16th October 2022
Legislative Reform
Department of Jobs, Precincts and Regions
Animal Welfare Victoria

RE: Plan for Victoria's new animal care and protection laws

Animal Care Australia (ACA) is a national incorporated association established to advocate for real animal welfare by those who keep, breed and care for animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care.

ACA does not support the renaming of the legislation to 'Animal Care and Protection' and we question the efficacy of the impending survey results.

ACA reminds Animal Welfare Victoria: Animal rights and animal welfare are not the same thing.

ACA provides the attached submission for further explanation of our position.

ACA highlights the following recommendations, which are of highest importance, outcome and impact:

1) **ACA opposes the recognition of "sentience" within legislation, specifically, within Animal Welfare laws**
2) **ACA opposes the transition of Codes of Practice into enforceable standards within the regulations.**
3) **ACA strongly recommends that the category of Animals in Entertainment be deleted in its entirety.**
4) **ACA opposes granting any additional powers to Authorised Officers**
5) **ACA categorically opposes increased powers for any Authorised Officer to enter any dwelling or premises used for residential purposes without permission or warrant or it being an emergency.**
6) **ACA specifically opposes such right of entry to monitor compliance.**
7) **ACA strongly recommends continual funding for education be written into the Act.**
8) **ACA opposes Licences for organising or participating in recreational, show or competition events involving animals.**
9) **ACA supports education prior to infringement notices being issued except for severe and/or deliberate cruelty cases.**
10) **ACA opposes RSPCA as an appropriate organisation to enforce court orders.**

In addition, ACA makes the following responses:

11) ACA objects to putting forward an Act that is only a "framework" for debate and voting on in parliament.
12) ACA objects to the details of the Act being written into Regulations, rather than the Act itself.
13) ACA opposes the 'proposed approach' for animals covered by the new laws.
14) ACA supports codes of practice for animal keeping that can be used as a defence to a charge and by the Courts as reference to a person's reasonable actions.
15) ACA opposes the notion that contesting an infringement notice in court can result in significantly higher penalties.
16) ACA recommends this area is reworked so that those issued an infringement notice have a right of appeal to the court.
17) ACA supports '*good practice guidance*', where animal keeping groups (and other representative bodies) develop the guidance codes with endorsement by the government.
18) ACA opposes the '*Care*' offence as it is currently proposed as it is excessive overreach both in terms of intent and certainly in terms of enforcement.
19) ACA totally opposes the inclusion of: *"Setting care requirements in the new laws gives practical effect to the recognition that animals are sentient.."* It has no place in animal welfare legislation.
20) ACA strongly recommends the entire 'Care' section is re-worked and reconsidered with the focus on the 5 domains model.
21) ACA strongly recommends focused stakeholder consultation is needed to prevent unintended consequences due to the current 'implied' restrictions.
22) ACA supports the Minister having discretion to provide financial compensation.
23) ACA, in principle, supports oversight approval by the Minister or Secretary prior to seizure.

24) ACA recommends the introduction of oversight for Authorised Officers.
25) ACA opposes the fast tracking of disposal of seized animals.
26) ACA strongly suggests the entire '*Seizure & disposal of animals*' section is re-considered with the animal and the owners' best interests in mind.
27) ACA supports orders being made at the discretion of the court.
28) ACA recommends that costs to maintain animals whilst court proceedings run their course should be charges to the crown.
29) ACA supports regular review mechanisms.
30) ACA supports the "Animal care and protection fund" but with its correct name restored to the Animal Welfare Fund.

The continual inclusion of '*regulations will be consulted on with stakeholders'* without providing any constructive framework of what is being considered is seen by ACA as an attempt to 'numb stakeholders into a false sense of security'. ACA have witnessed too many examples of the Victorian Government by-passing the stakeholder consultation process to introduce anti-animal keeping policies promised to Animal Right Extremist groups, to have any confidence in this pledge. The most glaring example of the animal rights infiltration of the Act is in the change of name from the Animal Welfare Act to Animal Care and Protection Laws, and in the introduction of licencing all animal activities. ACA highlights these changes were not part of previous consultation.

Additionally, new regulations should not just be developed in consultation with stakeholders, but BY the stakeholders directly impacted by the change in regulations. Stakeholders include many groups that have no experience with the issue, and no interest in taking part in the activities being regulated. These social justice groups do not count as 'stakeholder consultation' – they should not be involved in drafting the regulations, when more appropriate and experienced stakeholders are already available and involved in the process.

Should the department wish to consult further on this submission, ACA welcomes that opportunity.

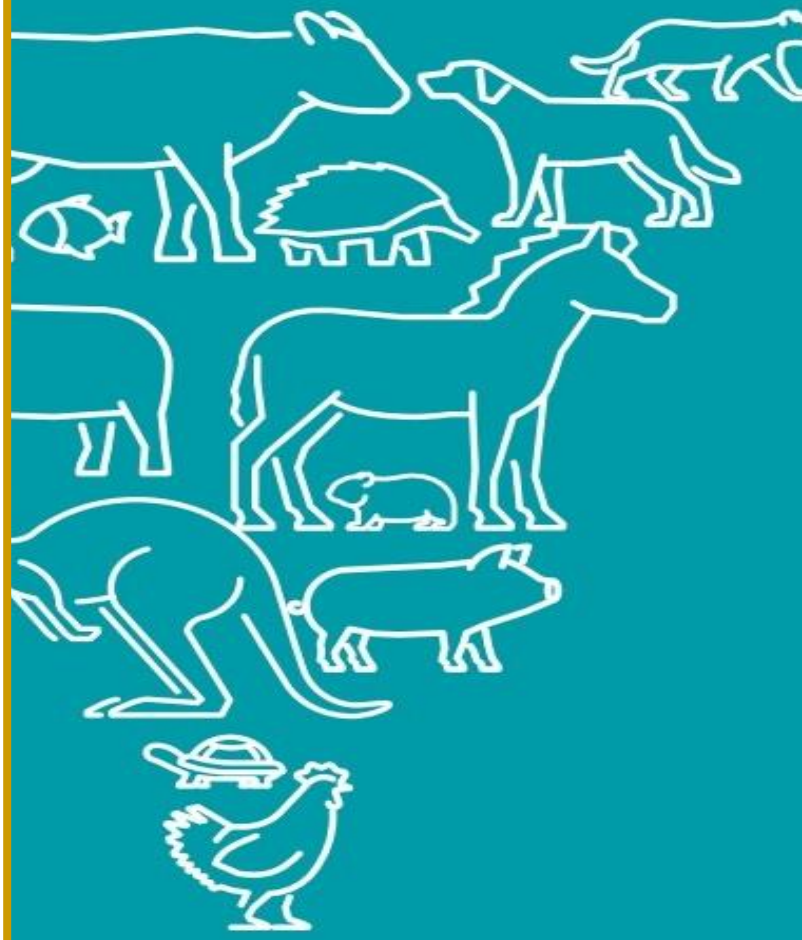
Kind regards,

Michael Donnelly
President
0400 323 843

Animal Care Australia

2022

Plan for Victoria's new Animal Care and Protection Laws – Directions Paper



Approved: 16th October 2022
Animal Care Australia Inc.

Plan for Victoria's new Animal Care and Protection Laws – Directions Paper

Animal Care Australia submission.

ACA Background:

Animal Care Australia Inc. (ACA) represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies including those representing dogs, cats, birds, horses, small mammals, reptiles, fish and exhibited animals.

Statement regarding name of the Act and the direction of this Plan:

ACA notes the metamorphosis of the reference title of the new Act from POCTAA, to **the** Animal Welfare Act for Victoria and now the Animal Care and Protection Act.

This is concerning for ACA as it is a very clear *animal rights-oriented influence*. The direct removal of WELFARE from the title also appears to be reflected throughout the Plan with a perceived concentration on ideological intentions for outcomes rather than animal welfare improvement.

ACA reminds Animal Welfare Victoria that Animal Rights and Animal Protection IS NOT Animal Welfare.

Animal Welfare is much broader than just animal care. It encompasses the whole of life and death experience for animals; from husbandry standards to prevention of cruelty, to humane euthanasia, to breeding programs. Animal Welfare Science forms the sound basis to guide the continual improvement of welfare legislation. The removal of the word Welfare from the name of the Act suggests that welfare is no longer a priority to the Victorian government, as was set out in the Animal Welfare Action Plan of 2018.

Reinforcing those concerns, is including the term Animal Protection, which is the phrase Animal Rights Extremists have recently adopted for themselves (due to how unfavourably almost all Australians view Animal Rights and Animal Liberationism). Animal Protection is not synonymous with Animal Welfare but appears to be used this way throughout this Plan. This is a grave mistake with serious potential unintended consequences. Animal Rights is an extreme ethical position to restrict human interactions with animals. Animal Rights has no connection to animal care or welfare, and actively ignores all the science that contradicts Animal Rights ideology. Animal Rights/Animal Protection does not belong in animal welfare legislation.

Using the term Animal Protection in this legislation is misleading to the general public and risks manipulation by animal rights Extremists in the future.

Even World Animal Protection (the organisation) recognise:

> ***"Animal welfare should be at the forefront of every human action involving animals. Every animal deserves to have a good life where they enjoy the benefits of the Five Domains (of Animal Welfare)"***

We note the Background of this Plan states:

> ***"Animal protection laws in other Australian states and territories were reviewed to understand their legislative approaches".***

This statement is misleading as only one other state or territory has an animal welfare act that is referred to as an animal protection act, and that is in Queensland where it was introduced in 2001 - prior to Animal Rights Extremists adopting the term for their own movement, and forever tainting the phrase with a new meaning. The term should NOT be used in any legislation going forward.

Animal Welfare goes beyond just Prevention of Cruelty and is the correct terminology for this legislative reform. **Animal Welfare** MUST be the primary concern of the legislative reform and this MUST be reflected in the name.

ACA does not support the renaming or referencing of the Act to the *Animal Care and Protection Act.*

Purpose of Consultation (pg. 5)

The Plan for the New Laws should replace "Care and Protection" with "Animal Welfare" to appropriately represent community expectations and be clear with the intentions to improve the lives of all animals without implying that extremist sentiments will be included through sleight of hand.

The term Animal Protection must be replaced with Welfare throughout the Act

The Survey

ACA questions the structure and use of the online survey. The survey only contains three questions that appear to be seeking the same outcome from all three questions.

The limitation of only choosing our top 3 topics out of a list of 16 choices is clearly statistically driven.

The inability for a respondent to clarify why any one of their top 3 is 'of most concern', 'most important', or has the 'biggest impact' will unequivocally result in a misleading statistical outcome.

For eg: 'Sentience' will be of 'most concern'. It is 'important' to us and will have 'an impact'. BUT not for the reasons that will be assumed by us numbering 'Sentience' as number 1 in each of those questions. In fact, it meets all three criteria because it has NO place in animal welfare legislation.

ACA is acutely aware several animal rights organisations and political parties are pushing their members to complete the survey – no doubt for this very reason – to skew the statistical results providing a misleading outcome.

ACA does not support the use of this survey and we question the efficacy of the results and the use of those results by Animal Welfare Victoria and the Andrews Government.

References:

The Victorian Plan can be found here: The Plan

ACA has previously submitted to the ongoing consultation and replacement of Victoria's Prevention Of Cruelty To Animals Act (POCTAA) 1986, and our submission can be found here: ACA Response to POCTAA Review

ACA's Response to the Plan:

1. Recognising sentience

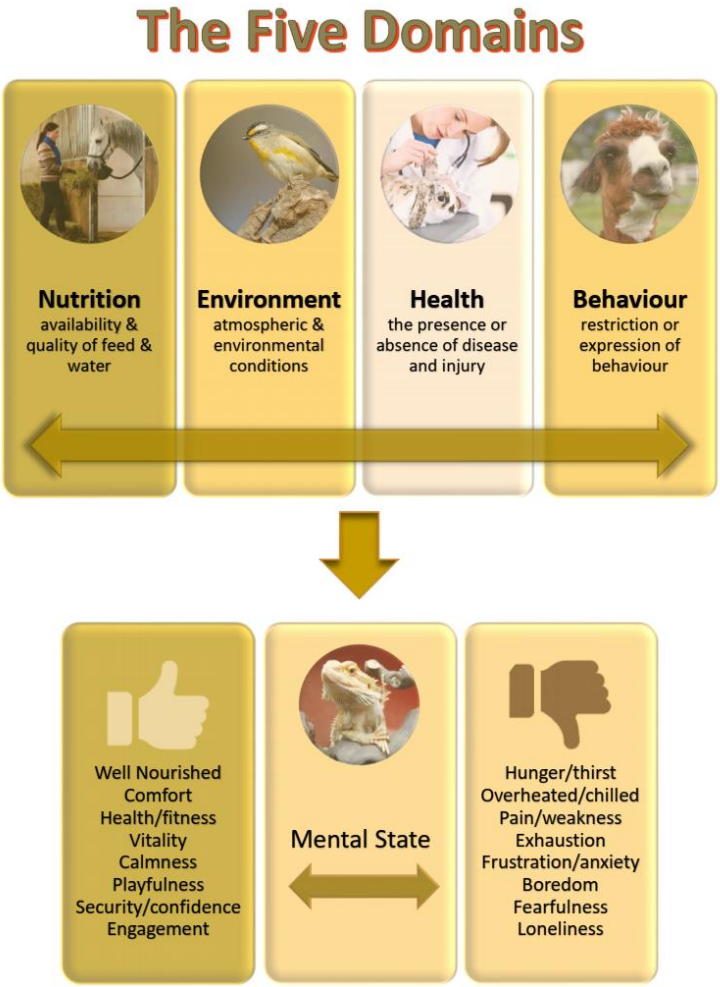
ACA opposes the recognition of "sentience" within legislation, specifically, within Animal Welfare laws.

No Australian state or territory has included sentience as a defined concept in legislation, with the exception of the Australian Capital Territory (ACT). The update to the ACT Animal Welfare Act 1992 indicated that the inclusion of sentience would only be used to facilitate enforcement of the Act with regards to specific animal cruelty offences, rather than being the underpinning premise for redrafting the entire Act, as is being suggested in the Victorian Plan.

Referencing ACA's previous recommendations, the inclusion of sentience should go no further than being inserted within the definition of an 'animal'. Should the Andrews Government insist that is not sufficient, then ACA recommends Victoria reflects the ACT model.

Sentience is implied by the existence of animal welfare legislation, first established in Australia over 200 years ago. We disagree with the claim that sentience is not already appropriately recognised and considered by legislation.

ACA also notes the failure of the draft Plan to even mention the peer reviewed and scientifically accepted 5 Domains model of Animal Welfare, which would be a more appropriate model to base Animal Welfare legislation on, than a single definition of Sentience.



Based on the infographic from Animal Health Australia 2022

Sentience is recognised across the 5 Domains which include objective and measurable outcomes to assess and address an animal's positive and negative welfare states.

Setting care requirements, and preventing cruelty, can be achieved in a purposeful way through the 5 Domains that recognises that animals can and will experience negative emotional states throughout their lives without needing to legislate the word Sentience.

Underpinning the reformed legislation on Sentience was NOT an Option offered in the Directions Paper, and ACA had no reason to anticipate this outcome. The Engagement Summary acknowledged and defined the 5 Domains, and yet it has inexplicably been excluded at this next step.

Basing legislation on Sentience alone is problematic as it implies that it should be illegal for animals to experience negative emotional states. Measuring the emotions experienced by animals implied by sentience to a level of evidence required for compliance and enforcement is simply not possible.

- Who decides what the animal is feeling at a given time?
- How will Authorised Officers objectively measure the emotional state of an animal? Especially, when they investigate a complaint in the hours, or more commonly, days, after receiving a complaint?
- How does one prove to the court what the emotional state of an animal was at the time of an alleged offence?

Legislative reform on the basis of Sentience, while disregarding Animal Welfare models is seriously flawed, and is not what was outlined in the Directions Paper.

ACA opposes the recognition of "sentience" within legislation, specifically, within Animal Welfare laws.

2. Animals Covered by the new laws

Proposed Approach- definition of an animal:

> ***Any live member of a vertebrate species including any:***
>
> ***– Fish or amphibian that is capable of self-feeding***

The inclusion of self-feeding for amphibians is problematic. Amphibians are born as self-feeders meaning these laws will apply to tadpoles. How does the department intend on determining whether tadpoles have been mis-treated? Could a child playing in a creek be considered to be endangering the life of the tadpoles, or committing an act of cruelty?

> ***-- Any other species prescribed in regulations***

ACA opposes the definition of animals covered by the laws being changed at any time through the regulations. Definitions of a top-order nature like this need to be clear within the Act.

> ***"The new laws are intended to cover all animals where there is scientific agreement, they are capable of positive and negative experiences (that is, they are sentient)."***

This is impossible to measure objectively. For many bird, reptile and amphibian species it is common for hatchlings, nestlings/fledglings, and juveniles to perish for a range of reasons unrelated to the standard of care they receive, as it is very species specific. Determining the time when each becomes

sentient such that the laws should apply is no simple task. Legislation should be clear and objective to ensure that the community can meet the standards.

The long-time argument of discretion or common sense will prevail cannot be relied upon at either a community level or from the compliance organisations.

> ***"Scientific agreement may be reached in future about the sentience of additional species. The new laws would allow for additional species to be specified in the regulations (not the Act). This provides flexibility in the legislative framework. Revising a regulation can be a simpler process because it does not need to be debated and passed in Parliament, as required for amending an Act."***

ACA opposes ad-hoc additions via Regulations of what is considered an "animal" for purposes of this legislation. Top-order additions like inclusion of whole animal groups (such as insects or arachnids) MUST be defined in the Act, and as such any changes should be presented for debate and a vote in parliament. By-passing the correct legislative process and stakeholder consultation is unacceptable.

> ***"The laws would not cover outcomes for animals that don't involve interactions with humans. For example, animals in the wild may harm each other, but where this doesn't involve any interactions with humans, the laws would not apply."***

Does this mean that two dogs playing rough that harm each other while the owner is at work will lead to prosecution of the owner, as the animals are not "in the wild" and contained in the home by a human?

Would owners then have reason to not take those dogs to the vet for treatment for fear of prosecution?

There is a big difference between a deliberate and an unintentional act of cruelty, and the laws should reflect this and make it easy for the courts to determine which applies.

ACA opposes the 'proposed approach' for animals covered by the new laws.

3 Legislative framework

ACA objects to putting forward an Act that is only a "framework" for debate and voting on in parliament.

ACA objects to the details of the Act being written into Regulations, rather than the Act itself.
Simply stating that the detail will be in Regulations is insufficient for anyone to make a reasoned and objective decision as to how such an Act would/could actually work in reality.

Purportedly this is to make it easier to make amendments to the regulations without the need for any debate in parliament. This is the very reason NOT to allow this. The fact that NO Regulations have yet been drafted to accompany the Bill to be debated in parliament is concerning to say the least, considering that the Regulations will be what makes up the actual legislation. This is an unacceptable way to deliver legislative reform and leaves stakeholders outside of the consultation process.

This Plan has utilised the Queensland Act as a precedent, and accordingly ACA points out New South Wales has agreed to providing a working draft of the proposed regulations of the new Animal Welfare Act at the same time the draft Act will be presented to parliament. Any suggestion this can not be followed in Victoria simply implies the reluctance of the Andrews Government to adequately consult with stakeholders.

Inclusion of Codes of Practice in the Regulations

While ACA supports the existence of mandatory minimum standards of care, the proposed inclusion of current Codes of Practice which have been written to improve practices, and as stated can be used as a defence, are not intended to be enforceable.

Minimum standards of care within the Act are the driving contributors to what should be considered as mandatory requirements for animal owners – NOT guidelines extrapolated from a code of practice.

ACA opposes the transition of Codes of Practice into enforceable standards within the regulations.

ACA supports codes of practice for animal keeping that can be used as a defence to a charge and by the Courts as reference to a person's reasonable actions.

ACA does not buy into the argument that Regulations are only reviewed every ten years and therefore this justifies the convenience of a government being able to amend the regulations at their will.

Any matter of such importance, so as to warrant a change of the regulations equally warrants the need to consult with ALL stakeholders including providing the opportunity for those matters to be heard/tabled in parliament. This is a matter of ensuring animal welfare AND the ability of animal owners to meet those welfare needs – it is not treated as a trivial concern.

ACA opposes the notion that contesting an infringement notice in court can result in significantly higher penalties. This notion discourages people from having their case heard due to economic factors.

ACA opposes the notion that contesting an infringement notice in court can result in significantly higher penalties.

ACA recommends this area is reworked so that those issued an infringement notice have a right of appeal to the court.

ACA supports education prior to infringement notices being issued except for severe and/or deliberate cruelty cases.

> ***"Good-practice guidance can also be developed to support the Act and the mandatory regulations. This guidance could come from government or from reputable industry, veterinary or scientific bodies. The guidance may be able to be used to show that standards of care of animals have been met. Prosecutions may use guidance on care requirements to determine what constitutes good practice."***

ACA supports 'good practice guidance', where animal keeping groups (and other representative bodies) develop the guidance codes with endorsement by the government.

> ***"Like the current POCTA Codes of Practice, the regulations would provide for exceptions to the offences in the Act, including the care and protection offences (that is, if you do something in line with the Act and the details in the regulations, you can't be prosecuted for cruelty). The regulations would also clearly set out what is mandatory: if you do an action where there is a regulation, you must do it in the way the regulation states."***

While ACA recognises the intent of there being actions that you must do this statement fails to recognise there may be more than one method to achieve a specifically desired outcome. To stipulate

that what is in Regulations as the ONLY way to achieve a desired outcome with regard to effective animal welfare, is impractical. Individuality is also disregarded here. Specific processes that may work for one animal (or even most animals), may not elicit the exact same positive welfare outcome for another animal, even of the same species.

Therefore, it is vital **that 'proper consultation' is undertaken at ALL Points of the drafting of the Act, the Regulations and any subsequent Codes of Practice.**

To enhance 'proper consultation' consideration must be given to forming expert groups of pertinent stakeholders. Legislating the consultative expert groups is strongly recommended to ensure consistency across any period of time between reviews.

'How Would It work in practice?

To "*prevent a dog from suffering"* or "*prevent cattle from suffering*" are admirable examples, however, the offence must NOT be that the dog or cow is likely to suffer (or even is suffering), rather, the offence MUST be the action (or lack thereof) that the person performs, and that has been determined to result in suffering.

Animals in entertainment

ACA strongly recommends that the category of Animals in Entertainment be deleted in its entirety and regulations dispersed across the other categories, OR, at worst, replaced with the title of "Working animals". "Animals in Entertainment" is a derogatory term regularly touted by Animal Rights Extremists, and offensive to almost all animal owners. Zookeepers, therapy animal owners, and mounted returned servicemen deserve more respect than this.

Even with a Working Animals category named more appropriately, privately owned horses don't readily fit into any of the categories outlined. They have very different animal husbandry needs to all other livestock animals, they are kept and cared for as unique individuals, unlike production animals.

Horses more closely fit the classification of companion animals, and most owners would love to share their home with their horse, if they could. But horses have very different needs to other companion animals in regard to required space, feed, company and exercise.

Owners share their lives with their horses. Horse keeping requires huge sacrifices of time, money and physical labour to care for them, and that's before ever saddling up. Would exercising your own horse (a recreational activity) seriously be considered "Entertainment"? What an insult and debasement of the human animal bond.

What category would private horse ownership fall into? Most of them? How do we separate when we are caring for a horse and meeting his need for exercise, and "entertaining ourselves"? The horse doesn't know the difference.

While horses are an obvious example of why these categories are flawed, other species also cross over multiple lines, particularly birds and the licensing of native bird species, native mammals as companion animals, and even cats are problematic. Which category do feral cats and dogs belong in? Animals in the Wild? They're certainly not companions!

Good Animal Welfare is good animal welfare, regardless of the activities the animal engages in.

- Why is the animals experience being anthropomorphised?
- Are they not part of our world?
- Are we not trying to make a safe space for them alongside us?

Animal owners do not view their animals in these "categories" of how we "use them". We don't store animals in the garage in the dark until we want to entertain ourselves. These categories, particularly "Animals in Entertainment" add unnecessary confusion to animal owners who cannot separate our time with our animals into neat categorical boxes for enforcement officers to tick, as this is all simply our daily existence with our animals. What is the welfare benefit to this?

Without draft regulations to inspect, ACA cannot see any welfare improvement to creating these new categories. Animal Rights labels on legal, and legitimate animal industries simply do not belong in Animal Welfare Legislation, and they don't make sense applied here.

ACA strongly recommends that the category of Animals in Entertainment be deleted in its entirety.
Animal interactions that may require licensing have no place being bundled together in such a derogatory way.

4 Decision making principles

> ***"The decision-making principles would not apply to decisions by Authorised Officers under the new Act. Decisions made by Authorised Officers would have to be consistent with the compliance and enforcement provisions in the new laws."***

ACA finds that these decision-making principles are inappropriate for decisions made by Authorised Officers, while Enforcement Officers themselves are exempt from complying with the laws they are enforcing. If Authorised Officers are not subject to the same standards of decision-making with regard to animal welfare outcomes, then there may be too much scope for abuses of power that are already endemic under the current legislation. Other authorities do have to consider animal welfare when making decisions and this is reasonable, however, this is not always the case and can often lead

to anomalies and bias resulting in confusing outcomes.

Animal Rights Extremists influence animal welfare with the goal of ceasing the keeping of all animals in "captivity".

Such individuals and organisations, no matter how extreme, are entitled to their view in our democracy and may be considered stakeholders when reviewing the keeping or not keeping of animals. However, they are NOT stakeholders when the consultation is addressing the regulations or guidelines of animal husbandry.

> ***"The new laws would also include an obligation for public authorities and Ministers administering other Victorian legislation to consider the care and protection of animals, where relevant. This would mean that authorities across different portfolios relating to other activities, such as fishing, hunting and the management of pest animals, must consider the care and protection of animals when making decisions that impact animals. This may include decisions relating to the review or development of other legislation."***

This is another example where using the term Animal Protection changes the meaning of the sentence from a necessary Animal Welfare consideration to an extreme Animal Rights meaning. "Care and protection of animals" (and in every other instance where it occurs in the Legislation or regulations) must be changed to "animal welfare". The inclusion of "protection" is a sleight of hand to insert extremist Animal Rights ideologies into Animal Welfare legislation.

Does this also require any current legislation that restricts or inhibits animal welfare to be reviewed or over-ridden by this new Act? For example: the current Planning Law restriction of allowing only five animals per property?

5 Application of the new laws

ACA objects to putting forward an Act that is only a "framework" for debate and voting on in parliament.

ACA objects to the details of the Act being written into Regulations, rather than the Act itself.

Simply stating that the detail will be in Regulations is insufficient for anyone to make a reasoned and objective decision as to how such an Act would/could actually work in reality.

Purportedly this is to make it easier to make amendments to same without the need for any debate in parliament. This is the very reason NOT to allow this. The fact that NO Regulations have yet been drafted to accompany the Bill to be debated in parliament is concerning, considering that the Regulations will be what makes up the actual legislation. This is an unacceptable way to deliver legislative reform and leaves stakeholders outside of the consultation process. As previously stated,

the current NSW review is taking the draft regulations into consideration in order for parliament to consider the draft Act.

The following should be included as an Object of the new Act:

> ***Proposed approach***
>
> ***The new laws would apply to the actions of humans towards any animal in Victoria, while also recognising that animals can be owned and used for legitimate and necessary purposes.***

ACA opposes granting any additional powers to Authorised Officers

Authorised Officers, in particular those not in the employ of the state, such as RSPCA, are currently operating without appropriate oversight, transparency and accountability. The current Act and the proposed draft, places RSPCA enforcement officers above the law, with no ombudsman or accountability.

This has come under increased scrutiny nationwide by the public as well as government, leading to several Parliamentary Inquiries. Increasing enforcement powers at this time is inappropriate without reform of how charitable organisations are permitted to operate as enforcement agents.

Educating the public about the new laws and ongoing responsibilities

A focus on education including funding for public education on Responsible Animal Ownership should be mandated and included within the Act.

It is critical that what people must or must not do is made clear in documents that are accessible to the public, especially in terms of how they are worded and designed and in terms of availability to end users.

Education should be ongoing, not just during the Act's implementation.

ACA strongly recommends continual funding for education be written into the Act.

6 Care

It is unclear to how the "minimum care" requirements will work given they are enforceable.

> ***"Expectations of care would be informed by the current POCTA Codes of Practice and the Australian Animal Welfare Standards and Guidelines."***

This statement is ambiguous and imprecise and indicates a code intended to improve welfare and act as a defence is now enforceable.

> ***"Care requirements would enable earlier intervention to prevent harm, pain or distress (cruelty) to an animal before it occurs."***

What does 'earlier intervention' mean?

Early intervention has never been exempt from POCTA – ACA has promoted education over regulation for exactly this reason – prevention is certainly better than cure. However, if this implies early intervention through prosecution and more seizures of animals for minor offences or oversights, then this is a serious problem with no Animal Welfare benefit and is TOTALLY OPPOSED.

From an Animal Rights perspective, 'earlier intervention' must not be included in legislation, that is, banning all pet ownership would certainly prevent most instances of animal cruelty in a domestic setting. ACA hopes this is not the intention of this legislation, and these types of terminologies that can be adapted by animal rights ideologies should not be under consideration.

> ***"Unreasonable harm, pain or distress of the animals would not need to occur before authorities could intervene."***

It is important that it is the actions (or lack thereof) performed by a person that are the offence when such actions are shown to be the cause of the harm, pain or distress, and not an offence to own an animal that has become distressed (such as when a plastic bag blows towards a horse and rider and the horse spooks – the spook is a sign of distress but it is not a sign of any cruelty or neglect).

> ***"Physical environment"*** and ***"Behavioural interactions"***

These are open to interpretation. The physical environment and behavioural interactions for many species change significantly throughout the seasons and over the life of some species, particularly for birds, reptiles, and horses. There are multitudes of different species kept in Australia. To ACA's knowledge, no RSPCA or other Authorised Officer or individual person, possesses the expertise to make such assessments for these species, no matter how common they may exist or encounter them.

ACA opposes the 'Care' offence as it is currently proposed as it is excessive overreach both in terms of intent and certainly in terms of enforcement. We support and prefer education initiatives to continually raise Animal Welfare standards in the community.

"Setting care requirements in the new laws gives practical effect to the recognition that animals are sentient – they have the capacity to feel, perceive their environment, and to have positive and negative experiences like pleasure and pain."

This implies that it may become a crime for an animal to experience bad feelings. This is unreasonable and impractical, not because it cannot be achieved, but because it shouldn't. All animals (including humans) need to experience some stress to learn how to manage their own emotions. It's how they learn and grow and become braver and more confident and happier. Puppies are known to go through a "fear period" when they reach 3-4 months of age, and a second at 9-10 months. Would this natural stage of development become an enforceable crime and the owners prosecuted under this Act?

ACA totally opposes the inclusion of*: "Setting care requirements in the new laws gives practical effect to the recognition that animals are sentient – they have the capacity to feel, perceive their environment, and to have positive and negative experiences like pleasure and pain."*
It has no place in animal welfare legislation

" Setting enforceable care requirements would reassure Victorians that people who do not appropriately care for their animals could be prosecuted."

The offences in the Act must focus on the **actions of people not appropriately caring** for their animals, not that the animal's experience of pleasure, pain, etc, as this is not always within the person's control. This would also unfairly open Rescues tasked with retraining animals, to prosecution, as it can be hard to predict an animal's response in a retraining setting when the animal's past experiences are unknown.

"Regulations would set more detailed care requirements for different species and activities involving animals. The regulations would be informed by the current POCTA Codes of Practice, and the Australian Animal Welfare Standards and Guidelines."

ACA opposes the above quote as it stands.

The current codes of practice under POCTA were never intended to be enforceable and may now become enforceable via the basic care requirements. **ACA objects to the conversion of existing COP's into enforceable offences** without relevant stakeholder consultation to draft these enforceable COPS BEFORE they come into effect.

"The requirements are not static and not every requirement needs to be met at every point in time. The new laws would mean that where a person caring for animals has taken reasonable steps to meet the requirements in an appropriate way, they would not commit an offence."

This point is unintelligible. It is too vague to assist in compliance and enforcement and implies that maybe the regulations must be followed and maybe they don't. So, who decides? The courts? As previously stated, Authorised Officers do not have the knowledge or experience required to make determinations based on such ambiguity.

This is not sensible legislation. Laws must be comprehensible to the community, achievable and minimum care standards explained explicitly in simple terms. Using the 5 Domains model of Animal Welfare would be the most practical and sensible way to explain these requirements. There is no need to over complicate or confuse the issues.

"Mandatory requirements for a particular species may require a person to provide a minimum of 10 litres of water a day"

How would one prove they met this requirement when the animal has already drunk the water? Or some of the water, and now there is only 6 litres in the bucket?

Who decides that the requirement was met, or not met? How does one protect themselves from malicious, and unwarranted reports from a problem neighbour, or Animal Rights Extremists? How does this approach make it easier or harder for animal owners to meet the standards in good faith?

"More than one person can be in charge of an animal."

ACA supports this statement in principle. Legislation should take care to note that persons prosecuted/fined for breaching a Care obligation should be restricted to only the person(s) actually guilty of the breach – i.e. if the legal owner of an animal is not involved in the day-to-day care aspects, but employs staff to perform those duties, and those staff breach Care obligations unbeknownst to the owner, then said owner should not necessarily be charged with the offence alongside the staff who committed the breach. If the owner was/is aware of the breaches and doesn't act to rectify the problem, and that can be proven, then they should be prosecuted.

ACA strongly recommends the entire 'Care' section is re-worked and reconsidered with the focus on the 5 domains model.

7 Cruelty

ACA reinforces the premise that it is the act or omission by a person that is the offence NOT the harm, pain or distress it causes.

The exception being elevating a "General cruelty" offence to one of "Aggravated cruelty" due to "the death or serious physical or mental disablement or impairment of an animal."

The reference to human cruelty and using cruelty to control or dominate a person, are misplaced in this Act and should be addressed within the Victorian Crimes Act 1958, as these actions cannot be addressed or resolved in Animal Welfare Legislation.

ACA generally supports the offences of "General cruelty", "Aggravated cruelty" and "Intentional or reckless cruelty" as described in this section of the plan.

> **"The offences would more explicitly recognise that harm, pain or distress to an animal can be physical or mental and include experiences such as hunger, stress and fear."**

Again, this is implying the offence is the animal experiencing harm, pain or distress rather than the offence being the act (or omission) on the part of the accused.

What is unreasonable harm? Pain or distress varies widely from species to species and even individual animal to animal. Human medicine has difficulty determining such matters with accuracy and the problem is even more difficult for animals. Care is needed to prevent unintended consequences such as people not performing procedures that may be distressing to the animal yet have justifiable welfare benefits, for fear of prosecution.

If sentience is the underpinning object of the Act/regulations, instead of the 5 Domains, then each animal will need to be evaluated as an individual, with individual needs/wants/reactions in regard to whether or not they are actually "harmed" under the very broad terms used here. Rescue animals that have been starved often experience distress at feeding times for many years after they are healthy again. The experience of the animal is not a reflection on the care of the animal, nor is it is a sign of any recent cruelty.

> ***"Guiding principles would be provided to the Courts for considering the penalties to apply if a person was found guilty of an offence"***

It is not possible for ACA to support or oppose the Guiding Principles as they have not been supplied for consultation. However again, the use of guiding principles leaves the Courts open to evidence likely provided by an Authorised Officer. The same person who is likely not knowledgeable on that individual animal and most certainly not a trained animal behaviourist.

8 Controlled conduct

> **"Procedures that enter an animal's body cavity are restricted to veterinarians unless the regulations permit a non-veterinarian to perform them. Examples of these procedures could include artificial insemination or pregnancy testing of livestock. Where permitted for non-veterinarians these would be strictly limited to the people identified in the regulations as being competent to perform them"**

The terminology used in this section indicates that the Regulations may become overreaching with regards to some common practices that currently don't require a veterinarian to perform and continue to provide animals with good welfare aims/outcomes, such as things like who can administer vaccinations, insert a microchip etc? Vet nurses currently need to obtain a separate Microchip implantation accreditation, while many dog breeders do not. Additionally, there is no mention of animal/veterinary technicians, or qualified/accredited individuals.

ACA strongly recommends focused stakeholder consultation is needed to prevent unintended consequences due to the current implied restrictions that could result in people avoiding some procedures in fear of being prosecuted. Not every procedure needs a vet.

9 Framework for specified classes of conduct

ACA accepts that some licencing and conditions may need to be updated/reviewed, and we strongly support consultation for each of those, this entire section is overregulation. Animal rights extremists continually aim to increase regulation, and restricting criteria, with the aim of making it ever more difficult to keep animals – nothing to do with welfare. **Licensing does not improve animal welfare.**

> ***"A change to regulations to require a licence could only be made after stakeholder and community consultation and an impact assessment to understand the costs and opportunities."***

ACA opposes the expansion of any animal keeping or activity licences beyond what already exists.
The Plan does not specify what specific activities could require a licence, and we can only make assumptions on the vague wording, which literally encompasses everything.

There is no history of Animal Welfare compliance issues at animal sporting and competitive events, nor recreational animal activities to justify such an excessive response from government. Animal

clubs and groups are community led activities that operate with insurance and under strict Codes of Practice, and Rules and Regulations. The suggestion that licences should now be required for all of these activities is ludicrous overregulation.

- ***Showing or exhibiting an animal for a commercial purpose***
- ***Keeping an animal in an intensive environment for a commercial purpose***
- ***Transporting an animal for a commercial purpose***

What constitutes a *'commercial purpose*? This is a significant issue for general/hobby breeders in Victoria and other jurisdictions. It requires considerable consultation and debate.

- ***Organising an event in which animals are used in sport, competition or recreation.***

Why would you consider licensing animal recreation?

ACA opposes licences for organising or participating in recreational, show or competition events involving animals.

This would in effect make private horse ownership and anyone that shows dogs a restricted activity. It encompasses normal everyday activities an owner would engage in with their animals. This is a massive overreach. To add insult to the overreach, the inclusion of this within the regulations, instead of the Act, means this can be changed on the whim of any future Minister.

Licencing all sporting, competition and recreational activities that are off one's private property would have devastating unintended consequences for animal welfare.

- Animals with owners not licenced will not have regular exercise as owners will avoid enforcement authorities
- Animals with owners not licenced who are injured engaging in recreational activities may not receive veterinary treatment out of fear of prosecution.
- People new to owning the species will have a red tape and financial barrier to gaining easy support from the animal community. People engaging in shows and competitions learn from experienced participants, in ways that cannot be achieved by watching others or on Youtube.
- Education is a primary benefit of participating in competitions. Judges are experienced experts in their fields and provide invaluable personal feedback to participants on what to improve and what they are doing well.
- Animal Trainers are key sources of community education, and should not have red tape or financial barriers placed between them and owners that will reduce the numbers of animals receiving behavioural assessments prior to them becoming unmanageable or dangerous.
- Recreational activities with groups of other animal owners are low pressure educational environments. Positive peer pressure encourages everyone in the group to improve and do better, with support, encouragement and advice on where to find the resources to help.
- Currently all this education is FREE to government, or low cost. Its community led, and

participants are supervised and monitored over time. Making this more expensive or just too difficult to bother will lead to more animals being much less visible – improper care, feeding, or handling will not be visible to the community and not addressed with the early interventions this Plan claims to support, leading to poorer welfare outcomes. Keeping animals visible to the community is key to early interventions.

- Communities self-regulate members and recognise and monitor members whose standards are not up to par. "Problem people" in animal clubs and groups are tactfully offered support, encouragement to improve and resources by the club community. Making it harder to participate freely will lead to these people and their animals becoming invisible, and not being educated with early interventions or reported to authorities when they would otherwise be.

How will the government be replacing these free community led education and monitoring services? These community groups are important welfare services that currently operate as self-funded endeavours, and the vast majority are run by unpaid volunteers. The suggestion to licence these activities demonstrates a complete lack of appreciation to the invaluable resource that volunteers, and the animal organisations provide, and have done so for decades, providing free assistance and improving the lives of animals.

The Act should be supporting and commending the activities of animal clubs, groups, organisations and businesses and making it easier for all animal owners to access these low-cost services and be involved in their animal communities, not making it harder, restrictive and more expensive.

ACA opposes Licences for organising or participating in recreational, show or competition events involving animals.

"Classes of conduct"

This seems totally unnecessary and should be dealt with in codes of practice or enforceable standards and guidelines.

> ***"Where an activity was licensed, Authorised Officers could enter the property where that activity is undertaken to monitor compliance with licence conditions (with safeguards for what is reasonable.)"***

ACA categorically opposes increased powers for any Authorised Officer to enter any dwelling or premises used for residential purposes without permission or warrant or it being an emergency.

ACA specifically opposes such right of entry to monitor compliance.

The new Act must explicitly recognise the immense societal advantages of keeping animals. It must support and encourage animal keeping whilst aspiring to raise animal welfare outcomes through responsible animal ownership.

> ***"Regulations can be revised in response to new scientific understanding, changing industry practices or technology, administrative arrangements or community expectations. Revising a regulation still requires processes such as stakeholder and community consultation, and in most cases, an impact assessment to understand the costs and opportunities of any changes."***

Community expectations do not mean the loudest voices in the community. There is a very loud, but very insignificant minority of Animal Rights Extremists who oppose animal ownership of all kinds. As such, these groups should be excluded from review processes.

10 Scientific procedures

ACA is aware that the Animal Research industry is one of the most highly regulated in the world. We support animals in the scientific/research arena while under the supervision of an Ethics Committee. An Inquiry in NSW has recently recommended the NSW Animals in Research Act remain separate from the new Animal Welfare Act. We recommend consideration is given to a similar outcome.

11 Authorised officers

Oversight and accountability of the current Authorised Officers (RSPCA) is sorely lacking and urgently required. Accountability and oversight measures in place for government employees inexplicably do not currently extend to all Authorised Officers.

RSPCA Inspectorate, police, etc. are not qualified in behavioural and physical health assessments on a multitude of species (small mammals, bids, reptiles, amphibians, livestock etc) with perhaps some understanding of dogs and cats. It is ACA's considered position that this makes them unsuitable to conduct assessments for all but the most obvious cruelty offences.

> **"A person would also need to be employed in a role that requires them to perform duties under the new laws to be appointed as an Authorised Officer. They would also require appropriate qualifications or training to become an Authorised Officer, and the Secretary would be able to direct Authorised Officers to complete additional training or qualifications at any time. This training might cover the appropriate use of investigation powers, or humane euthanasia methods for animals."**

Qualifications and/or demonstrated experience in animal husbandry/management should be mandatory for ALL newly recruited Authorised Officers. Priority in qualifications should be focussed

on animal welfare related qualifications and/or experience, before consideration of any criminal investigation experience.

There is no reason Authorised Officers should need to breach Animal Welfare Legislation in the course of their duties, Authorised Officers SHOULD NOT be exempt from the same compliance as everyone else. Where circumstances may arise, that should be considered by the Courts as it is with any other individual.

ACA recommends that any/all prosecutorial powers should be removed from 3rd party agencies like the RSPCA and placed under government run and regulated department(s) (i.e., DPP). There is precedent for this in the animal welfare legislation of the ACT, Western Australia, and the current amendments to the Queensland Act.

12 Authorised officers' powers

> ***"An Authorised Officer could also apply to a Magistrate for a search warrant to enter a premises or a dwelling to investigate an offence and search for evidence"***

ACA recommends it should be a requirement for an Authorised Officer to obtain a warrant before entering any dwelling or premises used for residential purposes. There should be no ambiguity regarding this, especially not that they "could" apply for a warrant.

There are two exceptions:

1. Permission is expressly given, but only after the officer has explicitly made it clear the person does not need to give permission and that permission can be withdrawn at any time.
2. In an emergency where an animal is in imminent danger.

> ***"A reasonable belief requires a genuine belief, with a stronger factual basis than would be required to support a reasonable suspicion.***
>
> ***"A suspicion is less than a belief, but more than a possibility or a hunch – it has to have a basis in fact, but it is less than the threshold of believing something has occurred based on observable facts."***

ACA objects to lowering the threshold allowing entry to a premises. There must be a completely credible reason for entry, not simply a "suspicion", as a "suspicion" is purely subjective and ambiguous and could be open to abuses of the powers of entry. Strict wording as to what constitutes "reasonable belief" as a means to entering a dwelling would need to be outlined in order to negate any possibility of abuses of power by Authorised Officers.

ACA strongly opposes the ability of an officer to enter residential premises to perform licence compliance inspections without prior consent and must be by appointment. This is consistent with

all other compliance inspections that businesses are accustomed to. Entry to dwellings and premises without permission is a serious matter that certainly should not be permitted to monitor compliance.

ACA categorically opposes increased powers for any Authorised Officer to enter any dwelling or premises used for residential purposes without permission or warrant or it being an emergency.

ACA specifically opposes such right of entry to monitor compliance.

General powers

> ***"As well as powers to enter, the new laws would include a range of general powers that an Authorised Officer could use once they entered a property, including powers to:***
>
> ***9. Examine Animals***
>
> ***10. Take samples from animals or things***
>
> ***13. Euthanise animals"***

Taking samples from animals requires some medical/husbandry skill that many Authorised Officers do not have. Will training in these veterinary procedures be legislated?

The determination that an animal is requiring immediate euthanasia by an Authorised Officer must require that determination to be made strictly by a veterinarian, except in extreme and clearly documented situations. In non-urgent situations, the closest veterinarian should either be in attendance or consulted (via electronic means) BEFORE any such actions take place.

Animals should not be transported long distances to be euthanised by an RSPCA veterinarian when an independent veterinarian is closer, or available sooner. If a vet makes a determination to euthanise an animal in absentia, this needs to be documented as to how/when that determination was made and accompanied by a legal declaration by that vet to verify the veracity of the determination and any subsequent action taken.

Declarations by vets after the fact can NOT be regarded as supportive evidence that the action was necessary at the time of commission by an Authorised Officer. These instances should be so obvious to even the most uneducated observer that the euthanasia was necessary and urgent that such evidence would not be necessary.

Powers for people other than Authorised Officers

> ***"Like the POCTA Act, the new laws would include a small number of powers for people other than Authorised Officers. This would allow veterinary practitioners and the responsible***

person at a saleyard to euthanise an animal without the consent of the owner, if it would be unreasonable for the animal to be left alive because of the harm, pain or distress it's suffering or is under imminent threat of suffering, or because the behaviour of the animal is a danger to other animals or people."

ACA supports this provision in principle, however the specific persons with this temporary power (such as the responsible persons at saleyards) must be clearly defined in legislation, not the Regulations.

The only exemption being for an animal being "a danger to other animals or people" where safe containment or risk mitigation of the danger is not possible in the specific circumstances. The most humane method of euthanasia available under the circumstances must be utilised.

13 Seizure and disposal of animals

ACA has serious concerns that Authorised Officers and veterinarians at RSPCA have very limited expertise with species outside of dogs and cats.

ACA recommends education over the seizure of an animal, with the exception where an animal is unclaimed or in imminent danger. Education and/or assistance MUST be the first interaction utilised providing the owner the opportunity to act on instructions. ACA notes this is recommended in the regulations, but it should be mandatory. Animal Welfare and the opportunity to educate animal owners should not be a secondary consideration to prosecution.

Ministers Discretion

ACA supports the Minister having discretion to provide financial compensation to someone who's animal was forfeited or disposed of, and they were later not convicted of the offence.

As an additional note: Animals must be retained at the expense of the State - not billed to the owner or absorbed by the enforcement authority.

ACA, in principle, supports oversight approval by the Minister or Secretary prior to seizure, however it is likely certain cases are time sensitive and obtaining such approval would not be in the best interests of the animals. This could be a role tasked to a Local Court or other such independent individuals?

ACA also recommends the introduction of oversight for Authorised Officers, such as the Ombudsman's Office. Such oversight already exists in other jurisdictions.

> **"The seizure powers in the new laws would be similar to powers available under the POCTA Act, while the powers and processes for what happens to an animal once it was seized would be streamlined to avoid the need to keep that animal in unsuitable conditions for a lengthy period."**

ACA opposes the fast tracking of disposal of seized animals. Animals must be cared for until an offence is actually proven (or not proven) in court.

ACA acknowledges that shelters are not a positive environment for animals, however, unless an animal is in imminent danger, there is no good Welfare reason to seize an animal. Accordingly, should an animal be seized, ACA strongly encourages the use of a fostering system similar to that utilised by the NSW Animal Welfare League. This would reduce the burden on the RSPCA and the additional shelter-related risks to the animals.

> **"Despite any other powers or processes (including review processes), an Authorised Officer (as well as a registered veterinarian) would always be able to humanely end an animal's life if the animal was injured or ill and experiencing pain and suffering and would continue to suffer if left alive."**

As stated previously, unless an Authorised Officer is also a veterinarian, decisions to euthanise must ALWAYS require assessment by a veterinarian.

> **"For all seizures where an animal is seized and maintained by the department or enforcement agency, the costs associated with maintaining the animal (such as feeding, and any veterinary services required) would be able to be recovered from the owner of the animal. Not paying these costs would mean an animal is forfeited and may be disposed of.**
>
> **"Any proceeds from selling an animal that is forfeited would be offset against costs of maintenance, with any remaining proceeds returned to the owner."**

ACA strongly recommends that costs should be covered by the State, as they are in other criminal proceedings.

Given the State is likely to reject this, then costs must ONLY be recoverable from the owner of the animals once they have been found guilty of an offence.

> **"Under the new laws, the Minister would be able to authorise disposal of an animal, even where court proceedings are not finalised. This would address the existing issue of animals needing to be kept in unsuitable conditions during lengthy court proceedings."**

ACA strongly objects to this whole provision as it is written. It appears that by recognising sentience of animals as a means to "streamline" the removal and disposal of them, without considering the emotional aspect that owners themselves experience when wrongly or maliciously accused of acts of "cruelty" and lose their animals as a consequence of such accusations. Technically, what is being proposed here is to treat animals as "sentient" for certain purposes of the Act, but as property when it suits a function such as disposal of an animal because of the financial constraints associated with caring for them while the legal processes run their course. ACA reiterates that Authorised Officers must NOT be exempt from the Animal Welfare Act they enforce! This is simply "convenience killing"

at its finest, where there is an owner already willing to take that animal home. If the animal is not in imminent danger, seizure should not be necessary.

ACA strongly suggests this entire section is re-considered with the animal and the owners' best interests in mind.

14 Enforcement toolkit

> **"To safeguard against this power being used inappropriately, an Authorised Officer must get approval from a supervisor or more senior person in their organisation before returning to check compliance with a notice."**

ACA is opposed to any forced entry to dwellings or premises by Authorised Officers. Supervisor permission is insufficient, particularly in the case of RSPCA being offered greater powers than Police, but with no operational oversight and accountability. Following issue of the notice, regulators would be able to conduct inspections to assess compliance with the notice and MUST be done at a reasonable time for the owner of the property.

ACA opposes RSPCA as an appropriate organisation to enforce court orders. Authorised Officers are not police and orders are better enforced by police or other state employed officers.

> **"The new laws would also enable courts to make adverse publicity orders (where a court orders a person or body corporate to publish information about their non-compliance) in an expanded range of circumstances beyond just scientific procedures offences."**

ACA opposes this bewildering level of overreach, since no such orders are in place for other crimes such as armed robbery, assault or murder. This is proposing government sanctioned public shaming, inciting harassment and possible violence upon an individual directly. This provision is absurd and offensive.

> **"Regulations would also prescribe forms and information to be provided in notices to comply and notices of intent to seize and dispose of animals, which may include information about how to complain about the conduct of an Authorised Officer."**

ACA finds this statement unacceptable. This information MUST be included (not 'may' include) and be directed to an independent party (such as the Ombudsman Office). Oversight and accountability of Authorised Officers (RSPCA, Rangers, etc) must be enshrined in the Act and the complaints system must be readily available to all Australians, regardless of wealth, language or colour. Accountability

and oversight measures in place for government employees should, but do not currently, extend to RSPCA, and this must be corrected in the new Animal Welfare Act.

> **"The new laws would also provide for a notice to comply as a key tool for enforcement to be used in situations where a person is required to perform or cease certain actions to comply with the legislation. An Authorised Officer would be able to issue a notice if they believe someone is committing or would likely commit an offence. This might be an offence of failing to comply with the new care requirements, a cruelty offence, or an offence against a regulation."**

Again, '*Likely to commit an offence*' is overreach. This is effectively criminalising a person's unknown thoughts. Until a person commits an offence, through an action (or lack of action) no offence has been committed!

The suspicion that an offence may be committed is the opportunity to engage in education and provide resources the person needs to support their animals.

> **"Control orders under the new laws would be similar to those applicable under the POCTA Act, with minor improvements. Control orders are a key tool to prevent further harm to animals when a person has been convicted of an offence."**

ACA supports orders being made at the discretion of the court.

> ***"The new laws would also continue to allow the recognition of control orders made in other states and territories in Australia, so that people cannot cross state borders and continue cruel activities."***

ACA supports this provision ONLY if the same offence (or category of offence) carries the same penalties in those other states.

15 Co-regulatory approved arrangements

> **"Approved arrangements unlikely to apply to smaller businesses and organisations such as cat breeders, vet practices, petting zoos, and wildlife carers"**

Is this discrimination towards smaller organisations and institutions? Companion animal breeding Codes Of Practice have been developed over many decades and should be the catalyst for any of these bodies to qualify for co-regulation. Arrangements should be available to the most experienced and most qualified people in their related field.

The fact these excluded organisations are then voided of the opportunity to improve and develop their existing Codes in order to co-regulate is a blight on the further improvement of animal welfare.

Co-regulation should either be provided to everyone or to no one.

ACA questions the exclusion of veterinarians given they are governed by the Veterinary Act. The opportunity to co-regulate could be utilised by veterinarians to improve recruiting and retaining vets to support the growing animal keeping community, which as we know, is a serious issue, and statements such as these send an incorrect message to the public and future veterinarians. That is, they are not seen as fit enough to co-regulate or manage themselves.

16 Other administrative arrangements

> ***"Regulatory bodies can incur significant costs for administering and implementing animal welfare laws. Where appropriate and within Victorian government guidelines, costs should be recovered, and the new laws would prescribe where this will occur"***

Prosecutorial and agistment costs should ONLY be recoverable IF the charges are proven in a court of law. Plea deals to lesser or less numerous charges should NOT be taken as an actual declaration of guilt, as most can be shown to have been acceded to under duress – usually the threat of financial and reputational ruin in order to defend oneself under the current legal system.

The reverse should also be mandated in legislation, where a not guilty finding is made, and costs awarded to a defendant, the prosecuting body MUST pay said costs in a reasonable timeframe and in full.

- **ACA recommends that costs to maintain animals whilst court proceedings run their course should be charges to the crown**. Currently, individuals plead guilty based on cost rather than the merits of the case. The kennelling/maintenance costs often far outweigh any penalty or costs of legal representation to plead their case.

ACA wishes to highlight the following additional arrangements:

- **ACA supports regular review mechanisms.**
- **ACA supports the "Animal care and protection fund" but with its correct name restored to the Animal Welfare Fund**. Animal Welfare is much broader than just animal husbandry ("animal care"), and Animal Protection has no relationship to Animal Welfare at all.

ACA is seeking further information as to how the decisions to whom it would fund are to be determined. This is to ensure those funds are directed to genuine Animal Welfare causes and not Animal Rights groups, who do not work with actual animals.

Education is central to the activities of animal clubs throughout Victoria and nationally, it is a key benefit of membership. Grants to expand this work would make a significant difference to animal welfare, as currently the vast majority of these organisations are small, self-funded and operated by unpaid volunteers who cannot keep up with the demand on their time and resources.

1. To not detract from the Animal Welfare focus of these funds, the final fund's purpose ***"f: Increasing the scientific understanding and knowledge of animal sentience"*** should be deleted as this is an Animal Rights objective and not Animal Welfare.

This fund should not be "underpinned" by a definition of Sentience instead of a peer reviewed Animal Welfare model (the 5 Domains) If there is currently insufficient scientific understanding of sentience then Sentience should be removed from this Act, not just this funding grant. A clear distinction MUST remain between Animal Welfare and Animal Rights.

In contrast, Companion Animal Welfare Science grants would be a worthy replacement of this final point, as companion animal research has almost no funding sources like their counterparts in agriculture, racing and animal research do. The Animal Sciences department at Melbourne University would undoubtedly be happy to advise on what is most needed and how this grant category should be correctly worded. It is important that funds are not taken away from Animal Welfare and misallocated to Animal Rights groups. This would be an extraordinary misappropriation of funds.

- **ACA supports the Expert Advisory Group with provisos**. It must recognise private expertise and long-term knowledge and skills. ACA recommends positions on the Expert Advisory Committee and subcommittees include representatives appointed by appropriate significant organisations rather than, or in addition to individuals, in the way the National Horse Traceability Working Group was formed. ACA has also recommended a 'Companion Animals Welfare Committee' be established as discussed in our previous consultations. ACA is well positioned to be a member of the Expert Advisory Committee.
- ACA notes that independent accountability and oversight of Authorised Officers and their enforcement agencies has not been included in the Plan. **This is a significant oversight.**

Additional comment:

ACA acknowledges and supports the submissions of our member organisations; The Canary and Cage Bird Federation of Australia Inc. and Professional Dog Trainers Australia, which were provided to us in advance of being submitted.

ACA welcomes the opportunity to consult on this important review, and we trust the department and government recognise and implement the feedback provided by animal welfare organisations, who are experienced in caring for animals and their welfare, and not animal rights affiliates who base their input on ideological anthropomorphism.

On behalf of the Animal Care Australia Committee,

Michael Donnelly

President.