



2<sup>nd</sup> May 2021

**Name** Animal Care and Protection Act 2001 Review

**Email** [ACPAreview@daf.qld.gov.au](mailto:ACPAreview@daf.qld.gov.au)

**RE: Submission on Discussion Paper for review of ACPA 2001**

To whom it may concern,

The Australian Pet Care Association (APCA) currently represents over 100 members businesses Australia wide within the pet boarding, doggie day care and dog training industries. Refer to Annexure 1 to view an overview and the aims of our Association.

Please see the following Stakeholder Submission, which identifies all our feedback surrounding the current discussion paper items. We believe is it essential going forward to have the opportunity for further consultation with your committee and provide valuable contribution on behalf of our members as this new legislation is drafted.

Our association recognises the need for a review to the Animal Care and Protection Act 2001, primarily to ensure that this important legislative framework accurately reflects the modern expectations surrounding animal welfare standards, penalties for acts cruelty, and allowing authorities the best possible chance of managing cases of animal cruelty effectively and fairly.

The Australian Pet Care Association looks forward to ongoing consultation and communication with you, so that we may provide valuable contributions towards the proposed changes to the Animal Care and Protection Act, which will have a significant effect on all pet care businesses within Australia.

Kind Regards,

Colin Mackay

President - APCA

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# STAKEHOLDER SUBMISSION

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*REVIEW of the ANIMAL CARE  
AND PROTECTION ACT 2001  
DISCUSSION PAPER –  
REPOSE*

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Prepared by the Australian Pet Care Association

2<sup>nd</sup> May 2021



## DISCUSSION PAPER FOR THE REVIEW OF THE ANIMAL CARE AND PROTECTION ACT 2001 – REPOSES

Below are our responses to the individual Questions that are presented in each section of the Discussion Paper. The Australian Pet Care Association strongly recommends that further consultation takes place with key industry representatives who can assist the Department in making necessary changes to the Act during the ongoing drafting process of this review.

**We strongly encourage the government to implement working groups where members represent each segment of the industry to meet and achieve the objective of the new Animal Care and Protection Act Qld.**

### 3 – Purposes of the ACPA

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#### Questions

##### QUESTIONS

**One of the purposes of the ACPA is to “...achieve a reasonable balance between the welfare needs of animals and the interests of people whose livelihood is dependent on the animals...”.**

**This purpose is still suitable with increased animal welfare expectations and consumer preferences.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, what do you think the purpose should be?**

#### Response

We **strongly agree** that the main purpose of the ACPA is to achieve a reasonable balance between the welfare needs of the animals and the interests of the people whose livelihood is dependent on the animals.

This can only be achieved with proper, regular consultation with key stakeholders, to consider all aspects of each industry sector and how any changes to the current Act will impact them.



## 4 – Prohibited events

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### Questions

#### QUESTIONS

**The current prohibited event provisions are appropriate.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, what would you change?**

### Response

We strongly agree that the current prohibited even provisions are appropriate. We do not believe that there are currently any additional events that are required to become *prohibited*.

## 5 – Reporting of animal welfare concerns by veterinary professionals

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### Questions

#### QUESTIONS

**Veterinary professionals should have obligations under the ACPA to report suspected incidents of animal cruelty or neglect to authorities.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, please explain why.**

### Response

We neither agree nor disagree with veterinary professionals having obligations in this area. Those within the veterinary profession are best placed to discuss the issues surrounding the implementation of a forced obligation.



## 6 – Regulated surgical procedures

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### Questions

#### QUESTIONS

**The current list of surgical procedures restricted to veterinary surgeons is appropriate.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, what should procedures be added or removed?**

### Response

We neither agree nor disagree with the current list of surgical procedures restricted to veterinary surgeons. Those within the veterinary profession are best placed to discuss this list.

### Questions

#### QUESTIONS.

**The current provision on tail docking of dogs is appropriate.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, please tell us how you think the provisions should change.**

### Response

We strongly agree that the current provision on tail docking is appropriate. It currently prevents someone other than a veterinary surgeon to dock a tail unless done in a way approved under a regulation and includes all methods of docking. There is evidence now that suggests negative effects of tail docking, and therefore be done only if necessary (in the best interest of the dog's welfare) and not for cosmetic purposes.



## Questions

### QUESTIONS

**The current provisions for the supply of animals that have undergone a regulated surgical procedure are appropriate.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, please tell us how you think the provisions should change.**

## Response

We strongly agree with the current provisions surrounding supplying an animal that has undergone a regulated surgical procedure. This ensures that where one of these procedures takes place, a certificate from a veterinary surgeon must be supplied stating the procedure was performed according to the requirements of the Act. This will continue to deter people from performing these procedures illegally and then attempting to sell that animal.

## 7 – Possession or use of certain traps or spurs

## Questions

### QUESTIONS

**The current provisions for traps and spurs are appropriate.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, please tell us how you think the provisions should change.**

## Response

We strongly agree with the current provisions, and do not believe they need to be altered in any way.



## 8 – Dogs

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### Questions – Use of a dog to injure or kill another animal

#### QUESTIONS

The current offences relating to the use of dogs to kill or injure another animal are appropriate.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

If you disagree, what would you change?

#### Response

We strongly agree that the current offences relating to the use of dogs to kill or injure another animal are appropriate, and do not believe they need to be altered in any way.

### Question – Closely confining a dog

#### QUESTIONS

The current offence relating to confining a dog is appropriate.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

If you disagree, what should be changed?

#### Response

We neither agree nor disagree and require further information to be provided relating to this issue. From the perspective of pet carers and pet boarding facilities, we are often in charge of a dog that is confined for safety to a room or specified area. We do not consider kennels or pet rooms to be *closely confined* for the purposes of Section 33 of the Act – Obligation to exercise closely confined dogs. This section of the Act says that if the dog is considered closely confined for a continuous period of 24 hours, they must allow exercise for

(a) the next 2 hours, or

(b) the next hour and for another hour in the next 24 hours.



Further, it states that the decision regarding the definition of closely confined will have regard to the dogs age, physical condition and size.

Therefore, in a pet boarding environment, dogs may be confined to their rooms which are large enough for them to turn, stand on hind legs, walk and even run up and down their room length. We would like clarification on the terminology *closely confined* which should give examples within to make it clear of the expectation. For example, if a pet is being transported in an air carrier cage, often this is only large enough for standing room and not for exercise of any kind and would be **closely confined** (therefore requiring exercise). By comparison, a dog confined to a room large enough for walking, jumping, etc should not be included in that definition as they are able to sufficiently exercise themselves at any time. A kennel or pet room within a pet boarding facility or pound facility should **not**, under any circumstance, come under the definition of closely confined.

### **Questions – Restraint of dogs in open vehicle trays and trailers and open windows**

#### **QUESTION**

**Transporting an unrestrained dog in the back of an open utility, tray of a truck or from an open window should be made a specific offence under the ACPA.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

#### **Response**

We strongly agree with this. There have been many instances within the communities in Queensland where video footage has been released from a witness's car dash camera, showing dogs being flung unrestrained from open car windows or the open back of vehicles. Further, there have been cases of dogs being inadvertently strangled when they are tethered only by their necks (on rope length that is too long) to the back of an open vehicle, flung off, and left hanging with the driver unaware.

Having them unrestrained also attributes to many lost pets who are flung off the back or jump off the back of an open tray vehicle, sometimes injuring themselves and bolting from the area unable to be captured by witnesses.

This needs to be made a specific offence, and education with example provided to the community to help them understand their obligations in this area and prevent these instances from occurring. Aside from the obvious risk of injury to the dogs in these situations, it also poses a significant and avoidable risk to other road users who have to swerve to miss animals flung from vehicles.



## 9 – Using animals for scientific purposes

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### Questions

#### QUESTIONS

The scope of when an animal is used for scientific purposes should be aligned with the Scientific Use Code. In particular, it should be expanded to:

- *accommodate advances in science such as the creation and breeding of new animals where the impact on the animal's wellbeing is unknown or uncertain, and*
- *add other practices that involve the use of animals for science, including diagnosis, product testing and production of biological products.*

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

Other provisions in the APCA relating to the scientific use of animals are appropriate.

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

If you disagree, what should be changed?

### Response

We strongly agree with the alignment of the Act to the Scientific Use Code. We also agree that the other current provisions in the APCA relating to scientific use of animals are appropriate.



## 10 – Inspectors

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### Questions – Power of inspectors

#### QUESTIONS

**The powers of inspectors under the ACPA are sufficient to allow inspectors to effectively deal with animal welfare incidents and do not require strengthening.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, what should be changed?**

### Response

We strongly agree that the powers of inspectors under the ACPA are sufficient to allow inspectors to effectively deal with any animal welfare incidents and do not currently require strengthening.

### Questions – Externally appointed inspectors

#### QUESTIONS

**It is appropriate for the Queensland Government to authorise non-government organisations, such as the RSPCA, to undertake investigations and conduct prosecutions under the ACPA.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, please tell us why.**

**People from non-government organisations who are appointed as inspectors under the ACPA should be subject to the same accountability as public servants in terms of ethics and codes of conduct.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, what standard of accountability should they be subject to?**



We somewhat disagree with the Qld Government authorising non-government organisations such as the RSPCA to conduct investigations and prosecutions under the ACPA. As stated on the RSPCA website, “*some RSPCA shelters provide boarding services for privately owned animals*”. The RSPCA has begun to operate commercial boarding facilities (in addition to RSPCA Qld being a part owner in Pet Cloud).

In the area of pet boarding facilities, no facility that has its own commercial interest should be given the power to inspect others, as it poses a massive conflict of interest. It is an unacceptable conflict to regulate an industry that you actively participate in on a commercial level.

If the RSPCA is to be given the powers of inspector and prosecutor, they must close their commercial boarding operations and divest their stake in pet sitting services, in order to avoid a serious conflict of interest by having powers over other industry participants. For them to continue to operate would mean that they could not be allocated this power anymore, and it would need to be allocated to another organisation who does not have a conflict of interest, or government/local council agency.

If the RSPCA are to cease their commercial operations in the areas that they will be policing and enforcing, then it would be appropriate for them to hold these powers. If this occurs, further investigation needs to be had on how these policing organisations (such as the RSPCA) are made accountable. Ensuring that they are providing fair investigation methods will help to prevent unnecessary, unfair, and possible unlawful prosecution or harassment by the employees of the non-government organisation who is given this power.

In relation to the second question, we strongly agree that those appointed as an inspector from a non-government organisation under the ACPA should be subject to the same accountability as public servants in terms of ethics and codes of conduct.



## 11 – Compliance and enforcement

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### Questions

#### QUESTIONS

**The current suite of compliance options (not including PINs, as discussed below) for responding to breaches of animal welfare under the ACPA is comprehensive.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, what should be changed?**

**PINs should be introduced as a compliance option under the ACPA for clearly defined, low range animal welfare offences.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, please tell us why.**

### Response

We neither agree nor disagree at this point and require more information in order to provide feedback. The introduction of PINs could lead to benefits such as allowing effective action without having to go from an animal welfare direction straight to prosecution, meaning faster outcomes and the opportunity for education as a combined approach.

However, it needs to be defined regarding what Public Infringement Notice's can be issued for, and the range of offences that they would include so that we can better understand what they would be for and if they would then provide a more suitable response than resorting to criminal prosecution.



## 12 – Orders relating to animal welfare offences

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### Questions

#### QUESTIONS

**The introduction of a provision that would allow a court to make a decision to sell or rehome seized animals prior to court matters being finalised is reasonable.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**The introduction of a provision that would allow a court to impose a bond or security on the owner of seized animals for the care of their animals prior to court matters being finalised is reasonable.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**What other cost recovery arrangements should be considered?**

### Response

The APCA somewhat agrees with this section of proposals. The reason we do not fully support either of the above it is that we believe that a more comprehensive set of processes would need to be involved, where it is likely that there are a range of alternatives used in conjunction with one another.

For example, an initial review during the court process should be made on a case-by-case basis which would lead to more than one option being considered. Allowing the court to make a decision on selling or rehoming has benefits such as reduced cost outlays for those caring for the animal and reducing the amount of time that animal is in that situation before they can be placed somewhere that can provide a loving home. However, those decisions should not be made on cost saving principles alone and need to take into consideration the situation of the owner and also the wellbeing of the pet in question.

Another important point to make is that the animals need to be accurately assessed prior to being moved to a new home. This assessment needs to be done by suitably qualified people such as the RSPCA, where a comprehensive list of factors are taken into account. Simply moving them to a rehoming centre or rescue organisation increases the risk that those animals will end up back in someone's home and may be unsuitable for such an environment.



We recognise that there is a significant cost involved where an animal needs to be cared for during an extensive period of time whilst court matters are resolved. Often it is impossible for costs to be recovered, but allowing a bond or similar to be imposed on the owner of the animal is reasonable. If they are unable to clear that debt, they are unable to care for that animal and the court can then decide on the rehoming of that animal. Further, if this were the case, that owner should be prevented by the court of owning another animal in the future as they are unable to cover appropriate costs for the care of that animal, aside from the obvious issues regarding their reason for being in court in the first instance.

## 13 – Establishing appropriate penalties

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### Questions

#### QUESTIONS

**The maximum penalties for animal welfare offences under the ACPA are appropriate.**

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree

**If you disagree, how should they be changed?**

### Response

We strongly agree. We note that QLD currently has the highest maximum animal welfare penalties in Australia and do not need to be altered at this time.



## **Annexure 1**

### **About the Australian Pet Care Association (APCA)**

We are one of the peak bodies representing business owners in the pet boarding industry throughout Australia. Established originally in Queensland in 1992 as a non-profit organisation by a group of independent pet boarding facility owners, we provide our members with essential information, help and support to operate their businesses efficiently and effectively.

In recent times we have expanded our membership base to include members in other states of Australia and provide the same representation to them. We currently have 184 members on our mailing list as Advocates of our Association and represent over 100 member businesses Australia wide.

We stand for the ongoing and active improvements to animal care standards and Codes of Practice throughout Australia, whilst using an educated approach to making changes commercially viable.

### **Aims of the Association**

1. To promote a high standard of animal care within our profession
2. To promote a higher professional image for our members
3. To act as a lobby group on issues that concern or threaten our members and their livelihood