



26th November 2020

Name Animal Welfare Legislative Reform

Email legislationreform@agriculture.vic.gov.au

RE: A new animal welfare Act for Victoria – Consultation Open

To whom it may concern,

The Australian Pet Care Association (APCA) currently represents over 80 member businesses Australia wide within the pet boarding industry. Refer to Annexure 1 to view an overview and the aims of our Association.

We have significant concerns in relation to your release of the Feedback Survey and Directions Paper published and prepared by the Department of Jobs, Precincts and Regions in October 2020.

At this point in time we will not be completing the online survey for feedback, as we are unable to answer any sections to either Agree or Disagree due to a lack of education and information contained within the Directions Paper. The APCA therefore does not consider that **appropriate** consultation is taking place, and we seek further information surrounding all areas that have been proposed as part of this reform.

In its place we submit to you the following Stakeholder Submission, which identifies all our concerns that require further information to be provided on this proposed framework, so that we may enter consultation with Animal Welfare Victoria and provide our contribution on behalf of our members.

Additionally, the state of Victoria has been under significant pressure in the last 6 months, with many businesses at a standstill due to the COVID-19 restrictions, and in particular the pet boarding and day care industries which were one of the most significantly affected. We therefore take this opportunity to state the timing of the release of this Directions Paper and the consultation period is unsatisfactory to achieve a positive outcome for all industry stakeholders, with many businesses who will be significantly affected by these changes not currently operating and likely not aware of this release.

The APCA looks forward to further consultation and communication with you, so that we may provide valuable contributions towards the proposed changes to the Animal Welfare Act in Victoria, 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

A NEW ANIMAL WELFARE ACT FOR VICTORIA DIRECTIONS PAPER – REPOSSES

Prepared by Australian Pet Care Association

26th November 2020



A NEW ANIMAL WELFARE ACT FOR VICTORIA DIRECTIONS PAPER – REPONSES

Below are our responses to the individual Themes and proposals that appear in the Directions Paper and Survey.

The APCA strongly recommends that consultation takes place with key industry representatives who can assist the Department in making the necessary changes to the Act at this time prior to any further proposals or directions papers being issued.

The APCA does not support many of the current proposals, as we have identified numerous detrimental effects that these proposals will have on many industries including the Pet Boarding, Pet Day Care and Dog Training industries.

It is imperative that industry stakeholder engagement is conducted for these very important changes highlighted below. A survey approach is not satisfactory to achieve a robust and successful implementation of a new Act.

We strongly encourage government to implement working groups that members represent each segment of the industry to meet and achieve the objective of the new Animal Welfare Act for Victoria.

THEME 1 – SAFEGUARDING ANIMAL WELFARE

PROPOSAL 1.1 – Adopt an approach to recognising animal sentience.

The APCA opposes the use of the term *sentience* being used within the Act, and therefore none of the options proposed as to where it should be included are appropriate. Whilst we agree that animals are sentient beings, placing it in the Act in any of the ways proposed in this Directions Paper open the flood gates for extremist-view (activists) to apply this definition to all situations, all species and all industries under one blanket legislative term.

We would like to see the inclusion of *sentience* with regards to animals being used within Recommended or Mandatory Codes of Practice (as necessary).

We would support Recommended or Mandatory Codes of Practice for each state and each industry.

PROPOSAL 1.2 – Introduce a requirement to provide a minimum standard of care for animals

The APCA strongly supports the raising of animal welfare standards through education, and also supports the need to give clearer guidelines within the Act to assist with the decision-making process around prosecuting for offenses.



However, the minimum standard of care should be limited within the Act to include a broad scope for a few key standards, and the rest of the framework for these standards (i.e. specifics such as length of time or frequency to exercise a pet, or minimum enclosure sizes etc) should **not** be included in the Act. These specific standards should be contained within relevant recommended or mandatory Codes of Practice relevant to each sector and constructed with proper consultation with industry professionals to ensure that the standards are relevant, reasonable, and able to be correctly enforced where applicable.

For inclusion within the Act, we suggest the following minimum standard of care: -

A person in charge of an Animal must

1. Provide a suitable environment
2. Provide food and water
3. Allow the animal to exhibit normal behaviour patterns
4. Ensure treatment of any disease or injury

The APCA is of the belief that describing the provision of minimum standards of care should be limited to the above, and any further specific standards to be included in recommended or mandatory codes of practice relevant to that portion of the industry, as they will need to be different across a wide range of variables.

PROPOSAL 1.3 – Introduce a set of general escalating offence categories covering the things a person must not do to animals.

At this time, we do not believe sufficient information and examples of how this change would work have been given in order for the APCA to support this change.

We strongly support stronger penalties and clearer definitions of offenses for acts of deliberate or aggravated cruelty to animals. In order to do this, it is likely that a restructure on the way in which offences are classed or categorised would be beneficial, however we have concerns over the Categories and examples listed in the Directions Paper.

Using terminology in the Directions paper that has not yet been consulted upon or defined means that there is no means to know how this proposal will be interpreted. For example, in the Directions Paper **Category 1** states *Failure to provide a minimum standard of care, such as not providing appropriate accommodation for an animal*. The definition of *appropriate accommodation*, is not defined, therefore, it can be interpreted many ways. Without knowing this, we cannot know the extent of the effects that this change would bring and hold serious concerns that it would in fact be detrimental to certain industries.

It appears that these categories are being used as examples for when a member of the public takes improper care of an animal or causes harm. However, for those industries who are responsible for



things such as animal housing or animal handling, there is no clear example or guideline as to how this would affect them.

Further, it is unlikely that the proposed escalating cruelty offences should apply to all animals in all circumstances. This is something that absolutely should be consulted on with individual industries to hear their examples and concerns of where this area would need further investigations before framework is built.

PROPOSAL 1.4 – Provide a single regulatory framework for performing controlled procedures on animals

The APCA does not support a single framework for performing controlled procedures at this time. There is not enough information contained in the Directions Paper for clear determination of the effect that this could potentially have on several industries sectors who currently perform procedures, some of which the Directions Paper mentions in the brief for what will be considered a *Controlled Procedure*.

For example, the first paragraph of the Directions Paper mentions *dentistry*, and then at the end of that section it says that *brushing teeth* is not included. There are many times a person other than a Veterinarian can perform dentistry procedures, which may go outside the scope of brushing (such as de-scaling etc) and where the animal is comfortable and continually assessed for any level of pain arising and needing intervention. There is a significant risk that something like this will negatively impact on animal welfare, where carers will no longer take their pet to have their teeth cleaned if it can only be done by a Veterinarian (which is likely to be a higher cost), and will lead to more animals suffering pain due to untreated ongoing dental decay. Further discussion is required with stakeholders as to where the line is drawn, and what exactly each individual procedure will be that will become a controlled procedure under legislation.

Further, *castration* is mentioned, but no scope has been given as to what this means for the Agricultural industry. Imposing something like this across *all species* will have a significant detrimental effect. For example, farmers have previously managed these procedures without the need for additional skills, training, or exemptions, or the need for a veterinarian to attend for a castration of their livestock. There are guidelines regarding the maximum age of calves for example in some states, but essentially, they are able to correctly manage these procedures without this being considered a controlled procedure to be performed by a Veterinarian.

Aside from the agricultural industry, castration is conducted very differently across different species and industry sectors. To create a blanket framework would lead to several issues relating to the control of breeding. These types of treatments need to be thoroughly investigated and discussed with relevant industry professionals for their input as this framework is being built.



THEME 2 – A SIMPLIFIED AND FLEXIBLE LEGISLATIVE FRAMEWORK

PROPOSAL 2.1 – Consider the need for broad exemptions.

The APCA does not support either option. Option 1 stated that it would allow for *some broad exemptions to the application of the Act, meaning some exemptions to the new Act would remain in place*, and therefore implies that there will be *some* exemptions to the Act that are currently there would no longer remain in place. Further information is required prior to any further discussion, so that there is a clear understanding as to the extent of what is to change within the current exemptions. Without the additional information this will significantly affect some industries.

Option 2 states that the exemptions would be replaced with *exceptions*, where that specific activity would require an exception to be made, conditional on meeting additional requirements or conditions. Our questions relating to this are:

- What types of activities would require an exception to be granted under this new Act?
- For those exceptions granted, what additional requirements or conditions will be required to be met?
- Having requirements or conditions to be met in order to obtain permission to carry out an activity is essentially a licencing style approach, requiring a large amount of research and consultation to make each activity meet those certain conditions. How will this be implemented? Who would conduct the process of issuing that exemption and determining that those conditions have in fact been met? Would there be a renewal process (and cost to the business if applicable?) Who would be responsible for ensuring the ongoing compliance of such exceptions and conditions?
- Are any of the activities earmarked for this proposed *exception* section currently an allowed procedure, that have no current conditions or restrictions placed on them? If so, which ones and what will be the effect of these changes on those involved in these activities?

PROPOSAL 2.2 – Reform the current framework of 'Act, Regulations and Codes of Practice' to improve clarity.

The APCA strongly disagrees and **does not support the elimination of Codes of Practice, with a set of Regulations outlined instead within the Act.**

Codes of Practice should be given the flexibility to be either mandatory or recommended. Whilst having them as recommended means that they are not enforceable, it is unlikely that all areas of animal related codes of practice can be audited properly and regularly to ensure ongoing compliance. Many areas would be well suited to recommended practices rather than mandatory, particularly areas where the welfare of the animal is often upheld to a very high standard such as commercial pet care facilities.



Further, the reason that there are many different Codes of Practice is because **they need to be specific to either industry sectors or species, and to individual States and Territories**. Trying to lump them into one would create significant negative effects on many industry sectors. If the various Codes of Practice are showing inconsistencies across species and industries and therefore creating confusion, then these individual codes of practice need reviewing with proper consultation with professional bodies in that industry sector.

Once again, further information is required for this very complex section of the proposal to be considered and consulted on. Examples should be provided showing which Codes of Practice are inconsistent with regard to animal welfare issues across various species or industries, and how these issues relate directly to the reform to the Animal Welfare Act VIC. There is a huge difference between those providing care to fish in a retail store aquarium, as compared to a pet boarding facility, as compared to an animal breeding facility, as compared to the agricultural industry, as compared to the veterinary care industry – the list goes on. Each of these areas should have their own Codes of Practice that are built to be rational, useable, and realistic.

The APCA is currently working on developing a Code of Practice for Pet Boarding and Doggie Day Care, which we would like to propose as the starting framework for our industry sector. We would be happy to provide this and discuss with you the best way to implement this Code of Practice, and would like to note that the Code of Practice would likely need to be slightly different across each State and Territory within Australia. This is because it can be more specific and relevant, whereas a national Code of Practice could not account for the difference in things such as different climates and different Acts and legislation that would have an effect on each individual Code of Practice. They should however be similar and built from the same framework.

PROPOSAL 2.3 – Introduce a mechanism to incorporate agreed national animal welfare Standards as mandatory requirements.

Rather than a national standard, each State and Territory within Australia should have its own Act (which incorporates minimum standards of care which are therefore mandatory), and alongside that, Code's of Practice for each sector of the industry.

The States and Territories could work together, or build their own framework from each other's, but it still needs to be specific to that particular State and Territory.

PROPOSAL 2.4 – Allow for the recognition of appropriate co-regulatory schemes in the new Act.

Without further information on proposed regulatory bodies, and any schemes that would be considered for Co-regulation, it is impossible to determine whether this would be in the best interest of animal welfare or detrimental by creating confusion and *exceptions* that would require ongoing compliance audits to ascertain whether those standards are being maintained.

For example:

- Who would be considered as a co-regulator across the various industry sectors?



- How would this be funded?
- How would the standards be enforced, audited, compliance checked etc?
- Where would the resources come from to make this co-regulation happen?
- Are you proposing each state has a co-regulator, or instead each industry (either within each state or federally?).
- What powers would the co-regulator have?
- Who audits the co-regulator to ensure that they are doing their job correctly?

PROPOSAL 2.5 – Formalise a role for scientific knowledge and expert opinion to inform decisions under the new Act .

The APCA is unable to support any of the proposed options without further information on how the inclusion of these options would affect the relevant industry sectors. This is a large area to consider, and terms such as *industry practices*, *technologies* and *independent expert advice* needs to be clarified so that we can better understand the types of experts and what their role would be for providing such advice.

THEME 3 – A BETTER COMPLIANCE AND ENFORCEMENT MODEL

PROPOSAL 3.1 – Enhance powers to proactively monitor compliance.

The APCA supports enhancing the powers for assessments in a proactive manner for compliance, however it does need further definition around who these powers would apply to before we could completely commit our support to this change.

PROPOSAL 3.2 – Introduce a risk-based framework for permitting restricted activities.

The APCA would like further consultation on where the Pet Boarding, Day Care and Training industries would fall within this risk category framework, prior to further comment. In addition, we would expect that the pet boarding industry would fall into the Low or Medium risk categories, and nothing higher than that. In the Directions Paper, high risk mentioned things such as scientific establishments conducting research involving animals, and therefore requiring a licence, audits etc – has consideration been given to the effect that this might have on those current establishments that fall into this category? Do they currently need to undertake these steps, or would they be expected to alter their currently allowed process to then be permitted to continue with their already established practices?



PROPOSAL 3.3 – Set out clear alternatives for managing seized animals.

The APCA partially supports this section of proposals. The reason we do not fully support 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.

So for example, we don't agree with one of the alternatives proposed being used as the sole option, but instead an initial review that is made on a case by case basis which would lead to one or more of the options being considered.

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 all taken into account. Simply moving them to a re-homing 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.

Regarding who should make the decision on managing seized animals, this will depend greatly on the way in which these legislative changes are made. For example, if they become a national framework it makes it a lot more difficult to manage these types of decisions. If they are kept as individual Act's across all States and Territories within Australia, then it is easier to appoint the relevant decision makers who will be able to manage these things on a case by case basis and make the best decision for the animals in question. The ideal scenario would be for the Veterinarian in charge of the case to consult directly with the person in charge of the seizing of the animal (enforcement agency) as they have all of the facts and are more likely able to act quickly to make a decision, rather than deferring to another person such as the Minister for Agriculture where they would need to be briefed on each case and take the time to gather facts, review the case and make a decision.



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 80 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