can give a voice to a vulnerable section of society. Some recent examples from the Children's Commissioner are:

- The effects of proposed changes to electoral law. "Submission on the Electoral Reform Bill" in September 2025, explaining its opposition to several aspects of the Bill and its amendment proposals.²³⁸
- Submissions for Ministry of Education proposed changes to NCEA: an invitation for students to submit their feedback.²³⁹

235 See Ministry for Primary Industries *Animal welfare matters; New Zealand Animal Welfare Strategy* (May 2013) at 4, available on the website Ministry for Primary Industries "Animal welfare overview" (3 March 2025) <www.mpi.govt.nz>. In the Strategy, MPI acknowledged that most respondents to a Governmental public view enquiry in 2012 supported three values: that "it matters to New Zealanders how animals are treated", that New Zealanders have "responsibilities towards animals in our care and animals affected by our activities" and "using animals is acceptable as long as it is humane".

236 For example, Electoral Act 1993, ss 3(1) meaning of "adult" and s 74(1) - only adults over the age of 18 years can vote in New Zealand democratic elections.

237 See Children's Commissioner "Publications" <www.manamokopuna.org.nz>.

238 Children's Commissioner "Submission on the Electoral Reform Bill" (11 September 2025) <www.manamokopuna.org.nz>.

239 Children's Commissioner "Changes to NCEA need your say" (19 August 2025) <www.manamokopuna.org.nz>.

- Online Casino Gambling Bill: a submission on the impacts of gambling on children along with the Children’s Commissioner’s opposition to the Bill and recommendations if it proceeds.²⁴⁰
- A progress report following “an unannounced follow-up visit to Puketai Care and Protection Residence....as part of a follow-up visit work programme to assess progress against previously made recommendations.”²⁴¹ Oranga Tamariki runs the facility.²⁴² The Children and Young People’s Commission “is a designated National Preventive Mechanism (NPM) as per the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment (OPCAT)”.²⁴³
- A “Submission to Health NZ Te Whatu Ora on a model for Paediatric Palliative Care”.²⁴⁴

This section seeks to introduce, through examples, some of the types of concerns that can arise in the absence of overarching oversight in animal welfare, to demonstrate why New Zealand’s current siloed approach leaves much room for improvement.

2. INCONSISTENCY IN THE TREATMENT OF ANIMALS BASED ON STATUS

Because animals can fall into differing categories under the various legislative provisions, there can be a disparity in what welfare protections apply to an animal. As explained below, whether an animal is a pest or wild can result in very different requirements for its treatment when compared to the same animal that is domesticated or farmed.

(a) Cats: pets vs pests

Carly Southern has raised the concern that while New Zealand recognises animal sentience and “cares deeply about how animals are treated”, there is a significant gap between New Zealand’s treatment of animals deemed pests and other animals, like companion animals.²⁴⁵ Southern compared feral cats with companion cats, observing that if a person lured a feral cat “into a lethal cat trap”, that would be legal conduct provided it met trap obligations; in contrast, if a person were to do the same to a companion cat, they would likely be found guilty of wilful ill-treatment and liable for a criminal offence.²⁴⁶ Both versions of the cat are sentient; they will feel the same pain and suffer the same consequences. Nevertheless, they are not the same under the law. As a pest, feral cats do not have the same protections as domesticated cats. Notably, the AWA does not prohibit the hunting or killing of animals “in a wild state”, or any “wild animal or pest” in accordance with other statutes, including the Wildlife Act 1953 and the Biosecurity Act 1993.²⁴⁷

New Zealand has companion cats, stray cats and feral cats.²⁴⁸ The code of welfare for cats applies only to companion cats, with a separate section for strays and cats that live in colonies; feral cats are excluded under the code.²⁴⁹ The code essentially differentiates the three cat populations by the level of human interaction involved:²⁵⁰

- companion cats live with, and are reliant on, humans,
- stray cats are “lost or abandoned” companion cats who live individually or as part of a colony “around centres of human habitation” and “have many of their needs indirectly supplied by humans”,
- feral cats are those that are not strays, humans do not provide for their needs, and they generally live away from “centres of human habitation.”

240 Children’s Commissioner “Submission on the Online Casino Gambling Bill” (17 August 2025) <www.manamokopuna.org.nz>.

241 Mana Mokopuna Children & Young People’s Commission *Puketai Care and Protection Residence – OPCAT Monitoring Follow-Up Report* (January 2025) at 4.

242 At 5.

243 At 4.

244 Children’s Commissioner “Submission to Health NZ Te Whatu Ora on a model for Paediatric Palliative Care” (02 May 2025) <www.manamokopuna.org.nz>.

245 Carly Elizabeth Southern “The Cruel Culture of Conservation Country: Non-Native Animals and the Consequences of Predator-Free New Zealand” (2016) 26 *Transnat’l L & Contemp Probs* 63 at 77-78.

246 At 78, and Animal Welfare Act, ss s 2(1) definition of “pest”, para (c), 28 and 36.

247 Animal Welfare Act, s 30B.

248 Department of Conservation “Feral cats” <www.doc.govt.nz>.

249 Code of Welfare: Companion Cats (2018) at 5.

250 At 29-30.

It is not only the code of welfare that reflects the “relational differences between the categories of cats and humans” in New Zealand, but also New Zealand’s broader legal and regulatory framework as it applies to cats.²⁵¹ For example, cats are classified as unprotected wildlife under the Wildlife Act 1953, feral cats are classified as pests under the AWA and can be controlled as pests in regional pest management plans under the Biosecurity Act 1993.²⁵² DOC’s website includes feral cats on a list of pests.²⁵³

All three cat populations pose a threat to New Zealand wildlife, however DOC notes that “feral cats are a high risk to our native taonga” and they are “one of the most ferocious predators in [New Zealand’s] ecosystem.” Cats can also transmit toxoplasmosis, not only to humans, sheep and wildlife, but also Hector’s and Maui dolphins through contaminated water run-off.²⁵⁴ The risk of toxoplasmosis can arise in all three cat populations.²⁵⁵

The AWA allows for the hunting or killing of animals classified as wild or pests, provided any hunting or killing complies with the relevant provisions of other legislation, that the animals are not wilfully or recklessly ill-treated, that any use of traps complies with the relevant restrictions and obligations under the AWA, and is subject to specific provisions applicable to the use of animals in testing, research and teaching.²⁵⁶ Wilful or reckless ill-treatment of a wild animal is an offence, however, the court may determine the act or omission is lawful if a person did it in “the course of performing functions for the purposes of another Act” and treating it as unlawful would “be contrary to the purpose and principles of that Act.”²⁵⁷ Additionally, if the court is satisfied that an alleged offence is a “generally accepted” hunting or killing practice for that type of wild animal in New Zealand, it is a defence.²⁵⁸

The National Cat Management Group (NCMG) was established in 2014, and currently consists of seven organisation members, including the SPCA and other organisations with cat management interests.²⁵⁹ MPI is an “observer member” and DOC is a “technical advisory member”.²⁶⁰ A 2025 NCMG report notes the lack of any national strategy to manage cats, the need for contextual solutions, and the complexity of the current legislation regarding cat management in New Zealand.²⁶¹ The report covers various aspects of cat management, and includes a “strategic goal” of supporting effective and humane management of cats “through an appropriate legislative and regulatory framework.”²⁶² The NCMG report notes six key pieces of legislation, along with various bylaws and regional pest management plans that currently apply to cat management in New Zealand.²⁶³ The NCMG report also identified that there are eight governmental agencies with shared responsibility for New Zealand’s management of cats.²⁶⁴

- DOC
- Regional Councils
- Local Councils
- MPI

251 Christine L Sumner, Jessica K Walker and Arnja R Dale “The Implications of Policies on the Welfare of Free-Roaming Cats in New Zealand” (2022) 12 *Animals* 237 at (1).

252 See At (2.1.1) and Wildlife Act 1953 s 7(3) and sch 5, Animal Welfare Act, s 2(1) definition of pest, and Biosecurity Act 1993, pt 5.

253 Department of Conservation “Animal pests and threats A – Z” <www.doc.govt.nz>.

254 Department of Conservation “Feral cats” <www.doc.govt.nz>, and Department of Conservation “Toxoplasmosis and Hector’s and Māui dolphin” <www.doc.govt.nz>.

255 National Cat Management Group *Aotearoa New Zealand NCMG Report 2025* (Version 3, Jun 2025) at 25-28.

256 Animal Welfare Act, ss 30B(1), 30E, 34, 36, and Part 6. There are also specific provisions for hunting in safari parks and captive wild animals under Animal Welfare Act, ss 30C and 30D.

257 Animal Welfare Act, ss 30A(1), (2), and (4).

258 Section 30A(3).

259 National Cat Management Group “Who is the NCMG?” (2025) <www.nzncmg.com>.

260 National Cat Management Group, above n 259.

261 National Cat Management Group, above n 255, at 4, 11, 12 and 84.

262 At 57.

263 At 57, 60-65 and 149-154. The legislation is noted as follows: Animal Welfare Act 1999, Biosecurity Act 1993, Conservation Act 1987, Wildlife Act 1953, National Parks Act 1980, and Local Government Act 2002.

264 National Cat Management Group, above n 255, at 84.

- DIA
- Ministry for the Environment
- Approved Organisations, for example the SPCA
- Police

The NCMG report provides several key recommendations and sets out strategic goals.²⁶⁵ One of the recommendations is to recognise the sentience of all cats in legislation and management plans.²⁶⁶ Another is to enact “a National Cat Management Act” to establish consistent and comprehensive mandated “humane management of all cat populations and ensure that enforcement can occur under the legislation”, and to facilitate local bylaws for managing cats humanely.²⁶⁷

Currently, there is a lack of independent, comprehensive, and consistent oversight of animal welfare in New Zealand. Although the NCMG represents a positive step towards multiple stakeholders discussing possible improvements to how New Zealand manages cats, an independent body could sit outside the diverging responsibilities of the various stakeholders to facilitate independent engagement and oversight. It could engage with all stakeholders, including those focused on welfare, and those focused on conservation and wildlife related impacts, to ensure all bodies consider the intrinsic sentience of cats in any legislative and policy development process, and to help implement and identify consistent approaches to cat management.

(a) Fish: wild vs farmed

Another example is “wild fish caught for imminent destruction”, with an NZALA report observing that as an “animal in a wild state”,²⁶⁸ provided wild fish are killed imminently in a way that is “generally accepted practice in New Zealand”,²⁶⁹ there is no offence.²⁷⁰ Although the AWA makes it an offence to kill a wild animal captured for “its imminent destruction” in a way that causes it to suffer from “unreasonable or unnecessary pain or distress”, the provision specifically excludes animals captured by fishing.²⁷¹ Therefore, commercial and recreational fishers who catch fish “for imminent destruction”, do not need to comply with the same welfare obligations as those that farm fin-fish, or hold “wild-captured” fin-fish for later destruction.²⁷² The disparity is a considerable concern because evidence indicates that the “current slaughter methods” of “wild fish caught for imminent destruction” prolong the animal’s suffering.²⁷³

The New Zealand Sport Fishing Council Inc (NZSFC) is an incorporated society with “affiliated member Clubs” throughout New Zealand.²⁷⁴ Noting that the AWA does not apply to generally accepted methods of fishing “like commercial fishing”, the NZSFC, in a 2023 policy document, said that it should provide “guidance on best practice of fish welfare even where these are in conflict with commonly accepted fishing methods and techniques.”²⁷⁵ Importantly, the NZSFC recognised that people need to know what best practice looks like if they are to make improvements.²⁷⁶ While the NZSFC should be commended for its efforts to pro-actively consider fish welfare in its guidance, and while the guidance will not be mandatory, those efforts may positively impact the fishing methods used by its members. However, the underlying concern remains; oversight of fish welfare in New Zealand lacks consistency, and many fish lack welfare protections at all. Fish will suffer unnecessarily as a result.

265 National Cat Management Group, above n 255.

266 At 6.

267 At 7.

268 Animal Welfare Act, s 30B(a).

269 Section 30A(3).

270 Schmidt and others, above n 99, at 228.

271 Animal Welfare Act, ss 12(c) and 30D(2).

272 Schmidt and others, above n 99, at 227-228.

273 At 228.

274 New Zealand Sport Fishing “Welcome to the NZ Sport Fishing Council” (2025) <www.nzsportfishing.co.nz>.

275 New Zealand Sport Fishing Council *Fisheries Management Policy Document: Current Version Updated AGM September 2023* (2023 edition, September 2023) at [6.1].

276 At [6.1].

While MPI manages fisheries, it does so as a separate business unit.²⁷⁷ Fish are recognised as sentient beings under the AWA,²⁷⁸ nevertheless, the Fisheries Act makes no mention of fish welfare; its purpose “is to provide for the utilisation of fisheries resources while ensuring sustainability.”²⁷⁹ DOC also oversees aspects of fish management, with a focus on preserving and protecting freshwater habitats and fisheries under the Conservation Act, and providing protection to nine marine fish species under the Wildlife Act 1953.²⁸⁰ Regional councils and the Minister of Conservation have some functions related to aquaculture in coastal marine areas under the Resource Management Act 1991, but those functions exclude any aspects of fish management covered by the Fisheries Act.²⁸¹

With statistics such as “63,315 tonnes of fish landed” between April and June 2025,²⁸² the number of fish killed in New Zealand, when translated to individual lives, is huge.²⁸³ With various bodies overseeing fish management, and diverging legal protections depending on whether fish are in the wild or are under human control, an independent body external to existing oversight could help ensure issues with current common practices are identified, consider where education and stakeholder engagement is needed, and ensure fish welfare concerns are raised and identified consistently across the governing bodies and decision-makers.

3. ENFORCEMENT AND INTER-AGENCY COMMUNICATION

The plight of three abandoned dogs trapped living in squalid conditions inside a Kāinga Ora house demonstrates the potential ramifications of enforcement confusion and a lack of inter-agency communication on animal welfare outcomes.²⁸⁴ There were four bodies involved in the case: Kāinga Ora, Auckland Council Animal Management (ACAM), the SPCA and Police.²⁸⁵ The bodies had various levels of involvement:

- Kāinga Ora said they were only informed on the day the dogs were removed and that the tenant had permission to house one dog.²⁸⁶ Although Kāinga Ora’s website provides guidance on “being a responsible pet owner”, its focus is on its role as a landlord.²⁸⁷ Tenancy law focuses on the landlord-tenant relationship and has no animal welfare provision.²⁸⁸
- ACAM contacted the owner when it received a complaint; the owner claimed the dogs were not abandoned or unfed and ACAM had no warrant to enter the house.²⁸⁹ Dog control officers cannot enter a dwelling without police accompaniment and a warrant.²⁹⁰ The owner had a history of dog-related issues and “was known to council”.²⁹¹
- Although the SPCA’s involvement was unclear, they had previously attended the property and spoken with the owners.²⁹² The SPCA cannot enter a house without a warrant.²⁹³

277 Ministry for Primary Industries “Business units of the Ministry for Primary Industries (MPI)” (13 March 2025) <www.mpi.govt.nz>, and Fisheries Act 1996 Title note.

278 Animal Welfare Act, s 2(1) definition of fish and Title notes (a)(i).

279 Fisheries Act, s 8.

280 Conservation Act, s 6(ab), Wildlife Act 1953, Title notes, ss 7BA, 14G, 14H, 38A, 63A, 67, 68B and sch 7A, and Department of Conservation “Wildlife Act 1953” <www.doc.govt.nz>.

281 Resource Management Act 1991, ss 30(1)(d), (2), and (3).

282 Ministry for Primary Industries “Accidental captures of seabirds and protected marine species by commercial fishers from 1 April to 30 June 2025” (03 September 2025) <www.mpi.govt.nz>.

283 See Sea Shepherd “Diving Deeper: Why We Should Care More About Fish” (22 March 2023) <www.seashepherd.org.nz>. Notably, Sea Shepherd have suggested that the language used when referring to fish, such as “stock” to be ‘harvested’ and sold by the ton” negatively influences public perception of how fish are intrinsically valued.

284 Bella Craig “Animal welfare laws questioned after abandoned dogs euthanised” (13 May 2025) RNZ <www.rnz.co.nz>.

285 Craig, above n 284.

286 Craig, above n 284.

287 Kāinga Ora “Having a pet” (3 October 2024) <www.kaingaora.govt.nz>.

288 Residential Tenancies Act 1986, Title and ss 66K(2)(g) and sch 1AA, pt 8.

289 Craig, above n 284.

290 Dog Control Act, ss 14(3)(a) and (b).

291 Craig, above n 284.

292 “Kāinga Ora appears not to care about mistreated dogs – neighbour” (13 May 2025) RNZ <www.rnz.co.nz>.

293 Animal Welfare Act, s 127(3).

- A member of the public called Police after being told that the SPCA had been informed, and “Animal Management weren’t coming because they didn’t have permission to enter the property”; she was previously unaware the SPCA and ACAM could not “uplift animals from vulnerable situations.”²⁹⁴ Police attended with ACAM a week after the first complaint, removing the dogs before they were subsequently euthanised.²⁹⁵

Because of the delays and the agencies’ inability to enter the house without Police, the dogs remained inside, unattended, barking, crying, at one point fighting and “probably drinking toilet water.”²⁹⁶ The dogs appeared skinny, scared and traumatised, yet the outcome for them was not rehoming, but death, because the owner failed to respond to ACAM’s notice.²⁹⁷ Under dog control laws, an owner has 7 days to respond to the Council and pay any fees, if they fail to do so, the dog can be destroyed.²⁹⁸

Abandoning dogs with insufficient water and food is an AWA offence.²⁹⁹ The dog code of welfare confirms owners are obliged to “pass the dog into the care of a responsible person or animal welfare shelter” if they cannot provide for them, suggesting relinquishment to “an animal shelter (such as the SPCA) for adoption to a new owner.”³⁰⁰ Yet, they were not rehomed but euthanised.

Because approximately 31 per cent of New Zealand households have a dog, the problem is significant.³⁰¹ For example, a contemporaneous article outlined an incident where a neighbour had complained to Kāinga Ora on multiple occasions about animal welfare concerns relating to its tenants, including about dogs locked in a basement during summer.³⁰² The neighbour contacted Police about the basement incident after other authorities were contacted but did not immediately intervene.³⁰³

This example illustrates several systemic issues:

1. Multiple agencies were involved, yet except for Police attending with ACAM, they appeared to be addressing the issue separately, or not at all.
2. Despite abandonment being a clear breach of animal welfare laws, there were significant delays in uplifting the dogs, with a warrant and Police intervention required because the dogs were in a house.
3. It took public intervention and persistence to achieve any meaningful action. The owner was already known to ACAM, yet it took a week and a second complaint for it to uplift the dogs.³⁰⁴
4. Welfare outcomes can vary. Resting on the agency that uplifts the animals, there may be different outcomes for the animals, depending on the agency’s legal authority, policy and capacity. For example, if there had been earlier Police intervention, the dogs could have been uplifted with less delay. The SPCA may have attempted to rehabilitate and rehome the dogs.³⁰⁵ Although ACAM can also rehome dogs, for various reasons, including temperament and capacity issues, many are currently euthanised.³⁰⁶
5. Enforcement and confusion. The failure to uplift the dogs earlier indicates an enforcement gap. Neither the SPCA nor ACAM could uplift the dogs without a warrant and the public appeared confused about who was best to contact for animal welfare enforcement in the circumstances.

This example involved three potential enforcement bodies and a government landlord. With a lack of communication and coordination, nobody looks for the best solution from the animal’s perspective to ensure effective enforcement and oversight that upholds animal welfare.

294 Craig, above n 284.

295 Craig, above n 284.

296 Craig, above n 284.

297 Craig, above n 284.

298 Dog Control Act, ss 69(2), and 71A(1).

299 Animal Welfare Act, ss 4(a), (b) and 10.

300 Code of Welfare: Dogs (2018) at pt 2.2.

301 *Companion Animals in New Zealand: NZ Pet Data Report 2024* (2024) at 10.

302 “Kāinga Ora appears not to care about mistreated dogs – neighbour” (13 May 2025) RNZ <www.rnz.co.nz>.

303 “Kāinga Ora appears not to care about mistreated dogs – neighbour” (13 May 2025) RNZ <www.rnz.co.nz>.

304 Craig, above n 284.

305 “Kāinga Ora appears not to care about mistreated dogs – neighbour” (13 May 2025) RNZ <www.rnz.co.nz>.

306 “Nearly half of all impounded dogs in Auckland euthanised” (8 October 2024) <www.rnz.co.nz>.

4. RACING INDUSTRY

The DIA administers the RIA, which reforms racing law in New Zealand to provide the racing industry with effective governance, promoting New Zealand racing's long-term viability, facilitating betting on various racing events, and ensuring racing property is retained and "used for maximum industry benefit", whilst preventing and minimising associated gambling harm.³⁰⁷ The RIA also establishes the Racing Integrity Board (RIB).³⁰⁸ The RIB is a body established as part of "racing industry reforms" to take over functions previously undertaken by "the Racing Integrity Unit and the Judicial Control Authority for Racing", with the RIB being "independent and separate from the thoroughbred, harness and greyhound racing codes."³⁰⁹

The RIB's objectives include the promotion of racing industry professionalism and integrity, along with ensuring "compliance with high standards of animal welfare".³¹⁰ The RIB's functions include employing and training investigators and stipendiary stewards to ensure compliance with the racing rules of each code and supporting and monitoring "the operation and effectiveness of each racing code's animal welfare policies and initiatives".³¹¹ Notably, each racing code self-governs - they must create and maintain rules that regulate the code's racing conduct and consult the RIB and TAB NZ to make those rules.³¹² The racing rules may provide for, among other things, "the functions, duties, and powers of stipendiary stewards and racing investigators", the matters relating to animal welfare, care and breeding of greyhounds and horses, and the penalties for any rule breaches.³¹³

Notably, the RIB, SPCA and MPI have a memorandum of understanding, created to recognise the parties' commitment to racing industry animal welfare, and to improve information sharing between the bodies.³¹⁴ The memorandum of understanding outlines how the parties divide responsibilities for "significant race day incidents" and "significant non-race day incidents", along with a procedure to address investigation responsibility disagreements, if they arise.³¹⁵ Although it is positive that the three responsible parties have taken a pro-active approach to managing their divided responsibilities, there remains no one party with overarching responsibility for animal welfare matters, and the concerns about industry self-governance remain.

One concern that arises when industries self-govern is the risk of regulatory capture. The concern arises when the regulator risks being "overly reliant upon the industry to provide...information".³¹⁶ Regulatory capture is a term that "relates to the private distortion of public purposes" because, although the influence may be unconscious or unintentional, industry influences over decisions can lead to situations where "a regulatory agency acts in the interests of the...industry it is charged with regulating", inconsistently with its social licence or public interest.³¹⁷ The greyhound racing industry provides a topical demonstration of concerns related to self-governance.

A review into the greyhound racing industry commented on "a significant divergence in opinion" on the effectiveness of not only the greyhound racing industry itself, but also its "associated integrity bodies" in addressing recommendations from an earlier report "and to uphold the overall health and wellbeing of greyhounds – racing or otherwise."³¹⁸ The diverging opinions stemmed from "the reticence [of the greyhound racing industry] to provide

307 Racing Industry Act 2020, ss 3(a) and (b).

308 Section 42.

309 Racing Integrity Board "Former Police Deputy Commissioner to lead new Racing Integrity Board" (media statement, 11 June 2021) at 1.

310 Racing Industry Act, ss 42 and 43.

311 Sections 44(1)(a) and (d).

312 Sections 37(1) and (2).

313 Sections 37(5)(a), (b) and (g).

314 Memorandum of Understanding between Racing Integrity Board and Royal New Zealand Society for the Prevention of Cruelty to Animals Incorporated and Ministry for Primary Industries Animal Welfare and NAIT Compliance, signed November 2021, at [3]. The memorandum was obtained from the following link <<https://racingintegrityboard.org.nz/wp-content/uploads/2023/06/MOU-MPI-SPCA-and-RIB-Signed-10-Nov-2021-1.pdf>>.

315 At [3].

316 Jed Goodfellow "Regulatory Capture and the Welfare of Farm Animals in Australia" in Deborah Cao and Steven White (eds.) *Animal Law and Welfare – International Perspectives* (Springer, Switzerland, 2016) 195 at 207.

317 At 206-207.

318 Bruce Robertson *Review into Greyhound Racing in New Zealand* (30 July 2021) at [49].

all relevant and critical data about all animals at all times”, a lack of industry transparency, and the provision of pre-filtered communication “prepared for advantageous presentation.”³¹⁹

(a) Greyhound racing

The imminent greyhound racing industry closure provides an example of animal welfare and safety issues arising in circumstances of industry self-governance, resulting in ministerial intervention.³²⁰ Greyhound racing is governed by New Zealand Greyhound Racing Associated Incorporated (GRNZ).³²¹ Although the RIB is “charged with ensuring compliance with GRNZ’s racing rules”, it is GRNZ that is responsible for “making racing rules” and “developing and implementing animal welfare policies in respect of greyhounds covered by the code”.³²² The animal welfare standards covered by the rules, which apply to those who race or keep greyhounds under the code, “operate in addition to the standards required by the Animal Welfare Act.”³²³

The AWA makes no differentiation between animals kept as pets, or those used in racing, when it sets out obligations for owners, or people with animals in their charge, to meet the animal’s “physical, health, and behavioural needs”.³²⁴ However, greyhound racing is recognised as being “inherently dangerous.”³²⁵ Much like dangerous work undertaken by humans, such as mining, it makes sense that animals, when involved in racing, have additional, industry specific protections to meet those needs.³²⁶ However, because additional protections may result in further compliance costs for people within the racing industry, it also makes sense that an independent party should oversee not only the monitoring, but also the setting of those additional protections, albeit in consultation with stakeholders. Because animals are a vulnerable party exposed to the inherent danger, it is also important their interests be represented independently in the making of any rules that affect them.

There have been multiple reports into greyhound racing, the first of which was in 2013, followed by “the Hansen Report” in 2017, which “covered a range of issues, including governance, welfare standards, racetrack safety, population management including data collection, wastage, euthanasia, and rehoming.”³²⁷ In June 2020, a final report submitted by GRNZ to the then Ministers for Agriculture and Racing “stated that all 20 of the recommendations” from the Hansen Report “had been successfully implemented, and progress reporting would no longer be presented to the Government.”³²⁸ NAWAC expressed concerns that GRNZ provided insufficient information “to determine that the Hansen Report recommendations had been completed”.³²⁹

A further independent review was carried out by Hon Sir Bruce Robertson at the request of the then Minister for Racing, the Hon Grant Robertson, in 2021.³³⁰ The report identified that “animal welfare generally” and a lack of transparency were two of three “fundamental issues” the greyhound racing industry needed to address.³³¹ The report was seen as making clear greyhound racing’s “social licence” was “under challenge”.³³² The current Minister for Racing, Rt Hon Winston Peters, has subsequently announced Cabinet’s formal agreement to close New Zealand’s greyhound racing industry.³³³

319 At [52].

320 See Winston Peters “Cabinet approves next steps on greyhound racing industry” (press release, 20 August 2025).

321 Greyhound Racing Ministerial Advisory Committee *Interim report of the Greyhound Racing Ministerial Advisory Committee – Provided to the Minister for Racing, May 2025* (May 2025) at [10]. Also refer to Racing Industry Act, s 5(1) definition of “racing code or code”.

322 Greyhound Racing Ministerial Advisory Committee, above n 321, at [12] and [17], and Racing Industry Act, ss 15(1)(a)(ii) and 15(1)(d).

323 Greyhound Racing Ministerial Advisory Committee, above n 321, at [16].

324 Animal Welfare Act, s 10.

325 Robertson, above n 318, at [93].

326 See Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016, and Health and Safety at Work Act 2015, ss 23(1)(e), 24(1)(m), 218 and sch 3, cl 5. Notably, unlike racing and the AWA, mining regulations are promulgated under the core health and safety legislation, the Health and Safety at Work Act 2015.

327 Robertson, above n 318, at [1]-[2].

328 At [4].

329 At [5].

330 At [6]-[11].

331 Grant Robertson and Meka Whaitiri “Greyhound racing industry formally on notice” (press release, 2 September 2021).

332 Robertson and Whaitiri, above n 331.

333 Winston Peters “Cabinet approves next steps on greyhound racing industry” (press release, 20 August 2025).

When welfare protections are inadequate, or concerns about oversight arise, both animals and the public can be left carrying the cost. The current greyhound racing situation indicates considerable government resources can be needed to address animal welfare issues in circumstances of limited industry transparency and siloed oversight, while the animals can continue to suffer until concerns are addressed. Because greyhound racing will be closed, people within the industry will also pay a cost.³³⁴

Ensuring an external, independent body with broad oversight powers can investigate and monitor animal welfare concerns, before the need for ministerial enquiries arise, would contribute positively to upholding the value New Zealanders place on animal welfare. Centralised, external oversight could also help negate the risk of regulatory capture, by providing an independent voice for animal welfare concerns during the development of industry-specific regulations or rules. Importantly, much like MPI and the Associate Minister of Agriculture (Animal Welfare), broad, independent oversight would not remove the powers of the Minister for Racing, or the DIA as the government department responsible for racing.

5. CONSERVATION

There is an expanding realisation that human activities, including those focused on conservation efforts, can impact the welfare of wild animals.³³⁵ Researchers have recognised that conservation efforts which focus on objectives, but fail to thoroughly and openly assess the impacts on animal welfare, may result in less progress being achieved in developing more humane alternatives that affect “millions of sentient animals”.³³⁶

Although the AWA prohibits “wilful or reckless ill-treatment” of animals in the wild, conservation methods of control are legal even where they are “scientifically demonstrated to be less humane than existing alternatives for some sentient wild animals”.³³⁷ Researchers found the following question arises... “is the suffering caused to these wild animals ‘necessary’?”³³⁸

Killing or hunting wild animals, or animals in a wild state, is legal under the AWA; provided the person complies with the provisions of other legislation,³³⁹ that the person does not recklessly or wilfully ill-treat the animal and, if a person captures an animal to imminently destroy it, they must not kill it in a way that causes it to suffer any “unreasonable or unnecessary pain or distress.”³⁴⁰ If traps are used, there are restrictions and obligations that apply under the AWA.³⁴¹

The AWA provides the below definition of ill-treat:³⁴²

means causing the animal to suffer, by any act or omission, pain or distress that in its kind or degree, or in its object, or in the circumstances in which it is inflicted, is unreasonable or unnecessary

Neither unnecessary nor unreasonable are defined in the AWA.³⁴³ When deciding whether an act or omission constitutes “wilful or reckless ill-treatment”, the court may find the treatment of an animal is lawful if it is satisfied that it was “done in the course of performing functions for the purpose of another Act;” and finding it unlawful “would

334 See Michael Guerin “Michael Geurin: The human cost of greyhound racing’s unexpected demise” (11 December 2024) Trackside.co.nz <www.trackside.co.nz>.

335 Ngaio J Beausoleil and others “‘Feelings and Fitness’ Not ‘Feelings or Fitness’ –The *Raison d’être* of Conservation Welfare, Which Aligns Conservation and Animal Welfare Objectives” (2018) 5 *Front Vet Sci* Art 296 at 2.

336 See at 6-7.

337 At 7-8. Also see Animal Welfare Act, ss 30A(3) and (4) where there is a defence for “generally accepted practice” towards an animal type and a provision enabling the court to find an “act or omission” lawful if it happened as part of performing another Act’s function(s) and it would be contrary to that Act’s purpose and principles to treat the act or omission as unlawful.

338 Beausoleil and others, above n 335, at 8.

339 Animal Welfare Act, s 30B(1)(b) lists several Acts, and then more broadly says “any other Act”.

340 Sections 12(c), 30A, 30B, 30C, 30D and 30E. S 30D applies specifically to hunting in safari parks.

341 Sections 30E, 34 and 36.

342 Section 2(1).

343 Section 2.

be contrary to the purpose and principles of that Act.”³⁴⁴ The Acts administered by DOC are not for animal welfare purposes, but instead focus on conservation, including the control and eradication of some wild animals.³⁴⁵ Under the Wild Animal Control Act, the Minister of Conservation has broad powers to work with other departments and authorities to control and “where necessary” eradicate those animals, but there is no obligation for the Minister to consider, or prioritise, animal welfare during the policy-making process.³⁴⁶

The AWA also provides a defence, if the killing or hunting of an animal is carried out in a way “that is or is part of generally accepted practice” for that animal type in New Zealand.³⁴⁷ Under the AWA, regulations cannot currently be made to prescribe animal welfare standards, requirements, or prohibited activities in relation to wild animals, or animals in a wild state.³⁴⁸ There are no apparent review periods for what constitutes generally accepted practice; DOC’s website refers to a non-compulsory online training platform, the ill-treatment offence provisions in the AWA, along with some things to generally consider when hunting, including the need to use generally accepted practices and the recommendation to read resources provided by hunting organisations.³⁴⁹ The “codes of conduct” referred to on DOC’s website do not cover all animals, the site provides two links to the New Zealand Deerstalkers Association (NZDA) code and guidelines, a link to the New Zealand Pig Hunting Association code of conduct, and a link to New Zealand Bowhunters Society Ethics and Fair Chase Rules.³⁵⁰

Notably, there have been no prosecutions under the “ill-treatment of wild animals or animals in wild state” under section 30A of the AWA since it was enacted in 2015.³⁵¹ We cannot tell if they have been effective or not.

Coming back to the question of “is it necessary”?³⁵² If we know better, we should do better. But to know better, New Zealand needs to actively aim higher than the status quo, or currently generally accepted practice, to ensure policy decisions that impact sentient beings, such as animal control or eradication policies, are made only after considering the animal’s welfare. New Zealand should be actively seeking to improve its approach to animal welfare management, across all its decision-making bodies. To do that, it needs adequate independent structures in place to ensure decision-makers, across the various areas of law and policy that impact animals, actively consider the best outcomes for the welfare of affected animals when making policy decisions.³⁵³ In the context of conservation, it is imperative that decision-makers recognise animals in the wild, including those classified as pests, are no less sentient than domesticated companion animals.³⁵⁴

A goat hunting competition run by DOC provides a current example to consider. Entrants are required to submit goat tails or heads in return for the chance to win prizes.³⁵⁵ The rules require these body parts to be taken “legally, recreationally, and humanely”, and if there is any eligibility doubt, the goat’s head or tail can be refused.³⁵⁶ A cursory look at this competition immediately raises various goat welfare concerns:

- While the rules refer to the responsibilities hunters have under the AWA, there are no apparent enforcement measures within the rules; DOC’s rules do not say evidence of inhumane kills will be reported to MPI, instead, arguably, refusing the entry may result in any evidence of goat ill-treatment being returned to the hunter.³⁵⁷

344 Section 30A(4)(a) and (b).

345 Conservation Act, ss 5, 6 and sch 1, and Wild Animal Control Act 1977, s 4.

346 Wild Animal Control Act 1977, ss 2(1) definition of “Minister”, and 5.

347 Animal Welfare Act, s 30A(3).

348 Section 183A(1)(a).

349 Department of Conservation “Ethical and humane hunting” <www.doc.govt.nz>.

350 Department of Conservation, above n 349. As of 17 October 2025, the New Zealand Pig Hunting Association code of conduct returned an error code.

351 Animal Welfare Act, s 30A was inserted on 10 May 2015 by the Animal Welfare Amendment Act (No 2) 2015, s 20.

352 See Beausoleil and others, above n 335, at 8.

353 Bionet, a “collaborative partnership between Biosecurity New Zealand, the Department of Conservation, Land Information New Zealand and Regional Councils”, provides some limited guidance on animal welfare in pest management, see Bionet NZ “Animal Welfare and Ethics of Pest Management in New Zealand” <www.bionet.nz>, and Bionet NZ “Welfare performance of animal traps” <www.bionet.nz>.

354 Department of Conservation “Animal pests and threats A-Z” <www.doc.govt.nz>. Some of the animals included on the DOC website’s list of pests are deer, hedgehogs, kaimanawa horses, feral cats, wild goats, and rainbow lorikeets.

355 Department of Conservation “National Wild Goat Hunting Competition – Hunter categories and prizes” <www.doc.govt.nz>.

356 Department of Conservation “National Wild Goat Hunting Competition – Competition rules” <www.doc.govt.nz>.

357 Department of Conservation “National Wild Goat Hunting Competition – Competition rules” <www.doc.govt.nz>.

- DOC provides no specific welfare guidance for goats. The competition requires hunters to follow the NZDA's ethics code which, naturally, is not specific to goats.³⁵⁸ The NZDA's ethics code is generally non-specific when referring to welfare requirements, requiring members to prevent cruelty to the hunted animals "by minimising stress and suffering and to humanely kill animals being hunted."³⁵⁹ In comparison, there are separate codes of welfare for farmed deer and goats.³⁶⁰ The goat code of welfare provides recommended best practice information for the humane slaughter of goats, including a minimum distance from the head for shooting, along with optimal positions that differ depending on whether the goat has horns.³⁶¹ Nevertheless, wild goats under the Wild Animal Control Act are not covered by the code.³⁶²
- The competition encourages children to enter, with a specific category encouraging "junior" entries.³⁶³
- The goat code of welfare recommends that slaughtering of goats should be discreet, somewhere away from other goats, to prevent anxiousness in the other goats.³⁶⁴ In comparison, DOC encourages hunters to remove goat heads and tails for financial reward, with "the more wild goat tails entered, the more chances to win".³⁶⁵ The competition arguably encourages speed and efficiency, rather than care. Importantly, the competition rules do not mention any requirement to, or even need to try to, ensure kills are away from other goats, nor does it require head and tail removals to be undertaken away from other goats.³⁶⁶
- Minimum standards for humanely destroying goats on a farm include a requirement that the person undertaking the action "be competent" in doing so, with example indicators being training of the requisite people and written procedures identifying methods that are appropriate for destroying "unwanted animals" humanely.³⁶⁷ In comparison, while hunters may need a firearms licence, they do not need to undertake any welfare-related training.³⁶⁸
- The NZDA ethics code cites a 1949 quote by Aldo Leopold, essentially pointing out that hunting is conducted outside the public view, therefore a hunter's behaviour is conscience driven.³⁶⁹ The concealed nature of hunting raises the question of whether DOC considered how a very public competition for financial reward, which does not require participants to be a member of any hunting organisation or to undergo mandatory welfare training, may encourage participants, including those with no hunting experience or understanding of best practice, to focus on the quantity of goats they can kill, rather than how they are killed.

Ultimately, due to a lack of focus on animal welfare, the interests of animals in the wild risk being overlooked in conservation efforts even more so than companion and farm animals whose care is regulated under the AWA.³⁷⁰ While DOC's core goal of conservation is in direct conflict with the interests of the animals its decisions impact, DOC currently has no binding obligation to consider independent advice about the impacts of its policy on animal welfare.³⁷¹

358 Department of Conservation "National Wild Goat Hunting Competition – Practise safe, ethical and humane hunting" <www.doc.govt.nz>, and New Zealand Deerstalkers Association "NZDA Code of Ethics and Field Guidelines" (2025) <www.deerstalkers.org.nz>.

359 New Zealand Deerstalkers Association "NZDA Code of Ethics and Field Guidelines" (2025) <www.deerstalkers.org.nz>.

360 See Code of Welfare: Goats (2018), and Code of Welfare: Deer (2025).

361 Code of Welfare: Goats (2018), at 35-36.

362 At [1.1].

363 Department of Conservation "National Wild Goat Hunting Competition – National categories and prizes" <www.doc.govt.nz>.

364 Code of Welfare: Goats (2018), at 35.

365 Department of Conservation "National Wild Goat Hunting Competition – Hunter categories and prizes" <www.doc.govt.nz>.

366 Department of Conservation "National Wild Goat Hunting Competition – Competition rules" <www.doc.govt.nz>.

367 Code of Welfare: Goats (2018), at 35.

368 Department of Conservation "Ethical and humane hunting" <www.doc.govt.nz>, and Department of Conservation "National Wild Goat Hunting Competition – Practise safe, ethical and humane hunting" <www.doc.govt.nz>.

369 New Zealand Deerstalkers Association "NZDA Code of Ethics and Field Guidelines" (2025) <www.deerstalkers.org.nz>.

370 See Animal Welfare Act, ss 9(1) and (2).

371 Conservation Act, s 6.

6. THE CONCERNS ARE MULTITUDINOUS

While this work cannot review the multiplicity of ways New Zealand's current lack of overarching oversight can result in inconsistent outcomes for animal welfare, these examples illustrate some of the issues that require addressing. There are many more examples this work has not reviewed.³⁷²

The overarching issue is a lack of independent, external oversight, resulting in animals suffering unnecessarily due to systemic deficiencies and varying policies and approaches by different bodies. There is a lack of scrutiny of the various agencies, systems or policies to ensure they uphold the protections afforded to animals under the AWA, or that they achieve good animal welfare outcomes. Focusing solely on one agency will not solve the problem, New Zealand needs to ensure animal welfare concerns are addressed consistently, and cohesively.

Overall, the issues canvassed in this part outline the problems in New Zealand's current approach to oversight and enforcement of animal welfare law. The following part explains why establishing a Commissioner for Animals is a good solution.

372 For example, concerns about children and hunting competitions, biosecurity and animal welfare, pets and family violence, labelling laws, and dog control and policy reform. For children and hunting competitions: see Marc Bekoff "The Effects of Imprinting Kids to Kill Animals" (03 March 2020) Psychology Today <www.psychologytoday.com>. Animal Save Movement "Help Us Ban Violent Children's Hunting in Aotearoa New Zealand" (06 August 2025) <<https://thesavemovement.org>>, Rachel Treisman "A feral cat-hunting contest for kids in New Zealand is scrapped after a backlash" (20 April 2023) NPR <www.npr.org>, notably, DOC's goat hunting competition has a "Junior Goat Round Up" category, specifically aimed at under 18s: Department of Conservation "National Wild Goat Hunting Competition – National categories and prizes" <www.doc.govt.nz>. For biosecurity: animals can be managed as pests, for example see Biosecurity Act 1993, s 2(1) definition of "pest" Pt 5, Biosecurity New Zealand "Biosecurity - Biosecurity and your pets" Ministry for Primary Industries <www.mpi.govt.nz>, Bionet NZ "Animal Welfare and Ethics of Pest Management in New Zealand" <www.bionet.nz>, Biosecurity New Zealand "National Policy Direction for Pest Management" Ministry for Primary Industries <www.mpi.govt.nz>, and Auckland Council *Operational Plan 2023-2030: Implementing the Auckland Regional Pest Management Plan 2020 – 2030* (September 2023). For pets and family violence: see Karen Chhour "Protecting Families by Protecting Pets – a national call to action" (press release, 4 June 2025), and Nik Taylor, Heather Fraser and Damien W Riggs "Companion-animal-inclusive domestic violence practice: Implications for service delivery and social work" (2020) 32(4) Aotearoa New Zealand Social Work 26. For labelling laws: see SPCA "Position Statements – Animal Welfare Labelling of Food" (2025) <www.sPCA.nz>, and although food suppliers can provide animal welfare information on food products, labelling regulation focuses on human health and safety, see Food Standards Australia New Zealand "Consumer information – Labelling information for consumers – Labelling for religious, environmental, animal welfare and other consumer value issues" (06 April 2017) <www.foodstandards.govt.nz>. For dog control and policy reform: see Neil Sands "Dog Control Act lacks teeth, needs overhaul: Auckland Council" (10 October 2025) Law News <<https://lawnews.nz>>, and SPCA 2025 *Dog Policy Recommendations* (2025), available at <www.sPCA.nz>.

III. SOLUTIONS

Calls for independent oversight of animal welfare law are not new.³⁷³ Multiple parties have publicly called for change, looking for an unbiased, independent voice to “provide fair and impartial advice on the care and welfare of animals”³⁷⁴ for reasons such as “systemic deficiencies” in the enforcement of animal welfare, a need for “ongoing review and oversight” of wildlife-related welfare concerns and for impartial oversight of NAWAC and NAEAC.³⁷⁵

Although there is now a minister with an animal welfare portfolio, it is attached to the broader portfolio of agriculture and, therefore, does not resolve the structural conflicting goals concerns existing within MPI, NAWAC’s lack of independence from MPI, or concerns about the lack of centralised animal welfare oversight.

An overarching problem with New Zealand’s approach to animal welfare law is a lack of comprehensive and independent oversight. MPI attempts to self-manage its conflicting institutional goals of primary sector export growth and administering animal welfare legislation. However, as explained in the previous part, its structure makes it impossible, and its focus on economic primary sector growth is evident. With no external and independent oversight, it is easy for MPI to lose focus on animal welfare. While MPI relies on NAWAC to act as an independent advisory committee, NAWAC’s apparent lack of independence from MPI and limited resources hamper its ability to achieve its strategic goals. Ministerial directions further compound NAWAC’s lack of independence, increasing concerns that MPI and NAWAC’s focus on primary sector trade is at the expense of animal welfare. As examples in the previous part demonstrate, the multiplicity of bodies and laws that apply to human-animal interactions raise concerns about systemic issues, resulting in inconsistent outcomes and enforcement gaps due to a lack of independent scrutiny and inter-agency communication. Animals are inherently vulnerable; they cannot protest, vote, or represent themselves to better protect their welfare; therefore, they need humans to do so on their behalf.³⁷⁶

This part will explain why a Commissioner for Animals is the best solution for resolving these concerns by considering the role’s scope and operation. It will then outline the role’s potential limitations and benefits.

373 See World Animal Protection “Animal Protection Index (API) 2020 New Zealand” (March 2020) at 41, Kari Schmidt and others, above n 99, at 240-242, Safe “New Zealand’s Animal Welfare Act” <www.safe.org.nz>, and MB Rodriguez Ferrere and Mike King “A Commissioner for Animals” [2020] NZLJ 379 at 379-381.

374 Safe “New Zealand’s Animal Welfare Act” <www.safe.org.nz>.

375 MB Rodriguez Ferrere and Mike King “A Commissioner for Animals” [2020] NZLJ 379 at 379-381.

376 Peter Singer *Animal Liberation* (2nd ed, The New York Review of Books, New York, 1990) at 247.

A. THE ROLE'S SCOPE

To provide a genuinely independent voice for animals, oversight must be free from conflicting and competing goals, with an ability to consider issues and systems from an independent, external perspective. The role should receive specific, targeted funding.

Before evaluating the appropriate scope of a Commissioner for Animals role in New Zealand, it is helpful to consider overseas approaches to animal welfare oversight.

1. OVERSEAS MODELS

This section provides a broad overview of some approaches in other jurisdictions to help inform a view of what New Zealand's model can incorporate.

(a) Malta

In Malta, the Prime Minister appoints the Commissioner for Animal Welfare after consulting with the Minister.³⁷⁷ The Commissioner's functions involve promotion of various aspects of the Animal Welfare Act, working with interested entities to improve monitoring, compliance and implementation of the Act's provisions, reviewing, investigating, reporting and making recommendations about "the functions and workings of the Animal Welfare or Veterinary Services Directorates, making "recommendations to the Minister and the Council on the making of standards, guidelines and regulations relating to animal welfare" and any "other functions" the Minister assigns to the Commissioner.³⁷⁸

Malta and New Zealand are very different demographically. Malta's population is less than 600,000 people,³⁷⁹ and Malta is unlikely to face the same concerns about managing conflicting goals because – at less than one per cent of GDP – animal agriculture is an insignificant part of its economy.³⁸⁰

Malta's model allows the Minister to assign tasks to the Commissioner; therefore, it would not address structural or institutional conflicts of interest and its applicability to New Zealand is limited. The model can, however, demonstrate some benefits of external, centralised oversight in general. New Zealand could tailor two key aspects of Malta's approach:

- Public awareness through promoting animal welfare. For example, advertising campaigns, media interviews and educational material could draw public attention to welfare issues.
- The ability to externally review, investigate and report can help identify and publicise systemic issues and enforcement gaps within the animal welfare system. For example, the Commissioner's website publishes reports about investigations of individual animal welfare failures, looking at what led to the failure and providing recommendations for improvement.³⁸¹

New Zealand could incorporate investigation reports and recommendations to address the systemic problems and learn from situations that have resulted in poor animal welfare outcomes, like the abandoned dogs example discussed in the previous part.

377 Animal Welfare Act 2002 (Malta), art 44A(1).

378 Article 44A(2).

379 Malta National Statistics Office "World Population Day: 11 July 2024" (news release NR124/2024, 10 July 2024).

380 United Nations Economic Commission for Europe "UNECE Countries in Figures 2019 – Malta" (April 2019) <<https://unece.org>>.

381 See Commissioner for Animal Welfare "Publications – Reports" <www.commissioneranimalwelfare.govt.mt>.

(b) European Union

The commissioner model within the European Union is, as would be expected, very different to New Zealand. The European Commission comprises one commissioner from each of its 27 member countries; it “is the EU’s politically independent executive arm.”³⁸² The Commission “proposes new laws”, manages policies and funding allocation, enforces the European Union’s law and represents the European Union internationally.³⁸³ A report by Eurogroup for Animals has concluded that the current animal welfare legislative landscape is “fragmented”, with the “disparities in national regulations” undermining “both the welfare of animals and the fairness of competition among European farmers.”³⁸⁴

Commissioner Olivér Várhelyi was appointed on 1 December 2024³⁸⁵ and is the first to have “animal welfare” incorporated in his title.³⁸⁶ Because the portfolio including animal welfare is new, it is difficult to predict the full extent of Commissioner Várhelyi’s approach to solving animal welfare issues.³⁸⁷ Nevertheless, Global Action for the Interest of Animals views the appointment as a “strong signal that the EU is committed to better protecting animals and that animal welfare does not play a subordinate role.”³⁸⁸

Unlike the European Union, New Zealand has a centralised government and ministers, rather than commissioners, maintain portfolio responsibilities. Because the European Union’s political structure is inherently different from New Zealand’s, comparing “commissioner” roles would not be feasible; in this way, the model is of no assistance. However, New Zealand should note that its trading partner is increasing its focus on animal welfare law and is moving towards improved, more centralised oversight. Also, even though New Zealand’s fragmentation differs from that of the European Union, with the issue instead relating to multiple administrative and enforcement bodies within a single legislative system, the European Union model helps demonstrate that overarching, independent oversight will help address the disparity in approach concerns.

(c) United Kingdom:

Although it does not have a commissioner, the United Kingdom established an Animal Sentience Committee (ASC) in 2022, with members appointed “on such terms as the Secretary of State may determine when making the appointment.”³⁸⁹ The term “sentience” is undefined in the Animal Welfare (Sentience) Act,³⁹⁰ the explanation being that “sentience” risked becoming outdated quickly due to evolving “scientific understanding”.³⁹¹

The ASC’s distinct role is to scrutinise policy and legislation.³⁹² The ASC “publishes reports containing their views on whether ministers have fully considered any negative impact that a policy or piece of legislation may have on the welfare of sentient animals.”³⁹³ The reports are not limited to any specific aspect of the law; the ASC “may produce” them “when any government policy is being or has been formulated or implemented”.³⁹⁴ Ministers then have three months to respond, “through a written statement to Parliament”.³⁹⁵ The ASC will not “make recommendations or judgements about the policy decision itself”; its role is “to consider if the impact on animals was duly considered during the decision-making process.”³⁹⁶

382 European Union “European Commission – Overview” <<https://european-union.europa.eu>>.

383 European Union “European Commission – Overview” <<https://european-union.europa.eu>>.

384 Eurogroup for Animals *The fragmented landscape of animal welfare legislation in the European Union* (February 2025) at 40.

385 European Commission “Commissioners-designate (2024-2029)” <<https://commission.europa.eu>>.

386 European Commission “Welcoming Commissioner Olivér Várhelyi” (16 January 2025) <www.ec.europa.eu>.

387 Reineke Hameleers “The EU has a Commissioner for animal welfare: a new dawn for animals?” (28 November 2024) Euractiv <www.euractiv.com>.

388 GAIA “GAIA Welcomes the Appointment of a dedicated European Commissioner for Animal Welfare” (17 September 2024) <<https://press.gaia.be>>.

389 Animal Welfare (Sentience) Act 2022 (UK), s 1(3).

390 Section 5.

391 Elena Ares *Animal Welfare (Sentience) Bill* (House of Commons Library, Research Briefing Number 9423, 3 March 2022) at 11 and 29.

392 At 30.

393 “Animal Sentience Committee” UK.GOV <www.gov.uk>.

394 Animal Welfare (Sentience) Act 2022 (UK), s 2(1).

395 “Animal Sentience Committee” UK.GOV <www.gov.uk>.

396 Michael Seals “The role of the Animal Sentience Committee” (2024) 29 UK Vet Livestock 96 at 97.

Broadly, there are some aspects of the approach New Zealand could benefit from:

- The ASC provides general oversight of different areas of law relating to animal welfare. For example, its reports have covered “due regard to animal welfare – legislative compliance and enforcement”, renting reform, “low welfare activities abroad”, “online safety” and “veterinary medicines regulations”.³⁹⁷
- The ASC’s reports require responses and “provide accountability to Parliament”.³⁹⁸ The ASC can provide an “opinion” on whether the Government had sufficient regard to how a policy might adversely affect animal welfare “as sentient beings” and it “may include (non-binding) recommendations to the Government on how” to ensure “due regard” is ensured in future policy consideration.³⁹⁹ Because reports and responses are publicly available, the information is accessible to all interested parties.⁴⁰⁰

Nevertheless, when looking at the ASC model in the New Zealand context, its structure could create similar concerns to those identified with NAWAC. For example:

- ASC is hosted and funded by a government department;⁴⁰¹
- ASC members are appointed with broad discretion as to their suitability;⁴⁰²
- Committee members work part-time; and⁴⁰³
- there is “no statutory requirement for the committee to be independent”.⁴⁰⁴

Ideally, New Zealand could incorporate the advisory benefits of the ASC but alleviate the structural concerns by positioning them within the ambit of an independent Commissioner for Animals rather than a government department.

Scrutiny of legislative provisions and policy “within the legislative competence of Scottish Parliament” is outside of ASC’s remit.⁴⁰⁵ Scotland has its own approach, as explained below.

(d) Scotland

Scotland established the Scottish Animal Welfare Commission (SAWC) to provide Scottish Ministers with independent advice “on the welfare of sentient animals, primarily on wildlife and companion animal welfare.”⁴⁰⁶ SAWC will not consider welfare matters that fall within the responsibilities of the United Kingdom Animal Welfare Committee and the United Kingdom Zoo Expert Committee unless they are matters affected by Scottish policy or the Minister asks them to.⁴⁰⁷ Farmed animals are one such matter.⁴⁰⁸ The SAWC can provide its advice at the request of Scottish Ministers or under its own volition; it must also publish its advice.⁴⁰⁹ Several aspects of SAWC’s approach could benefit New Zealand:

- SAWC’s function is to provide “advice on any matters” within its remit; therefore, it can look at systemic issues.⁴¹⁰ For example, its “workplan” includes “reviewing how local authorities deal with animal welfare issues”.⁴¹¹

397 “Animal Sentience Committee” UK.GOV <www.gov.uk>.

398 Seals, above n 396, at 97.

399 Department for Environment Food & Rural Affairs *Animal Sentience Committee: Terms of Reference* (September 2023, Version 1) at 9.

400 Seals, above n 396, at 97.

401 Department for Environment Food & Rural Affairs *Animal Sentience Committee: Terms of Reference* (September 2023, Version 1) at 5, 12, and 15-16, and (14 March 2022) 710 GBPD HC at 696.

402 Animal Welfare (Sentience) Act 2022 (UK), s 1(3), and Department for Environment Food & Rural Affairs *Animal Sentience Committee: Terms of Reference* (September 2023, Version 1) at 12.

403 Department for Environment Food & Rural Affairs *Animal Sentience Committee: Terms of Reference* (September 2023, Version 1) at 12.

404 Philip Lewis “Animal Welfare (Sentience) Bill [HL]” (26 May 2021) UK Parliament - House of Lords Library <<https://lordslibrary.parliament.uk/>> and Animal Welfare (Sentience) Act 2022 (UK).

405 Animal Welfare (Sentience) Act 2022 (UK), ss 7 and 8(a).

406 Scottish Government “Scottish Animal Welfare Commission: terms of reference” (26 June 2020) <www.gov.scot>.

407 Scottish Government “Scottish Animal Welfare Commission: terms of reference” (26 June 2020) <www.gov.scot>.

408 UK Government “Animal Welfare Committee (AWC)” <www.gov.uk>.

409 The Scottish Animal Welfare Commission Regulations 2020 (UK), regs 5(2) and (3).

410 Regulation 5(1), and Scottish Government “Scottish Animal Welfare Commission: terms of reference” (26 June 2020) <www.gov.scot>.

411 Agriculture and Rural Economy Directorate “Scottish Animal Welfare Commission: workplans – September 2024 – current workplan” (9 October 2024) Scottish Government <www.gov.scot>.

- SAWC reviews government policy and provides the Scottish Government with opinions, reports and “practical recommendations” regarding policy impact on animal welfare.⁴¹²
- Parliament receives a copy of SAWC’s annual report.⁴¹³

Nevertheless, some aspects of SAWC would not provide the independence New Zealand requires; for example, ministers must approve SAWC’s annual work plan.⁴¹⁴ Because ministers can refer matters to SAWC, this can impact its ability to prioritise independently.⁴¹⁵

New Zealand’s model should be bespoke to ensure it best addresses its animal welfare oversight and enforcement concerns. Therefore, it could incorporate some aspects of the SAWC, not the rest.

2. NEW ZEALAND MODELS

In New Zealand, there are two existing models for a commissioner role engaging in independent oversight:

1. *An Officer of Parliament*: The Parliamentary Commissioner for the Environment (PCE) is one of three; the others are the Controller and Auditor-General and the Office of the Ombudsman.⁴¹⁶ The role is that of an “independent watchdog”, providing “an underlying layer of non-political scrutiny” to help “Parliament hold the Government of the day to account”.⁴¹⁷ The PCE has “a duty to help maintain and improve the quality of New Zealand’s environment.”⁴¹⁸ The PCE is “separate from the Ministry for the Environment” and reports directly to Parliament.⁴¹⁹
2. *An Independent Crown Entity (ICE)*: Unlike other “statutory entities”, an ICE is “generally independent of government policy”.⁴²⁰ To establish the entity, Parliament would need to pass legislation setting out the Commissioner’s functions and what powers the responsible Minister would have under the Act.⁴²¹

The PCE is a unique role, with all work “directed towards a single output: independent reports and advice on environmental issues, and a mission to maintain or improve the quality of Aotearoa New Zealand’s environment.”⁴²² In contrast to the unique set-up of the PCE, there are currently 19 ICEs, for example, the Children and Young People’s Commission, the Privacy Commissioner (PC) and the Human Rights Commission.⁴²³

Of the two possible models, an ICE is the most logical to pursue. Based on generally accepted criteria, the reasons are twofold: “An Officer of Parliament should be created only rarely”, and the Officer of Parliament model is inappropriate for an official whose role includes advocacy.⁴²⁴

It is helpful to consider aspects of the PC’s role to inform the functions and powers of a Commissioner for Animals. Much like animal welfare, New Zealand’s broader regulatory framework can impact personal privacy; therefore, the role is central to “consider[ing] developments that affect personal privacy more widely.”⁴²⁵ The PC’s key work areas include public statements about privacy matters, complaint investigations, promoting and improving knowledge, “developing codes of practice for specific industries or sectors”, “examining draft legislation”

412 Scottish Government “Scottish Animal Welfare Commission: terms of reference” (26 June 2020) <www.gov.scot>.

413 The Scottish Animal Welfare Commission Regulations (UK), reg 14.

414 Regulation 13.

415 Regulations 5(1) and (2).

416 New Zealand Parliament “Who are the Officers of Parliament?” (15 August 2019) <www.parliament.nz>.

417 New Zealand Parliament, above n 416.

418 New Zealand Parliament, above n 416.

419 New Zealand Government “Parliamentary Commissioner for the Environment” (17 August 2020) <www.govt.nz>.

420 Public Service Commission “Crown entities” <www.publicservice.govt.nz>.

421 Crown Entities Act 2004, ss 13 and 14.

422 Parliamentary Commissioner for the Environment “About us – The Commissioner” (7 March 2024) <https://pce.parliament.nz>.

423 Crown Entities Act, sch 1, pt 3.

424 Mary Harris and David Wilson (eds) *McGee Parliamentary Practice in New Zealand* (4th ed, Oratia Books, Auckland, 2017) at 100.

425 Privacy Commissioner “We are regulators” <www.privacy.org.nz>.

for privacy impacts, monitoring inter-department data transfers, “inquiring into any matter” that may have affected individual privacy, “receiving reports of notifiable privacy breaches”, enforcement and monitoring, and “reporting to government on matters affecting privacy”.⁴²⁶

3. THE POWERS AND FUNCTIONALITY OF A COMMISSIONER FOR ANIMALS IN NEW ZEALAND

Because new legislation would establish the role, the powers and functions should be unique to animal law oversight to address the issues in that context. Although the functionality of other ICEs can help inform a potential legislative framework, the protected interests of each remain distinct.

In 2019, researchers from the University of Otago adapted the general functionality of the then Children’s Commissioner to propose draft legislative provisions as a “starting point for considering the functions for the Commissioner for Animals”.⁴²⁷ The proposed starting point broadly included powers of investigation, promoting systems of improved oversight and monitoring, partaking in monitoring and oversight regarding enforcement bodies, encouraging the development of services and policies, advising the Minister, reviewing and recommending “on the workings of the Act”, reporting to the Prime Minister on animal welfare matters, animal welfare advocacy, provision of impartial reports to courts or tribunals where appropriate, engaging with stakeholders and generally promoting, researching and raising awareness of matters related to animal rights, interests and welfare.⁴²⁸

Recalling the problems illustrated in Part II above, being MPI’s conflicting goals and focus on primary sector export growth, NAWAC’s lack of independence from MPI, and the systemic deficiencies that exist in New Zealand’s current approach to oversight and enforcement of animal welfare law, it is essential that New Zealand’s model provides broad, independent oversight. This section identifies some important features that should be incorporated into the Commissioner for Animals to ensure its oversight role adequately addresses the problems that exist in the animal welfare sector.

First, the Commissioner’s role should encompass NAWAC (and NAEAC) oversight. Because the Commissioner’s role is uninfluenced by government policy, its oversight would ensure the advisory committees can function independently of MPI and that the Minister receives advice and recommendations focused solely on animal welfare and free from bias. The Commissioner’s role should incorporate reviewing the processes and funding of these bodies to ensure they best serve their legislated advisory purpose.⁴²⁹

New Zealand could tailor and incorporate overseas approaches into its model. For example, New Zealand could draw inspiration from Malta’s approach and conduct systemic reviews when animal welfare failures occur. It could incorporate the scrutinising aspects of the United Kingdom’s ASC into the role; this would ensure that animal interests at least get considered in the law and policy-making process, while making reports and responses public provides a level of public accountability. It could also draw from Scotland’s approach by incorporating systemic concerns in work plans and making practical suggestions to the government when policy impacts animal welfare.

Any Commissioner should also have the following:

- Independence as a statutory requirement.⁴³⁰ Like the Privacy Commissioner, this will ensure the role is “independent of Government or ministerial control.”⁴³¹

426 Privacy Commissioner, above n 425.

427 Rodriguez Ferrere, King and Mros Larsen, above n 30, at 37. The Children’s Commissioner Act 2003 was repealed by the Children and Young People’s Commission Act 2022, s 42.

428 Rodriguez Ferrere, King and Mros Larsen, above n 30, at 37.

429 Animal Welfare Act, s 55.

430 For example, as provided for in the Privacy Act 2020, s 20.

431 Privacy Commissioner “About OPC – Who are we?” <www.privacy.org.nz>.

- Direct reportability to the Prime Minister to ensure the head of New Zealand’s government is made aware of concerns related to the impacts of legislation, ministerial directions, or government policy on animal welfare.⁴³² A function of the PC could be adjusted to the animal welfare context by replacing “the privacy of individuals” with animal welfare.⁴³³

To report to the Prime Minister on –

- (i) any matter affecting the privacy of individuals, including the need for, or desirability of, taking legislative, administrative, or other action to give protection or better protection to the privacy of individuals.
- Adequate dedicated funding for the Commissioner entity. Other funding concerns related to animal welfare oversight and enforcement are matters the Commissioner should assess and report to the Prime Minister on.⁴³⁴
- An ability to publish reports, submissions and other information related to animal welfare when the Commissioner believes it is appropriate.⁴³⁵
- Stakeholder engagement, where suitable, to inform the Commissioner’s opinion on animal welfare matters. Like the PC, the Commissioner for Animals could invite and receive public representations on animal welfare matters.⁴³⁶
- Suitable investigative powers, an ability to present reports in judicial proceedings when requested, and functions facilitating monitoring, education and advocacy.⁴³⁷

As this section has demonstrated, New Zealand can adopt aspects from various other models – both in New Zealand and abroad – to ensure the functionality and powers of a New Zealand Commissioner for Animals can best improve its approach to animal welfare oversight and enforcement. Before explaining the role’s benefits, the below explains some potential limitations.

B. POTENTIAL LIMITS TO THIS PROPOSED SOLUTION

Establishing a commissioner may not solve all issues related to oversight of New Zealand’s animal welfare law. So long as agricultural trade remains a key driver of the New Zealand economy, animal use will remain central to financial growth, and the tension discussed in Part II will persist. Nevertheless, a commissioner will be a valuable and significant improvement to New Zealand’s current animal welfare enforcement and oversight approach.

This work excludes any assessment of other notable reform suggestions. For example, Marcelo Rodriguez Ferrere has identified the need for “a specialised animal welfare unit within the police.”⁴³⁸ Identifying that enforcement gaps, including “overlapping responsibilities, jurisdictional confusion, and a reliance on the SPCA – an under-resourced charity”, are resulting in animal harm and diminished deterrence, Rodriguez Ferrere suggests New Zealand should consider shifting away from SPCA enforcement “to state-funded enforcement bodies dedicated to animal welfare.”⁴³⁹

Although there have been calls for better funding in terms of enforcement and policy development, resourcing concerns are not addressed fully in this solution.⁴⁴⁰ A commissioner would require adequate state funding

432 See Cabinet Office *Cabinet Manual 2023* at [2.2] – [2.12].

433 Privacy Act, s 17(1)(o)(i).

434 See Cabinet Office *Cabinet Manual 2023* at [2.8].

435 Adapted from Children and Young People’s Commission Act 2022, s 20(a).

436 Privacy Act, s 17(1)(e).

437 Rodriguez Ferrere, King and Mros Larsen, above n 30, at 37.

438 “Study reveals flaws in animal protection laws” (26 February 2025) University of Auckland <www.auckland.ac.nz>.

439 “Study reveals flaws in animal protection laws” (26 February 2025) University of Auckland <www.auckland.ac.nz>.

440 Schmidt and others, above n 99, at 243.

independent of existing government department budgets; however, a detailed assessment of broader resource concerns is outside this work's scope.

Because the role would facilitate broad oversight of animal welfare law, establishing a Commissioner for Animals would not be an alternative but would complement and help facilitate other oversight and enforcement reform developments. The Commissioner's role should include researching, reviewing existing research, assessing funding requirements, and proposing potential improvements to Parliament and the Government.

The following explains why the role will benefit New Zealand's approach to animal welfare law oversight and enforcement.

C. BENEFITS OF ESTABLISHING A COMMISSIONER FOR ANIMALS

Animals cannot represent themselves; they are vulnerable to exploitation and having their interests overlooked. While afforded some legal protection, they rely on human constructs, such as MPI and the SPCA, to represent and protect their interests.⁴⁴¹ Although existing organisations go some way to protecting animal welfare, if New Zealand genuinely wants to maintain a high level of animal welfare protections, improvements are not only desirable but necessary.

The benefits of a commissioner are multifaceted. By facilitating the independent political representation of animal interests, a commissioner would ensure better protection of animals and provide external, centralised oversight of the multiplicity of laws that apply to them.⁴⁴² As an independent Crown entity, a commissioner would provide unbiased representation of animal interests separate from government policies.⁴⁴³

As explained below, New Zealand would benefit from the role's political neutrality, and a commissioner would bolster and protect New Zealand's trade reputation.

1. BENEFITS OF POLITICAL NEUTRALITY

Politics will remain relevant. Economic growth and international trade in animal products will likely continue to influence political decision-making. However, as a country with no binding lobbying regulations, democratically elected political parties must not risk being influenced by powerful, well-funded agricultural lobby groups without adequately considering what New Zealand's greater populace wants.⁴⁴⁴

While Parliament could implement strong lobbying laws to address lobbying concerns, in the context of animal welfare law, that solution would be insufficient because MPI's oversight also lacks neutrality due to its conflicting goals and apparent focus on trade growth as a primary goal. A Commissioner for Animals could ensure that the public and Parliament receive an objective and politically neutral report on law and policy changes that apply to animals and how they will impact animal welfare. Because it would be independent of any government department, much like the PCE does with environmental matters, the Commissioner for Animals could provide independent animal welfare information to ministers across any portfolio to help ensure animal welfare concerns are recognised and considered.⁴⁴⁵

To inform the Commissioner's assessment, the role may include consultation with stakeholders, including industry and animal rights groups, allowing for a politically unencumbered approach to understanding the various viewpoints. Because the Commissioner would not require votes to retain power and the role would be independent

441 Rodriguez Ferrere, King and Mros Larsen, above n 30, at 35.

442 Rodriguez Ferrere, King and Mros Larsen, above n 30, at 35.

443 The Treasury "Types of companies and entities" (28 November 2022) <www.treasury.govt.nz>.

444 Ministry for Justice "Political lobbying" <www.justice.govt.nz>.

445 See, for example, Parliamentary Commissioner for the Environment "Publications – Submission on the proposed Regulatory Standards Bill" (13 January 2025) <<https://pce.parliament.nz>>.

of policy, neither lobbying nor competing policy goals would impact the Commissioner's opinions or assessments. Parliament and the New Zealand public could rely on the positions submitted by a commissioner as legitimately representing the best animal welfare position.

As outlined above, the United Kingdom has recognised the importance of independent scrutiny by establishing the ASC. Before the Animal Welfare (Sentience) Bill was passed in the United Kingdom, Steven McCulloch explained why critics of the Bill need not be concerned about government decision-making being “hijacked by an animal rights agenda” or existing usage of animals being unduly affected because “the only power of the proposed committee is to report to parliament on how the government has paid due regard to animal welfare in policy making”; policy decisions remain with government ministers.⁴⁴⁶ As McCulloch points out, to “pay all due regard to animal welfare” the government needs requisite “structures and processes in place” to adequately assess the effects of government policy on animals.⁴⁴⁷ New Zealand's current approach includes no such structures or processes, meaning policymakers may simply fail to consider animal welfare factors in the decision-making process.

Like the United Kingdom's ASC, a commissioner would not restrict the government's policy-making powers. Parliamentary supremacy would remain intact; a commissioner would merely ensure that animals are represented impartially during the law-making process. Ensuring the voting public is well-informed and that animals, as an affected party, are afforded an unbiased opportunity to represent their interests through the Commissioner improves New Zealand's approach to law-making and policy development.

2. TRADE BENEFITS

New Zealand's “world-leading reputation for animal welfare” contributes to its international trade success, particularly in relation to farmed animals.⁴⁴⁸ Concerns about animal welfare being MPI's secondary goal and NAWAC's lack of independence from MPI could make New Zealand's approach to animal welfare vulnerable to reputational damage.

Currently, NAWAC is presented as independent, but due to its position “within the auspices of MPI”, it is not truly independent.⁴⁴⁹ Although the current claims to independence could be clarified to reflect NAWAC's role more accurately and to avoid the potential for public misperception, that would not resolve concerns that the current structure may negatively impact the advice relied on to make decisions related to animal welfare. Nor would it reduce New Zealand's vulnerability to reputational damage; instead, it may draw more attention to the lack of independent oversight in New Zealand's approach to animal welfare law. New Zealand should not risk undermining its reputation due to a lack of independent oversight; instead, it should implement structural change to ensure independent oversight exists.

One concern with New Zealand's current approach is that the public could view claims that NAWAC is independent as misleading. For example, consumer perception of animal welfare may contribute to demand for New Zealand's primary goods in the European Union; if consumers believe New Zealand is not upholding its claimed high standards of animal welfare, New Zealand's products risk becoming unpopular.⁴⁵⁰ A survey identified that “private sector actors” who commit, even voluntarily, to “higher welfare standards”, risk the company's reputation if the commitments are unfulfilled; with the “most common reaction” identified being that consumers would stop purchasing the brand.⁴⁵¹ New Zealand is not a company, but it does trade on its reputation for high animal

446 Steven McCulloch “Animal sentience bill is necessary for the UK to be a true world leader in animal welfare” (6 August 2021) The Conversation <<https://theconversation.com>>.

447 McCulloch, above n 446.

448 Nathan Guy “New Animal Welfare Strategy released” (press release, 2 May 2013).

449 Schmidt and others, above n 99, at 240.

450 See BEUC The European Consumer Organisation *Farm Animal Welfare: What Consumers Want – A survey of Europeans' understanding and expectations* (February 2024) at 3 and 16-17.

451 At 16-17.

welfare, with MPI saying “New Zealand’s reputation for high levels of animal welfare has helped secure access to markets internationally.”⁴⁵² Current oversight concerns could jeopardise that reputation to the detriment of everyone, including farmers with exceptional animal welfare standards. Because a commissioner would provide the independent oversight New Zealand already claims to have, it would be a pre-emptive step to protect and potentially enhance New Zealand’s reputation with consumers.

(a) Protecting trade interests with the European Union

New Zealand’s free trade agreements with the European Union and the United Kingdom have incorporated animal welfare considerations.⁴⁵³ Relevantly, the European Union appointed a Health and Animal Welfare Commissioner in 2024.⁴⁵⁴ The proposal to establish the role was said to have had “wide cross-party support”.⁴⁵⁵ Before the appointment, when referring to enforcement concerns, media quoted French MEP Manon Aubrey as finding it “strange that other policy areas, such as competition, are better protected than animal welfare” and that a “counter weight against big agri-business and their lobbying” was required.⁴⁵⁶ In New Zealand, lobbying remains largely unregulated.⁴⁵⁷ New Zealand has not addressed the concerns raised by multiple parties that its current systems are inadequate; it lacks independent, broad oversight of animal welfare law.

New Zealand’s agreement with the European Union, the NZEUFTA, includes recognition that the parties’ “respective animal welfare standards and associated systems provide comparable animal welfare outcomes”.⁴⁵⁸ However, multiple concerns exist within New Zealand’s animal welfare oversight system, such as the systemic conflicting goals of the department administering the AWA, the lack of an independent oversight body, the exposure to lobbying, the enforcement concerns, and the funding issues. If anything, animal-related trade growth may exacerbate the existing issues because animal numbers would likely increase. New Zealand expects “to gain up to \$1.8 billion in exports to the EU” annually, including “new opportunities to the value of \$600 million” for the red meat and dairy sectors.⁴⁵⁹ New Zealand could bolster its commitment to the NZEUFTA by appointing a Commissioner for Animals, thereby ensuring its oversight of animal welfare law is both independent and demonstratively a priority.⁴⁶⁰

Overall, it makes economic sense for New Zealand to pre-emptively protect its trade image by establishing an independent Commissioner for Animals. The role would ensure that New Zealand provides the independent oversight it claims. New Zealand could actively market the appointment as a voluntary commitment to maintaining a high standard of animal welfare.

452 Ministry for Primary Industries, above n 10.

453 See as outlined above, n 116 and 118.

454 European Commission “Olivér Várhelyi” <www.commission.europa.eu>.

455 M Apelblat “EU needs an Animal Welfare Commissioner to enforce new legislation’ say MEPs” (1 August 2023) The Brussels Times <www.brusselstimes.com>.

456 Apelblat, above n 455.

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458 New Zealand-European Union Free Trade Agreement, New Zealand – European Union (signed 9 July 2023, entered into force 1 May 2024), art 8.2(2).

459 Chris Hipkins and Damien O’Connor “EU FTA to increase NZ exports to the EU by \$1.8 billion a year” (press release, 10 July 2023).

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D. BUDGET

While measuring the benefits of establishing a Commissioner for Animals solely in financial terms is impossible, the Commissioner for Animals must receive sufficient independent funding to carry out its functions effectively. Establishing a commissioner to improve New Zealand’s approach to animal welfare will not only uphold the intrinsic value New Zealanders place on animal welfare, but it will also help protect New Zealand’s trade reputation.

Although not quantified here, the Commissioner for Animals, through the identification of synergies and systemic improvements, is likely to improve overall efficiencies in New Zealand’s approach to animal welfare oversight and enforcement in the long-term. Below are some figures that help assess the costs of establishing a Commissioner for Animals.⁴⁶¹

1. MPI BUDGET FOR ANIMAL WELFARE

MPI’s animal welfare related vote and expenditure after remeasurements for the year ending 30 June 2025 as detailed in the financial statements are as follows:⁴⁶²

For:	Appropriation Voted:	Expenditure after remeasurements:	Forecast 2026:
“Animal Welfare: Education and Enforcement”:	NZD 28,436,000	NZD 23,479,000	NZD 28,436,000
“Animal Welfare: Policy Advice and Ministerial Servicing”:	NZD 8,238,000	NZD 7,065,000	NZD 8,238,000

2. PRIVACY COMMISSIONER

As an example of an existing Commissioner, the Privacy Commissioner financial targets for the year ending 30 June 2024 may be relevant:⁴⁶³

Budget:	NZD 8,382,000
Actual:	NZD 8,437,000

3. OTHER POTENTIALLY RELEVANT FIGURES

The below are some other budget figures that may be relevant to assessing the funding required to establish a Commissioner for Animals in New Zealand:

Government grants – SPCA:	NZD 6,605,000 for the 2023-24 year. ⁴⁶⁴
NAWAC total fees and travel expenses:	NZD 98,824.29 for the 2023 calendar year. ⁴⁶⁵
NAEAC total fees and travel expenses:	NZD 60,987.70 for the 2024 calendar year. ⁴⁶⁶

461 Guidance on information to include in this section was obtained from: SAFE *The case for a Parliamentary Commissioner for Animals* (July 2025) at 10.

462 Ministry for Primary Industries *Ministry for Primary Industries Annual Report 2024/25* (Signed 30 September 2025) at 124.

463 Privacy Commissioner *Finance and performance* (Annual report 2024, 23 October 2024) at 49-51.

464 The Royal New Zealand Society for the Prevention of Cruel to Animals Incorporated *Group Consolidated Financial Statements for the year ended 30 June 2024* (audited by KPMG, 04 November 2024) at 15.

465 National Animal Welfare Advisory Committee *Annual Report 1 January to 31 December 2023* (May 2024) at 5.

466 National Animal Ethics Advisory Committee *Annual Report 1 January to 31 December 2023* (NAEAC Annual Report 2024, August 2025) at 4. (The report’s title appears to have a typographical error where it says 2023; the document’s footer refers to 2024, the fees schedule refers to totals for 2024, and the chairperson’s comment refers to the annual report as 2024).

IV. CONCLUSION

New Zealand cares about animal welfare and it has afforded animals legal protection in the AWA. However, as this report has demonstrated, its current approach to oversight and enforcement is inadequate and risks undermining its “world-leading reputation for animal welfare”.⁴⁶⁷

As demonstrated in Part II above, the issues are multifactorial. There are the problems with MPI’s conflicting economic trade and animal welfare goals, the concerns that despite these conflicting goals, NAWAC, the advisory body responsible for providing the Minister with animal welfare advice and recommendations, has no independence from MPI.⁴⁶⁸ Then there are the systemic deficiencies that stem from the multitude of bodies, regulations and policies that more widely govern human-animal interactions.

Part III explored the possible scope of a commissioner’s role, drawing on approaches from New Zealand and overseas to provide a broad outline of a Commissioner for Animals’ potential powers and functionality. It explained why a Commissioner for Animals is a good solution; it provides the structure and processes required to improve New Zealand’s animal welfare outcomes and strengthen and protect New Zealand’s trade interests.

In conclusion, if New Zealand wants to uphold its strong animal welfare reputation, it must improve its approach to oversight and enforcement of animal welfare laws. To do this, it needs to make structural changes to ensure animals have an independent voice, set outside the noise of policy, trade growth and lobbying. A Commissioner for Animals can provide that voice; New Zealand should establish the role to improve its oversight and enforcement of animal welfare law.

467 Nathan Guy “New Animal Welfare Strategy released” (press release, 2 May 2013).

468 Animal Welfare Act, ss 55(2)(a), (b) and (c).

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Memorandum of Understanding between The Ministry for Primary Industries (MPI) and The Royal New Zealand Society for the Prevention of Cruelty to Animals Incorporated (SPCA) Contract Number C0035891 (Obtained under Official Information Act 1982)

National Animal Welfare Advisory Committee "Minutes General Meeting" (6 August 2024) (Released under the Official Information Act 1982 Released by the National Animal Welfare Advisory Committee)

Letter from Matthew Stone (Chairperson of the National Animal Welfare Advisory Committee) to Andrew Hoggard (Associate Minister of Agriculture) regarding the National Animal Welfare Advisory Committee (NAWAC) 2023 Annual Report and 2023-24 Work Programme) (28 May 2024) (Obtained under Official Information Act 1982 Request to the National Animal Welfare Advisory Committee)

Letter from Matthew Stone (Chairperson of the National Animal Welfare Advisory Committee) to author regarding various animal welfare matters, reference OIA25-0275 (19 May 2025) (Obtained under Official Information Act 1982 Request to the National Animal Welfare Advisory Committee)

4. Other documents

Memorandum of Understanding between Racing Integrity Board and Royal New Zealand Society for the Prevention of Cruelty to Animals Incorporated and Ministry for Primary Industries Animal Welfare and NAIT Compliance, signed November 2021, at [3]. The memorandum was obtained from the following link <https://racingintegrityboard.org.nz/wp-content/uploads/2023/06/MOU-MPI-SPCA-and-RIB-Signed-10-Nov-2021-1.pdf>



The New Zealand Animal Law Association is a coalition of lawyers working to improve the welfare and lives of animals through the legal system.

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