



Ministry of Agriculture and Forestry Enforcement Directorate

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Please note: This report has been amended for release. All identifying names have been removed to protect privacy rights.



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21st May 2009

Animal Welfare Investigator
MAF Enforcement Group
Ministry of Agriculture and Forestry

RE: Visit to Property

Veterinarian states:

I verify that I am employed as a veterinarian and shareholder and Director in the same company.

I am and have been a registered practising veterinarian for just over 25 years. My role is as senior veterinarian, dealing exclusively with farm production animals. I have a background in pig advisory service, having previously been employed as a Lecturer in Pig Production Medicine at Massey University. This followed a term in mixed species practice in New South Wales in which pig consultancy services comprised approximately 25% of my workload.

On Tuesday 19th May 2009, I responded to an urgent request from a MAF Animal Welfare Investigator, Biosecurity New Zealand to accompany him to a piggery for the purpose of inspecting the premises on animal health and welfare grounds.

It was the same property that I had visited with the Inspector three years previously under similar circumstances. In recent days, the piggery had been and remained the subject of intense media attention.

The announced visit took place on Tuesday 19th May 2009 between approximately 2.30pm and 5.00pm. The piggery owner accompanied the Inspector and I on the inspection tour of the piggery.

Executive Summary:

This current discussion takes place amidst a backdrop of strong media representation and publicity regarding intensive, indoor pig production systems that remain a feature of the New Zealand pig-farming landscape. In particular, the spotlight is on the practice of confining adult breeding females in crates for the most part of their reproductive (farrowing to farrowing) cycle. The author agrees that confinement in any form will deprive pigs of the opportunity to exhibit and express natural behaviours and social interactions. I strongly welcome the intended review of **Clauses 5.1.1, 5.1.4, and 5.1.7** of the Animal Welfare (Pigs) Code of Welfare (2005) by the National Animal Welfare Advisory Committee (NAWAC) this year, the purpose of which is to consider national and international research, trends and current good practice on sow stalls and alternate housing systems, and public opinion alongside feasibility and economic effects of change to meet or revise minimum standards previously defined.

Following my inspection, it is my opinion that standards of animal husbandry, stockmanship, and animal care are very high in this piggery. I have no doubt that farm staff take their responsibilities for the health, well-being, and welfare of pigs in their care very seriously, in spite of operational constraints imposed by the buildings' age and layout. It is also my understanding that the owner



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engages the services of a consultant veterinarian on a quarterly basis to visit, oversee, monitor, and review animal health and performance on this unit.

The property is obviously three years older and there is little evidence of infrastructural upgrade. Insulation has been added to the ceiling space of some group housing accommodation. Importantly, I can confirm appropriate modifications have been made to all dry sow stalls identified as non-compliant at the previous inspection. Earlier non-compliance with standards for weaner space allocation has also been rectified.

It could be argued that the owner should have acted on recommendations to utilize group housing of dry sows to a greater extent and therefore reduce average time of stall confinement. My understanding is that this has been and is done to a very limited degree. However, there is no obligation on the owner to do so under the Code in its current form.

Observations of resting dry sows did not support contentions of pigs in distress.

While the present tone of public sentiment maybe strongly disapproving of intensively housed and reared pigs, the fact is that I found no evidence on this property of non-compliance with or breaches of the Animal Welfare (Pigs) Code of Welfare (2005) in its current form.

Observations – General:

Many of the comments I made three years ago after inspecting this property remain valid:

- the piggery operation is best described as a 240-sow farrow to finish unit, largely breeding and selecting or bringing in its own replacements, and finishing approximately 100 bacon weight pigs per week. The unit comprises clearly separate dry sow, farrowing, weaner, grower, and finisher accommodation, under shared or separate roofing. There are also a number of outbuildings/barns and solari-style pens, housing any of dry sows, selected gilts, mated gilts, adult boars, and finishers. Both automated and manual-feeding systems are employed, as well as automated and hand-held washdown, cleaning, and effluent-flushing systems. It is certainly not a state-of-the-art facility, however the piggery is still functional, well-managed and houses for the most part very healthy pigs.
- body condition of stock at all levels of the operation was excellent, attesting to high standards of:
 - feeding
 - animal health
 - stockmanship
 - husbandry practices
 - environment control
- high hygiene standards were created by daily hosing of all areas, although lack of sunshine and drying on cold days would have undermined this. Farrowing rooms and weaner pens at least were water-blasted between batches.
- systems and procedures for managing individual or groups of sick or at risk pigs were regarded as satisfactory
 - identification, isolation and administration of appropriate treatment(s)
 - cross-fostering or use of nurse sows for suckling piglets
 - provision of supplementary heating when required
- a previous observation regarding the general lack of 'flight' response or anxiety reactions in all stock classes of pigs was repeated, reinforcing my opinion that human-pig



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interactions on this piggery were a positive experience for both, and would stem most likely from the actions and behaviours of farm personnel concerned about and committed to upholding high standards of animal well-being.

Observations – Specific:

a). Dry sows – approx 140-145 pregnant sows were stalled in two dry sow rooms; breeding boars in pens along western wall. Salient observations made here were:

- . dry sow body condition very good – only two sows were deemed marginal
- . environment very clean
- . 15-20% of sows with mainly chronic, healed or healing sores on backs
- . previously non-compliant stalls have either been modified and now verified as compliant, or welded closed; other stalls were again randomly measured and deemed compliant
- . 10-20% of sows with overgrown toes to some degree; however there appeared no hindrance to standing up and body condition was not compromised in affected animals
- . fly numbers low

NB: Dry sows were first observed and filmed from the doorways of each room prior to entering. Animals were calm, quiet with in excess of 80% lying down in their stalls at a time preceding an expected afternoon liquid feed. It remained this way for 2-3 minutes after entering, until sows nearest us sensed our presence. Like a ripple effect across the room, sows were then observed to move restlessly in their crates, stand or adopt a dog-sitting position, and vocalize. The occasional animal was seen to salivate and/or mouth the bars of it's crate. While the exact reason for this behaviour is unknown, it is my belief that this most probably represents an anticipatory response to impending feeding. A significant proportion (> 50%) of the sows across both rooms in fact remained lying down in their stalls and appeared unperturbed by our presence. In several instances, after 10-15 minutes, sows that had stood up resumed their recumbent position.

Importantly, at no time did I consider the responses displayed by these sows to be outside the range of behaviours that I would expect from a fundamentally curious and inquisitive animal whose pre-feeding rest was interrupted by strangers in the dry sow room.

b). Farrowing rooms – lactating and expectant sows appeared very quiet and relaxed in clean, warm surroundings. Piglets in one litter had a high prevalence of knee and foot abrasions, presumably from scrambling contact with worn concrete; otherwise husbandry standards here were very high.

- . farrowing crates and pens were randomly measured and deemed compliant

c). Weaners – approx 480 5 to 12 week-old weaners were housed across six (6) weaner rooms. Concern was expressed by the owner at the post-weaning check being observed in the weaner rooms. This was the subject of direct ongoing veterinary intervention. On farm, the problem was being managed by close monitoring of recently weaned pens and early intervention including separation to sick weaners.

- . minimum standards of area allocation for 12 week-old (approx 25-30kg LW) weaners were exceeded at 0.5m² per pig

d). Growers/ Finishers – no specific health, husbandry, or welfare concerns were identified across this level of the operation. Bodyweight and body condition for age indicated very good rates of daily weight gain that will only be achieved in the face of high standards of health, feeding, and stock management.



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- . minimum standards of area allocation for 55kg LW growers and 75kg baconers were exceeded at 0.6m² and 0.85m² per pig respectively

Conclusion:

It is my opinion that in spite of the piggery's age and design, this is a very well managed farrow to finish unit, where high standards of husbandry and stockmanship operate. Animal health and well-being are given high priority as fundamental to achieving performance outcomes.

While the present tone of public sentiment maybe strongly disapproving of intensively housed and reared pigs, the fact is that I found no evidence on this property of non-compliance with or breaches of the Animal Welfare (Pigs) Code of Welfare (2005) in it's current form.



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Job Sheet

Office:
Matter: ID 4077
Piggery

Table with 3 columns: Date, Time, Incident. Contains inspection details for 19/05/09 at 1214hrs, 1345hrs, and 1430hrs.



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		<p>states even after I requested the owner endeavour to stir them up (note this on video footage). Of the bar biting behaviour I saw on Monday nights TV One News, I only observed one sow doing this for a few seconds while also trying to bite through the gap in a rail at the next door sow.</p> <p>I only noted three or four sows exhibiting anything close to the behaviour described on TV as frothing at the mouth. I would have suggested this was in fact salivation.</p> <p>When discussing these behaviours owner made the comment to me that a staff member had noted meal on the floor of the dry sow stall area on the TV video footage. Owner also commented that these sheds had excessive water on the floor the morning following the break in.</p> <p>Checks were made of the dry sow stalls which failed to meet the dimensions (using the same methodology) of the Code at our 2006 investigation. Two of these had been welded closed to ensure staff could not mistakenly put sows in them and the others had been modified as required to ensure they met the standard.</p> <p>All dry sows were in good condition. Some had overgrown hind hooves presumably from a lack of wear, but all were able to stand and bear full weight on their feet when assessed in situ.</p> <p>Measurements were taken confirming that farrowing crates met the minimum dimensions required under the Code.</p> <p>Pen measurements were also taken of weaner and grower pens showing they did not exceed the maximum stock densities allowed under the Code.</p> <p>All groups of pigs were in good condition and healthy.</p> <p>One hospital pen of ten weaners were all on their way to recovery and were under veterinary treatment.</p>
	1700hrs	Discussion had between myself, veterinarian and farmer confirmed no offending under the AWA or breaches of the minimum standards contained in the Code.
	1705hrs	Left property
20/05/09	1400hrs	<p>Veterinarian and myself advised outcome of investigation to MAF Enforcement Director and that there was no offending under the AWA or breaches of the minimum standards contained in the Code.</p> <p>Forwarded copy of video taken at property to MAF Auckland Office.</p>



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MAF Enforcement Directorate: Investigation

Summary:

Introduction

25 May 2009
1500hrs

Read interim report forwarded by the Animal Welfare Investigator surrounding his visit to **the Piggery**.

In concert with the above I also read the accompanying report submitted by the veterinarian who accompanied the Investigator during his inspection of the piggery on the 19 May 2009.

Matters requiring - Follow up

Although each report contained sufficient initial information to satisfy the Investigator (and indeed the Veterinarian who accompanied him) there were no breaches of the Animal Welfare Act 1999 (the Act) identified at the time of his visit. There were, however, a number of unknowns that required answers and I felt needed following up.

- [1] Has a complaint been laid with the Police re the unlawful entry on the night/s in question?
- [2] When exactly did the 'break in' occur?
- [3] Are all the animals portrayed in the Sunday programme owned by this owner?
- [4] Were all the premises shown those operated by this operator?
- [5] There was a suggestion made that some attempt had been made to feed the pigs outside their normal programmed feeding time. Would / did this have any impact on their behaviour.
- [6] Is there anything else that may help the investigation given the time between inspection and reporting?
- [7] Some of the pigs from the Sunday footage showed overgrown hooves. Was this evident when the Investigator carried out his inspection on the 19 May 2009?

Although some of the questions outlined above, in themselves, may not



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necessarily go towards supporting offending under the Act the answers will help form a better understanding of what took place at the piggery.

Contact owner

Monday 25 May 2009.

I spoke with the owner at approximately 7.45pm on Monday 25 May by telephone and although a little guarded at the start, he eventually warmed to my questions

[1] Has he laid a complaint with the Police?

He stated that he had not at this stage laid a formal complaint with the Police and indicated that he would probably not progress the matter further given the media coverage he had already experienced.

[2] When exactly did the break in occur?

Owner initially was unable to state with any certainty exactly when Mike King and associate/s may have entered his Kuku Beach Road property.

He went on to say that he was trying to work back from the death of the sow which the footage depicted.

He stated that he was currently checking ear tag identification for the sow in question. The sow's death would have been recorded by his manager and this may indicate when entry occurred.

Note: From my recollection I recall seeing a large sow in a pen and not being physically present am not able at this stage to indicate whether the pig was alive or dead at the time filming was taking place.

[3] Are all the animals portrayed in the Sunday programme owned by the owner?

Owner was not able to state categorically that all the pigs filmed were his and that he would need to view the footage again to confirm this or otherwise.

He did say however that the large sow purchased by the reporter 'Piggie Sue' was not one of his nor was it his property from which the reporter is alleged to have purchased Piggie Sue.

[4] Were all the premises shown those operated by the owner?



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Refer above. Property where Piggy Sue purchased was not his. Owner also suggested that the farrowing stalls depicted on the Sunday programme were not his. He could not shed any further light on whose premises these might be.

[5] There was a suggestion by owner [on TV] that some attempt had been made to feed the pigs outside their normal programmed feeding time. Would / did this have any impact on their behaviour?

Owner said that one of his staff late last week [he was not sure of the exact date] mentioned to him that it appeared someone had removed some 'meal' from one of the storage bins and taken it across to where the sow stalls were located. This was evidenced by 'spillage' noticed by his staff member on the pathway near the door to where the sows were housed in their stalls.

Owner explained that his pigs were not hand feed. They received their daily intake via an automated piped feeding system whereby his pigs almost simultaneously received their quota of feed over a two minute time frame.

This meant that each pig received their feed almost at the same time. This system means generally that there is very little noise expressed by the sows at feeding time.

I asked owner for his view on suggestions of others when being interviewed [on the following Sunday programme] that they could hear the pigs screaming while approaching the shed where the sows were located and still some distance from where they were housed. He could not offer an explanation for this observation.

Although unable to be confirmed at this point, and , taking into account the Investigators report which stated when he and the veterinarian entered the sow shed they were aware of the lack noise upon their entry, that perhaps someone was already inside the premises and had woken them up by some means prior to those filming actually entering.

[6] Is there anything else that may help the investigation given the time? between inspection and report being received?

File Note:

Owner asked that private information relating to his manager not be released as he felt it would be unfair to subject him and his family to any approach or contact by animal rights activists. Details of staff [Manager] have been secured separate to this file to avoid accidental release.



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Owner also mentioned that he had overheard an interview with on morning radio where interviewee had indicated that he was accompanied by an associate who was in security and had 'done time' [Tour of Duty, not prison was my interpretation of this comment] in Iraqi or some other Middle Eastern country [owners understanding]

[7] Some of the pigs shown in the Sunday footage showed excessive hoof growth. Was this evident during Investigator visit on the 19 May 2009?

This matter was referred to in the veterinarian's report under heading observations. He states there was no hindrance to pigs being able to stand up and body condition was obviously not compromised in animals displaying longer than normal toes. Further consideration would need to be made if the pigs displaying longer than usual hoof growth were required to leave their stalls and free walk any distance.

All in all picking up on the veterinarian's comments, although the toes of no more than 20% of the animals were longer than normal this was not detrimental to their normal pattern of behaviour in the stalls concerned.

Speak further with Investigator

Animal Welfare Investigator
MAF Enforcement Directorate

I wanted to follow up further with Investigator what he had reported in his inspection report particularly his findings when he first entered the shed where the dry sows were being housed in their stalls. Investigator confirmed that he filmed [video footage] his progress while he walked through the shed. Investigator confirmed that he found the pigs in this area to be calm, most were lying down and appeared to be sleeping.

After progressing further into the interior of the shed a number of animals sat or stood up, but none became agitated to the extent that is suggested on the Sunday footage.

The veterinarian confirms this conclusion.

Investigator confirmed that he did not question owner as to the exact date the break in occurred or filming taking place.

File note:



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Owner is following up [based around the time the dead sow was discovered] when filming may have taken place. This time frame (ear tag removal and recording) may be more accurate in establishing the exact time filming occurred than trying to recall when the staff member saw evidence of spilt meal on the pathway outside the dry sow stall shed.

Sunday programme part 2

Sunday 24 May 2009.

Interviewee stated on his arrival at the premises he could hear the pigs squealing loudly as he approached the shed [no indication of how far away he was]

Statements made by the Investigator, the veterinarian and indeed the owner himself would suggest that at the very least a contrary proposition is possible and perhaps if what interviewee states is correct then pigs concerned may very well have been aroused by some other 'trespasser' / party prior to his arrival or his entry into the shed concerned.

I make no further comment on the matter at this point of the investigation.

File comment:

It is interesting to note however that the pigs contained in the dry sow stalls on the property do have the ability to be calm and quiet when pedestrians move through their living space. [Refer Investigator video]

At the end of the day it is accepted that it may never be confirmed by outside parties why the pigs in the footage on TV 1 acted in the manner they were portrayed during the visit.

It is however crucial that any investigation into the welfare of pigs on the piggery attempts to understand all relevant factors and especially any activity undertaken that would be likely to contribute to the animals' normal pattern of behaviour.

It is equally important that the investigation seeks to answer all questions of fact where possible and to be in a position to consider on balance the true situation especially where there is a strong assertion that animal welfare breaches and behaviour are less than optimal.

It is also important that any footage shown to the general public questioning the merits for such a practice as was the case with the TV 1 Sunday programme is a true reflection of how animals are being treated, behave and



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is balanced given the impact emotionally such practices have on the community.

Further enquiries

- [1] Obtain footage TV Sunday- view to identify any discrepancies – compare with Investigator's video.

- [1] Follow up with owner to see if time of entry and filming can be established.

1130 hrs Friday 26/6/2009

Speak with contact and asked him whether he could enlarge on the footage that was shown by TV 1 on the Sunday programme on the 17 May 2009.

Contact indicated the footage relating to visit was the footage taken on the night in question. The night in question being approximately 4am the morning of the 19 April 2009.

Confirmed members of another group were present when the filming took place and that other footage taken from other piggeries previously was supplied to TV 1 for the programme.

Contact explained that if he was made aware of an animal welfare breach occurring he would report the matter to either MAF or other authorities as to what was taking place. However, if there were no breaches occurring then his organisation may deal with the situation as they did with the supplying of material to the media as occurred.

Contact acknowledged that after viewing the Sunday footage on a number of occasions he could not see any animal welfare breaches taking place within the piggery. He did however, query whether the sows were receiving sufficient water as the troughs/drains depicted in the Sunday footage appeared light on water and may have been one of the reasons for the pigs 'screaming' prior to entering the establishment. He indicated that it could be that they were not receiving the correct amount of feed or water and were hungry.

I broached the subject of some intentional arousal being carried out by those on the premises prior to entry. Although he was not present he indicated strongly that this was against the principles of those present and



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that they were well aware of the difficulties being faced by the animals on a day to day basis and would not add to this distress by antagonising them in any manner whatsoever.

He went on to say they use low wattage lighting on their cameras and speak in hushed tones in order to avoid panicking the animals concerned.

File note:

Although members of the piggery found some evidence of meal on the floor of one of the sheds there is no direct evidence to link this finding with those who entered the premises on the 19 April 2009.

It is worth mentioning however, the stark contrast of behaviour of the animals when viewing the footage taken on the 19 April and Investigators footage taken a month later.

Contacted by Operator of piggery

Friday 26/6/09

Operator asked whether he could receive a copy of the MAF report either the same time or prior to it being released to the media. He indicated he may need to have some reference to any further media approach that may come his way.

While speaking with Operator I took the opportunity to discuss a couple of issues that, although I am not lead investigator for this matter, I wished to become more familiar with.

I asked Operator how often the feeding of the sows took place. He indicated once in the morning through a timed feeding mechanism and if they were able to come by it, they may receive whey in the afternoon. Contact had also queried the possibility of them not receiving sufficient water. I asked when they received water and whether or not a reticulated system was set up. Operator indicated they were in fact hand watered immediately after receiving their allocation of food.

The weaners and finishers were fed up to four times a day but in another area of the premises.

File note:

It needs to be stated that Operator and his staff have co-operated completely with MAF in all phases of their investigation. He should therefore receive this recognition publicly given the position he is being placed.



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Offence recommendation

It is recommended based on the circumstances found at the time of the MAF inspection of the whole piggery on the 19 May 2009 and Operator's compliance with the code relating to the care of pigs both being intensively farmed and those properties electing to farm pigs via a free range practice, that no offences have been observed or disclosed and the matter should therefore be closed.



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Ministry of Agriculture and Forestry Enforcement Directorate

REPORT

File Reference: INFORM 4077

Subject: Piggery Inspection

Report date: 28 June 2009

Introduction

This file relates to the inspection / investigation of a piggery carried out by the MAF Enforcement Directorate [Animal Welfare Team].

This inspection came about as a result of TV 1 Sunday programme going to air on Sunday the 17 May 2009 highlighting a number of issues surrounding the intensive farming and treatment of pigs housed in sow and farrowing stalls.

Factual Background

During the early morning [4am] of the 19 April 2009 members of an animal rights group and associates unlawfully entered the property and buildings which housed a large number of intensively farmed pigs and recorded on film the actions and activities of the pigs inside at the time.

The film was then given to a representative of another group. Footage from other piggeries around New Zealand held by the group was also supplied and ultimately combined by TV One prior to going to air on Sunday programme on the 17 May 2009.

MAF's 2005 Involvement

A previous inspection of the piggery was undertaken in 2005 by MAF Enforcement Directorate Animal Welfare Inspectors. Technical breaches to the dimensions of a number of sow stalls were identified during this inspection and instructions were given to the operator for the stalls to be either re engineered in order to comply with the code or not be used to house sows. Observations made during the 19 May 2009 visit found the undersize stalls to have been welded closed and indications were that this action had occurred as a result of instructions given back in 2005. This action of welding the stalls closed was undertaken to ensure staff managing the premises would not accidentally place animals in the undersize stalls that had been identified.



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The recent inspection carried out by the MAF Animal Welfare Investigator and veterinarian on the 19 May 2009 found the premises to be fully compliant and the physical health and behavioural needs of the animals contained within at the time were being met or exceeding the minimum requirements for the species concerned.

Included in this final report are portions of the Act which are valuable as an aid to the reader to weave their way through the various steps necessary in order to fully appreciate the requirements of the Act particularly where it interacts with codes of welfare prepared by NAWAC and the defences provided as a direct result of one complying with a code. This understanding is important where the activity taking place on the surface may not appear to be in the interest of the animal or animals. A matter graphically demonstrated in this particular instance.

The Law

Animal Welfare Act 1999

An Act—

- (a) To reform the law relating to the welfare of animals and the prevention of their ill-treatment; and, in particular,—**
 - (i) To require owners of animals, and persons in charge of animals, to attend properly to the welfare of those animals:**
 - (ii) To specify conduct that is or is not permissible in relation to any animal or class of animals:**
 - (iii) To provide a process for approving the use of animals in research, testing, and teaching:**
 - (iv) To establish a National Animal Welfare Advisory Committee and a National Animal Ethics Advisory Committee:**
 - (v) To provide for the development and issue of codes of welfare and the approval of codes of ethical conduct:**
- (b) To repeal the Animals Protection Act 1960**

Part 1 of the Act is primarily directed toward the care of animals. s 9 sets out the requirements imposed on owners of animals and those persons at the time in charge of animals. Section 9 is further reinforced by s 10

9 Purpose

- (1) The purpose of this Part is to ensure that owners of animals and persons in charge of animals attend properly to the welfare of those animals.
- (2) This Part accordingly—
 - (a) Requires owners of animals, and persons in charge of animals, to take all reasonable steps to ensure that the physical, health, and behavioural needs of



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the animals are met in accordance with both—

- (i) Good practice; and
- (ii) Scientific knowledge; and
- (b) Requires owners of ill or injured animals, and persons in charge of such animals, to ensure that the animals receive, where practicable, treatment that alleviates any unreasonable or unnecessary pain or distress from which the animals are suffering; and
- (c) Imposes restrictions on the carrying out of surgical procedures on animals; and
- (d) Provides for the classification of the types of surgical procedures that may be performed on animals; and
- (e) Specifies the persons or classes of persons who may perform each class of such surgical procedures; and
- (f) Specifies certain minimum conditions that must be observed in relation to the transportation of animals.

Section 10 further sets out the obligations for owners and persons who may at the time be taking charge of or in possession of an animal.

10 Obligation in relation to physical, health, and behavioural needs of animals

The owner of an animal, and every person in charge of an animal, must ensure that the physical, health, and behavioural needs of the animal are met in a manner that is in accordance with both—

- (a) Good practice; and
- (b) Scientific knowledge.

11 Obligation to alleviate pain or distress of ill or injured animals

- (1) The owner of an animal that is ill or injured, and every person in charge of such an animal, must, where practicable, ensure that the animal receives treatment that alleviates any unreasonable or unnecessary pain or distress being suffered by the animal.
- (2) This section does not—
 - (a) Limit section 10; or
 - (b) Require a person to keep an animal alive when it is in such a condition that it is suffering unreasonable or unnecessary pain or distress.

Section 12 outlines offences for parties who do not comply with the requirements set out within sections 10 or 11

12 Animal welfare offences

A person commits an offence who, being the owner of, or a person in charge of, an animal,—

- (a) Fails to comply, in relation to the animal, with section 10; or



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- (b) Fails, in the case of an animal that is ill or injured, to comply, in relation to the animal, with section 11; or
- (c) Kills the animal in such a manner that the animal suffers unreasonable or unnecessary pain or distress.

Section 13 deals with matters that might be relevant resulting from any prosecution brought for a breach of s 12.

Section 13 is important in the light of this report, because it outlines the basis for any defence that may be available to a party for a breach of s 12 and in particular refers to Codes of Welfare developed pursuant to s 68 of the Act.

For this reason s 13 is outlined in its entirety.

13 Strict liability

- (1) In a prosecution for an offence against section 12, it is not necessary for the prosecution to prove that the defendant intended to commit an offence.
- [(1A) In a prosecution for an offence against section 12 committed after the commencement of this subsection, evidence that a relevant code of welfare was in existence at the time of the alleged offence and that a relevant minimum standard established by that code was not complied with is rebuttable evidence that the person charged with the offence failed to comply with, or contravened, the provision of this Act to which the offence relates.]
- (2) Subject to subsection (3), it is a defence in any prosecution for an offence against section 12 if the defendant proves—
 - (a) That, in relation to the animal to which the prosecution relates, the defendant took,—
 - (i) In the case of an offence against section 12(a), all reasonable steps to comply with section 10; or
 - (ii) In the case of an offence against section 12(b), all reasonable steps to comply with section 11; or
 - (iii) In the case of an offence against section 12(c), all reasonable steps not to commit a breach of section 12(c); or
 - (b) That the act or omission constituting the offence took place in circumstances of stress or emergency, and was necessary for the preservation, protection, or maintenance of human life; or
 - (c) That there was in existence at the time of the alleged offence a relevant code of welfare and that the minimum standards established by the code of welfare were in all respects equalled or exceeded.
- (3) Except with the leave of the Court, subsection (2) does not apply unless, within 7 days after the service of the summons, or within such further time as the Court may allow, the defendant has delivered to the prosecutor a written notice—
 - (a) Stating that the defendant intends to rely on subsection (2); and
 - (b) Specifying—



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- (i) Where the defendant intends to rely on subsection (2)(a), the reasonable steps that the defendant will claim to have taken; or
- (ii) Where the defendant intends to rely on subsection (2)(b), the circumstances of stress or emergency, and the reasons why the act or omission was necessary for the preservation, protection, or maintenance of human life; or
- (iii) Where the defendant intends to rely on subsection (2)(c), the relevant code of welfare that was in existence at the time of the alleged offence, and the facts that show that the minimum standards established by that code of welfare were in all respects equalled or exceeded.

68 Purpose

The purpose of this Part is to establish procedures for the development, issue, amendment, review, and revocation of **codes of welfare** that—

- (a) Relate to animals that are owned by any person or are in the charge of any person; and
- (b) Establish minimum standards with regard to the way in which persons care for such animals and conduct themselves towards such animals; and
- (c) Include recommendations on the best practice to be observed by persons in caring for such animals and in conducting themselves towards such animals.

The content for Codes of Welfare: - matters to be considered

Section 73 is also an important section as its content is relevant to the circumstances of this inspection / investigation. The Act sets out explicitly what needs to be taken into account by the National Animal Welfare Advisory Committee [NAWAC] when considering the content of a code of welfare including whether standards provided are the minimum necessary to ensure the purpose of the Act is met; while at the same time taking into account scientific knowledge and good practice regimes for the overall welfare of animals.

73 Matters to be considered

- (1) The National Animal Welfare Advisory Committee must, in considering the content of a draft code of welfare, and before deciding whether to recommend to the Minister the issue of that code,—
 - (a) Be satisfied that the proposed standards are the minimum necessary to ensure that the purposes of this Act will be met; and
 - (b) Be satisfied that the recommendations for best practice (if any) are appropriate.
- (2) In carrying out its functions under subsection (1), the National Animal Welfare Advisory Committee must have regard to—
 - (a) The submissions made under section 71 and the consultations undertaken by the committee; and
 - (b) Good practice and scientific knowledge in relation to the management of the animals to which the code relates; and



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- (c) Available technology; and
 - (d) Any other matters considered relevant by the National Animal Welfare Advisory Committee.
- (3) Despite subsection (1), the National Animal Welfare Advisory Committee may, in exceptional circumstances, recommend minimum standards and recommendations for best practice that do not fully meet—
- (a) The obligations of section 10 or section 11; or
 - (b) The obligations that a person would need to observe in the treatment, transport, or killing of animals if that person were to avoid committing an offence against [section 12(c)] or section 21(1)(b) or section 22(2) or section 23(1) or section 23(2) or section 29(a).
- (4) The National Animal Welfare Advisory Committee must, in making recommendations under subsection (3), have regard to—
- (a) The feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition:
 - (b) The requirements of religious practices or cultural practices or both:
 - (c) The economic effects of any transition from current practices to new practices.

Statutory Exception

Section 73(3) provides the 'out clause' for any party who may under normal circumstances be operating outside the minimum requirements set down for ss 10 and 11 but are operating to or above the minimum standard set out within a code relevant to the industry concerned.

Therefore provided a code of welfare is in existence, and the minimum standards for that code are being met for the animal or animals in question, obligations that are normally required by the Act, for example obligations set out ss 10 and 11, are not required to be met or adhered to fully and the person or persons in charge of the animal or animals concerned are provided with a statutory defence as outlined within s 13(2)(c) of the Act.

Further commentary on this requirement is supported in the following paragraphs taken from Animal Welfare (Pigs) Code 2005.

Animal Welfare (Pigs) Code 2005 states on page 35

As recommended best practice alternatives to dry sow stalls should be used.

Referring to paragraph 2 of page 35

*NAWAC considers that the use of dry sow stalls for **extended periods does not fully meet the obligations of the Act**. Minimum Standard 10 [p 34] allows for a transition period for the phasing out of dry sow stall use beyond 4 weeks after mating.*



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Based on current knowledge, NAWAC would ideally like to see dry sow stall use completely phased out if viable systems are available which maintain overall welfare of the sow.

In simple terms NAWAC has openly acknowledged that the intensive farming of pigs through the use of sow stalls may not fully meet the obligations of the Act in areas such as ensuring the physical health and behavioural needs of the animal and in accordance with both good practice and scientific knowledge [s 10 and s 12] however it has been deemed at least in the intervening period desirable to allow exceptions within this pig intensive farming industry until the matter is further researched.

Where does this leave a person who farms pigs intensively as opposed to free or open range?

The animal welfare code for pigs [Minimum Standard 5 –p 24] provides for minimum space allowances. Provided these minimum space requirements are met by the farmer along with other minimum requirements set out within the particular code, there is little justification for those enforcing the legislation to impose their own subjective assessment of the situation. If the minimum standards for the code are being at all times complied with by the farmer operating an intensive pig farming operation, then although the situation may appear to others as being abhorrent and cruel, the law states the farmer has met or is meeting their obligations according to statute.

A lot has been said recently through the media and the general community around the practice of farming pigs intensively. I make no comment as to the morality or otherwise for such a practice other than to state that where a code of welfare in the circumstances is being complied with then that it is the law and enforcement agencies would be foolhardy unless there are numerous other culpable practices occurring, to suggest any criminal liability could be attached to those who are at the time responsible for the animal's care.

It needs to be pointed out also that where free range pig farming is the practice those who are responsible for the care of those animals will need to comply fully with all other 'best practice' farming requirements set out within the code and the Act itself [i.e. all other care requirements demanded by statute other than the obvious sow or farrowing stall containment matters] to ensure they do not place themselves outside the Acts requirements.

MAF's Inspection / Investigation - May 2009

This inspection / investigation has not been overly complex and is a relatively routine matter that is often faced by Animal Welfare Inspectors in the field on a regular basis albeit it not quite with such intrigue as this matter generated.

Additional complexity for this matter revolved around the intervention by third parties some to support their own ideological agenda's. This is not a criticism, rather is mentioned to explain some of the delay that has occurred for a relatively routine



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matter that under normal circumstances would have been dealt with and a result reported in a matter of days.

The reader will note set out within one of the attached investigation summary documents that other contacts have been spoken to in relation to this investigation and acknowledged that after viewing the TV One footage on several occasions could not identify any breaches of the Act itself albeit he is firm in his approach that such intensive farming practices whether legal or otherwise are one of his organizations principal targets in the immediate future.

MAF's Investigation Outcome and Recommendation

Given there were no breaches of the Act or the Code of Welfare (Pigs) 2005 identified when the Investigator and veterinarian inspected the premises on the 19 May 2009 there is no value or justification in progressing this matter further.

I understand the owner has elected not to report the intrusion to his piggery on or about the 19 April to the Police. With the greatest of respect it is outside MAF's mandate to make further comment as to the rights and wrongs of this decision.

It is therefore my recommendation that this matter now be closed.

Jockey Jensen
Director MAF Enforcement