



Victoria's new animal care and protection laws 2022

Submission of the Victorian Division of the
Australian Veterinary Association Ltd
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The Australian Veterinary Association (AVA)

The Australian Veterinary Association (AVA) appreciates the opportunity to contribute to discussions that assist in Victoria's new animal care and protection laws.

The AVA is the national organisation representing veterinarians in Australia. The AVA consists of over 8500 members who come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, farm animals, such as cattle and sheep, and wildlife. Government veterinarians work with our animal health, public health and quarantine systems while other members work in industry for pharmaceutical and other commercial enterprises. We have members who work in research and teaching in a range of scientific disciplines. Veterinary students are also members of the Association.

Victorian registered veterinarians are critical for the application and legitimacy of this legislation. The standard of Victorian veterinary registration contributes to the protection and benefits of animal health and welfare and of public health, determined by what modern Victorian society expects of this new modern legislation.

Registered veterinarians, by virtue of their training, skill and knowledge, promote animal welfare at all levels of activity and interactions with humans or animals.

Most veterinarians work in small, private businesses which provide the clinical veterinary needs of animals across Victoria. Services are provided to animal owners, animals without owners and the wider community.

The maintenance of modern standards permits access to domestic and international markets, ensures safety, supports the integrity and productivity of agricultural industries and allows continuance of animal sporting industries. Animals used for work on farms and in service industries must be healthy and reliable, and the ethical use of laboratory animals is critical for academia, product and medical research and development.

It has been understood for more than a century that animal and human health are interdependent, as acknowledged by the "One Health" paradigm. Modern standards of animal health and welfare directly affect human health and safety through biosecurity, food safety and security. With pets as family members in almost 70% of Australian homes, the impact on human wellness (health and wellbeing) is a significant public health and economic benefit.

Summary

In general, the AVA supports the approaches being undertaken to the key matters listed in, "Victoria's New Animal Care and Protection Laws – Plan" (the Plan) and acknowledge the necessity for the modernisation of animal welfare laws.

More specific comments/views on some aspects are as follows.

Where we have not commented this can be taken as support.



Recognising sentience

The proposed policy approach, namely that animal sentience will be recognised explicitly, is sensible and appropriate. This is strongly supported by the AVA.

Recognising sentience in the Purposes of the proposed Act ensures that this underpins the decision-making principles and the setting of care and protection requirements and standards under the new Act.

Animals

The AVA supports the proposed definition of animals.

It is important to note that sentience is why animal welfare matters and species cannot be exempt without affecting the integrity of the legislation.

Omitting certain species from animal welfare principles does not adequately honour the recognition of sentience and likewise, omitting the requirement for veterinary care, fails to protect animal welfare.

Legislative Framework

We understand and support that the Act will be principles based, with much or indeed most of the detail in the Regulations and related subordinate legislation. It is critical that we are consulted during the making of the Regulations and have confidence that inclusive consultation will continue as has occurred to date.

The current approach of having voluntary codes of practice has not ensured appropriate standards of animal care in some circumstances, and we support the translation of codes into the regulatory framework. It will be particularly important that National Animal Welfare Standards and Guidelines can be directly adopted 'as is' under the new legislation.

Decision making principles

We support placing an obligation on decision makers to consider animal care and protection.

It will be important, however, to recognise that often animal welfare is a balance between 'harms' and 'benefits. A good example is in relation to approval of pest animal control measures and tools – it is difficult to control some pest animals, for example wild dogs, without some welfare impact, but this needs to be balanced against the very significant welfare benefit from the prevention or reduction of the savage mauling and killing of lambs and calves. Even so, where control is necessary, best practice must be utilised and the most humane method of control must always be chosen.

Application of the legislation

Veterinarians

For the safety of animal and public health we strongly support that only registered veterinarians are allowed to perform veterinary acts.



More accurate wording to align with veterinary legislation, such as ‘veterinary acts’, ‘veterinary practice’ or ‘veterinary services’ should be used, rather than ‘veterinary treatment’, which is limited compared with what is required of veterinarians in legislation

Veterinary registration encompasses not only veterinary treatments but the many actions, decisions and activities that occur to determine safe and appropriate treatment for the animal and public health, welfare and safety. Considerations such as diagnosis, animal restraint and analgesia, surgery, post-operative confinement, imaging procedures, blood collection, administration of medication, side-effects, animal product integrity, public health implications, professional conduct etc.

The Veterinary Practitioners Registration Board of Victoria states,

A veterinary practitioner’s work is diverse. Veterinary services, whether in clinical or non-clinical practice, extend beyond engaging with individual owners and animals to include food safety, public health and biosecurity.

The Guidelines assist a veterinary practitioner to evaluate situations (whether in relation to a clinical matter or not) and make competent and reasonable decisions about the most appropriate course of action.¹

It is an offence under the [Veterinary Practice Act 1997](#) for individuals not holding veterinary registration to claim to be registered, use the title, claim to be qualified to practice, or carry out a veterinary only act. This safeguards the standards of animal welfare in Victoria on which the legislation is built.²

Other exceptions

The proposals in the Plan represent a distinct improvement on the current situation.

However, activities which produce unreasonable harm, pain or distress undermine the intention and credibility of the new Act and should either be restricted, ceased or require registered veterinary involvement for oversight and intervention.

Veterinarians by virtue of their training, skill and knowledge promote animal welfare at all levels of activity and interactions with humans or animals.

Veterinarians have particular skills and professional responsibility to ensure that animals owned by and/or controlled by people receive adequate care. This responsibility should be exercised in all the human–animal relationships, from animals in the wild making brief contact with humans to farmed, flock and herd animals, companion animals, and animals used in sport, entertainment, education and research.³

It is essential that there is clarity in the way different legislation regulating aspects of animal handling and use are bound (or not) to the provisions of the new Act. For example the *Fisheries Act 1995*, the *Meat Industry Act 1993*, the *Wildlife Act 1975* and the *Catchment and Land Protection Act 1994*. Certainly, the current ‘exemptions’ to the application of the POCTA are unclear and generally inappropriate.

1 https://www.vetboard.vic.gov.au/VPRBV/VPRBV_Guidelines/Guidelines_Introduction.aspx

2 <https://content.legislation.vic.gov.au/sites/default/files/2022-10/97-58aa044%20authorised.pdf>

3 <https://www.ava.com.au/policy-advocacy/policies/animal-welfare-principles-and-philosophy/philosophy-on-animal-welfare-and-the-veterinarian>



Activities within farming and racing which challenge or impact animal welfare, must involve veterinarians to allow alternative practices or minimisation of harm, pain, and distress.

The AVA continues to oppose the hunting of terrestrial animals including birds which should not be hunted purely for sport or recreation.^{4 5}

Where animals are killed for food, or as part of a government mandated feral animal control program, this must be regulated and conducted humanely.⁶ Currently there are local council pest control community programs where the untrained community is encouraged to trap animals without oversight of animal welfare – this is completely inappropriate.⁷

Pest species are sentient. In these circumstances the Codes of Practice for the Humane Control of Vertebrate Pests and associated Standard Operating Procedures must be strictly adhered to and enforced for private pest controllers, local government and the community.

When fish are farmed, kept in aquaria or captured from the wild for commercial or recreational purposes all efforts must be taken to minimise suffering of the fish.⁸

Animal care Requirements

The Plan proposes the use of enforceable care requirements, which we support.

The acknowledgement of sentience underpins the legal obligation of duty of care.

It must be clear and objective for how individuals meet that duty/obligation.

We recommend that this duty of care be based on the principles of the Five Domains and be enshrined in the new legislation. This is critical to clearly distinguish the new Act from dated ‘prevention of cruelty’ focussed legislation. The Five Domains looks at animals’ needs in five “domains” of potential welfare compromise, and the degree to which those needs are - or are not, met. The first four physical domains are nutrition, environment, health and behaviour. The fifth “mental” domain describes how those negatives (and positives) in the physical domains combine to affect an animal’s experience. Contemporary animal welfare science aims for a reduction or elimination of the negative experiences, and a predominance of positive states in each domain, for the animal’s experience of life.

It is important that veterinary expertise is utilised as necessary in the development of minimum care standards.

Importantly, despite not being privately owned, wild animals, pest species and stray or feral animals are sentient and responsibility of “charge” needs to be attributed formally to the Victorian Government, which includes to resource necessary veterinary care for these animals when it is required.

⁴ <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/hunting/>

⁵ <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/waterfowl-hunting/>

⁶ <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/hunting/>

⁷ Trapping Indian Mynas - Cardinia Shire Council

⁸ <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/fish-welfare/>



It is appropriate for veterinary care to occur as locally and quickly as possible. Local veterinary hospitals acting as a community resource, as acknowledged through 'Reuniting lost pets' legislation.

Frequently and appropriately, unowned animals are presented to local veterinarians when in pain or suffering because ethical and legal treatment obligations apply for veterinarians to relieve pain and suffering through veterinary registration. However, without resource, registered veterinarians also become financially obliged to provide these services for public good.

Cruelty and related offences

The AVA supports the proposals in the Plan.

Regulated Activities – Controlled Conduct

AVA strongly supports the planned provisions for controlled conduct in the context of defining and enforcing 'vet only procedures', being procedures (veterinary acts) that can only be undertaken by a registered veterinarian.

More comprehensive information may be found in the AVA policy on [Restricted acts of veterinary science](#).⁹

The absence of such provisions from the current animal cruelty and veterinary practice legislation in Victoria has been a serious anomaly nationally, and we congratulate the Victorian government for now committing to rectify this.

Having said that, it is our view that the Plan proposes a useful 'start' for introducing such necessary controls, but we believe that there are broader and further 'veterinary practice' procedures that should be similarly controlled for animal and public safety.

As discussed above 'veterinary practice' by registered veterinarians includes far more than just 'treatment' or 'surgery' (essentially what the Plan proposes as 'vet only procedures') which if undertaken by unqualified persons can have serious animal welfare consequences – for example 'diagnosis' and 'treatment' and some physical 'manipulatory' procedures.

We accept that if done poorly these latter activities may result in welfare impacts and possibly covered under general cruelty provisions, but often could fall short of being 'cruel' and represent unacceptable animal care and protection of animals and the public.

We strongly advocate that the definition of 'vet-only' in the new Act be widened to include 'any act that is required to be carried out by a registered veterinary practitioner' aligned with the Veterinary Act Part 5, 57 1c, such that there is protection for animals and the public from individuals who do not hold veterinary registration, have not received the necessary training to provide veterinary services and are not bound by veterinary legislation for professional conduct.

*A person who is not a registered veterinary practitioner must not carry out any act that is required to be carried out by a registered veterinary practitioner by or under an Act.*¹⁰

⁹ <https://www.ava.com.au/policy-advocacy/policies/professional-practices-for-veterinarians/restricted-acts-of-veterinary-science/>

¹⁰ Veterinary Act Part 5, 57 1c) (<https://content.legislation.vic.gov.au/sites/default/files/2022-10/97-58aa044%20authorised.pdf>)



Accordingly, we seek serious consideration of the new Act defining vet-only acts/ practice or services as follows (new words in **bold**):

A Procedure that:

- enters a body cavity of an animal, or involves cutting or removing tissue from an animal, where that procedure would ordinarily be done using local or general anaesthesia; or
- **any other veterinary only act/practice/service prescribed by the Regulations**

must be done by a veterinarian UNLESS

- the **act/practice/service** has specific allowance to be undertaken by a non-vet **with specific qualification** by regulations.

This will provide some flexibility in recognising further procedures from time to time without the need for often slow and burdensome processes of the principal Act being amended. Also, the term 'ordinarily' could have the effect of locking in existing but ultimately (in future) unacceptable practices where procedures need local or general anaesthesia to provide contemporary 'care and protection' when currently they don't.

We acknowledge that the evolution of animal welfare principles may challenge current routine husbandry procedures for livestock, however we strongly recommend that in order for new modern legislation to be credible and to protect animal welfare by acknowledging the sentience of production animals, it must not fall short for reasons of cost or convenience and must be 'supported' or 'driven' through evolving legislation.

Veterinarians must comply with the *Veterinary Practice Act 1997* and are subject to Guidelines issued by the Veterinary Practitioners Registration Board of Victoria. We acknowledge that this will require sensitive consultations with the farming sector to correct the inequity of standards for reasons of economy and be faithful to modernising animal welfare in Victoria.

This could be built into the exemptions placed into the Regulations for certain procedures exempted from the 'vet-only requirements' as defined in the Act.

We take this opportunity to emphasise that the AVA does not support drug scheduling to allow for the 'over-the-counter' supply of some pain relief drugs to livestock owners/managers, as this poses risks to animals and the public.

The availability of such drugs from un-informed 'lay' sources such as rural resellers does not ensure that they are used, stored, transported, recorded, accessed and disposed of appropriately and that they are effectively used to achieve pain relief and also safety of other animals and humans.

There should be support for the demand for veterinary services and veterinarians to perform veterinary practice, rather than making exemptions in legislation for the need for veterinary involvement. This will also help to sustain veterinarian services in other areas of public good, such as biosecurity in rural areas.

A demand-based approach to support veterinary services, which has spill over benefits of biosecurity through surveillance and veterinary rural sustainability, was identified by the Frawley report in 2003.¹¹

Conversely, by exempting the requirement for veterinarians to perform veterinary practice in rural areas for cost or convenience and contrary to animal welfare (ie. surgical procedures, relief of pain

11 Frawley, Review of Rural Veterinary Services Report, 2003. Department of Agriculture, Fisheries & Forestry-Australia.



and suffering and prescribing), it removes vets on the ground to perform the public good required by veterinary registration, such as biosecurity surveillance for animal and public safety.

Close engagement with the veterinary profession via the AVA will be essential when the Regulations are being designed and drafted.

Care and use of animals in science and teaching

There must be appropriate legislation and enforcement to ensure that the welfare of animals used in research, field trials and teaching is adequately protected. The principles in the *Australian Code for the Care and Use of Animals for Scientific Purposes* (2013) (the Scientific Code) as amended from time to time should form the basis of the regulatory control of animal experimentation.¹²

The AVA should be actively involved in the development and review of such regulatory and advisory frameworks.

Furthermore, the AVA advocates for improvements in implementation of “The Plan of Veterinary Care” required of institutions performing research under the Scientific Code. Rather than minimal or tokenistic attention to this requirement, it is important that sufficient facility veterinarians are present to provide practical oversight of procedures on animals involving anaesthesia, surgery and other invasive or potentially painful techniques. This is to ensure competency of operators and adequacy of analgesia and other refinements to minimise distress. The facility veterinarian must also have oversight of preventative health, husbandry, diagnostic or treatment interventions, and euthanasia techniques.

Authorised officer powers

We note and support the undertaking that, like POCTA currently, the new laws would include a small number of powers for people other than Authorised Officers. This would allow veterinary practitioners 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.

Indeed, veterinarians are placed in this position very regularly as they go about their day-to-day work. This is often in situations where the animal's owner is unknown, or in the case of wildlife, there is effectively no owner. It is also often an expensive ‘public good’ that the veterinarians are providing given the obligations on them under animal welfare and veterinary legislation, for the cost of relevant drugs and overheads such as infrastructure and remuneration of veterinarians and staff.

While acknowledging this would ultimately be a policy decision for government, the AVA strongly urges that there be provision in the new legislation that would allow for payment of veterinarians when exercising such powers (e.g. euthanasia of unowned animals). It is noted that this principle is acknowledged on page 79 of the Plan, allowing for cost recovery of certain expenses incurred in the

¹² <https://www.ava.com.au/policy-advocacy/policies/miscellaneous-welfare-issues-animal-research-teaching/animal-experimentation/>



exercise of the legislation. The same principle should apply to veterinarians exercising powers/obligations under animal welfare legislation.

Other administrative arrangements

The AVA supports that veterinarians should always be paid equitably for work - as is expected in Australian society. Providing necessary public good should not require veterinarians to be exempt from payment.

When veterinary care is required for public benefit, such as to safeguard Victoria's animal welfare standards, public resource must be allocated. Maintaining animal welfare standards underpins the social licence to use animals, allowing access to trade and impacting human wellness with significant economic benefits. This must be taken into account so that payment at equitable rates for veterinary professional services to underpin these benefits, can be assured.

The current inequity of veterinarians being obligated to provide public benefits such as maintaining animal welfare standards, but not receiving adequate payment has great impact on veterinary sustainability and veterinary mental ill-health from financial and moral stress. Likewise, as discussed above, exempting the requirement for veterinarians in legislation to save veterinary costs, puts at risk animal health and welfare, public health and the social licence of animal uses and industries.

Grants and compliance funds

The AVA supports increased investment for registered veterinarians to provide necessary veterinary practice which contributes to maintaining Victorian standards of animal welfare.

It must be acknowledged that veterinary practice helps to prevent animal welfare occurring. The high public compliance required to ensure that privately owned animals receive necessary veterinary services can only occur if services are widely affordable. Therefore veterinary services are often required to be discounted for financial consent of necessary treatment.

Although a private animal invoice is a private expense, needing low or no cost services that are not reflective of the value of the service in order to achieve high public compliance, is a public good. Assisting the veterinary profession to achieve Victoria wide or indeed Australia wide animal health and welfare, needs to be considered.

Mechanisms to assist the public achieve their legislative responsibilities, without high requirements for veterinary good-will needs to be considered and the veterinary profession needs help to do this.

When veterinarians are unable to recover costs or remuneration for providing the service, realise the true value of professional services and spill-over benefits and not supported, there is the potential for market failure of the veterinary profession.

We encourage the use of public funds for mechanisms such as subsidised, regulated and reliable animal insurance to assist in distributing the costs of preventing animal welfare and maintaining animal and public health more equitably across the Victorian community, rather than relying on veterinary good will. This should include primary producers, to assist in modernising current animal husbandry to involve veterinarians as discussed above.



As mentioned, not receiving adequate payment for services has great impact on veterinary sustainability and veterinary mental ill-health from financial and moral stress.

Expert advisory committee

The AVA supports the establishment of an expert advisory committee to provide advice on animal welfare-related matters to the Minister and department.

Representing veterinarians and veterinary opinion, the Australian Veterinary Association is well placed to contribute best practice, scientific knowledge for animal health and welfare, ethical standards and policy advice across all species by veterinarians who are regulated and ethically committed to do so.

We welcome you to include AVA representatives for the expert advisory committee, as occurs in the other states' Animal Welfare Advisory Committees (AWACs).

Conclusion

Thank you for providing the opportunity for the Australian Veterinary Association to contribute, as the peak body representing veterinarians.

The modernisation of animal welfare legislation protects the intrinsic value of animals and the relationships animals and humans have valued for thousands of years. It also protects the benefits that humans derive from the uses of animals through maintaining consumer confidence of Australian animal welfare standards.

Modernisation of animal welfare legislation is seeing the inclusion of sentience and duty of care in Australian and international animal welfare legislation, and this provides clear guidance for Australians in addition to protecting the social licence necessary for access to significant national and international markets upon which Australian society depends.

The AVA acknowledges the leadership and direction that the Victorian Animal Welfare legislation hopes to provide, and the collaboration across society that is required to protect animal health and welfare.

We congratulate you on the inclusive consultative process and look forward to further engagement on the drafting of the new legislation and in time, the Regulations.

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Relevant AVA policies:

1. <https://www.ava.com.au/policy-advocacy/policies/>

The AVA Policy Advisory Council includes a representative (registered veterinarian) from every AVA State Division and Special Interest Group. It develops a range of national policies and position statements after extensive consultation with members. These are approved by the AVA Board before becoming official policies or positions of the Australian Veterinary Association.

AVA policies allow veterinary knowledge to be openly accessed to benefit the health and welfare of animals, public health and Australian society.

Legislation and regulation

2. <https://www.ava.com.au/policy-advocacy/policies/professional-practices-for-veterinarians/licensing-of-veterinarians/>
3. <https://www.ava.com.au/policy-advocacy/policies/australian-animal-welfare-standards-and-guidelines/australian-animal-welfare-standards-and-guidelines/>

AVA policies and statement of principles

4. <https://www.ava.com.au/policy-advocacy/policies/>
5. <https://www.ava.com.au/policy-advocacy/policies/animal-welfare-principles-and-philosophy/ava-statement-of-principles--animal-ethics/>
6. <https://www.ava.com.au/policy-advocacy/policies/animal-welfare-principles-and-philosophy/philosophy-on-animal-welfare-and-the-veterinarian/>
7. <https://www.ava.com.au/policy-advocacy/policies/professional-practices-for-veterinarians/restricted-acts-of-veterinary-science/>
8. <https://www.ava.com.au/policy-advocacy/policies/complementary-and-alternative-treatments/diagnosis-and-treatment-of-animals-by-non-veterinarians/>
9. <https://www.ava.com.au/policy-advocacy/policies/environment-and-conservation/quarantine-and-risk-assessment/>



Safeguarding animal welfare, Animal Sentience, Duty of care, Cruelty to animals

10. <https://www.ava.com.au/policy-advocacy/policies/animal-welfare-principles-and-philosophy/animal-abuse/>
11. <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/fish-welfare/>
12. <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/waterfowl-hunting/>
13. <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/hunting/>
14. <https://www.ava.com.au/policy-advocacy/policies/australian-animal-welfare-standards-and-guidelines/australian-animal-welfare-standards-and-guidelines/>
15. <https://www.ava.com.au/policy-advocacy/policies/companion-animals-management-and-welfare/the-responsible-ownership-of-dogs-and-cats-and-the-human-animal-bond/>
16. <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/hunting/>
17. <https://www.ava.com.au/policy-advocacy/policies/miscellaneous-welfare-issues-animal-research-teaching/animal-experimentation/>
18. <https://www.ava.com.au/policy-advocacy/policies/euthanasia/euthanasia-of-injured-wildlife/>
19. <https://www.ava.com.au/policy-advocacy/policies/euthanasia/humane-slaughter/>
20. <https://www.ava.com.au/policy-advocacy/policies/other-services-provided-by-veterinarians/role-of-veterinarians-in-the-care-and-use-of-animals-for-scientific-purposes/>

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