22nd March 2024

The Assessor, Feedback,
Engage Victoria
(by submission)

Dear Assessor,

RE: DRAFT ANIMAL CARE AND PROTECTION BILL

Thank you for the opportunity to comment on this Bill. The comments will be in two sections, firstly general or broader comments in relation to the entire document, and in the second part commentary on individual sections or elements.

This Bill is an incredibly long, complex and tortuous way of saying that the community wants animals to be cared for according to their needs, and people who don't do that punished – without "agenda" and with fairness and equity. Sadly, the Bill actually appears to be inviting a host of unintended consequences that will have the net effect of either rendering the Bill unworkable or handing the power in the Bill to groups of persons with particular agendas, particularly in relation to farming. While this is predominantly written from the perspective of the Meat poultry industry, examples from other industries have been included were necessary to illustrate particular points or likely unintended consequences.

General Comments

a) Consultation

The document attached to the Bill insists that there was "consultation". Sadly not one group representing meat poultry farmers[1] appears to have been consulted. Further, the list of those consulted does not appear in the document, which is often but not always an indication of *selective* consultation but does not allow us to assess any meat poultry industry input.

Please update your stakeholder lists as per the following:

Australian Chicken Meat Federation (ACMF): largely represents poultry meat processors, but also has some farmer representation (below) on issues of national importance to the whole industry including but not limited to trade, emergency disease, biosecurity and federal animal welfare guidelines.

Australian Chicken Growers' Council (ACGC): represents all contracted poultry meat farmers nationwide on issues of national importance to *farmers* including animal welfare standards, biosecurity, media, federal advocacy, sustainability and workforce, competition policy, environmental issues etc. Its members are state farmers organisations, and it is represented on ACMF.

[1] Meat poultry farmers are variously described as "farmers", "growers", "Chicken/Turkey/Duck farmers", "chook farmers" or "chicken growers". The term "meat poultry farmers is used in this document as a catch-all.

Victorian Chicken Growers Council (VCGC): represents the *significant* majority of contracted poultry meat farmers in Victoria on issues relevant to that state including but not limited to planning, environmental protect, state legislation, media, state advocacy and member benefits. It is the Victorian member of ACGC.

b) ***Layout:*** The layout of this Bill is overly complex with many cross-references and requirements to examine up to 4 sections simultaneously. It favours prosecution (and particularly technicality prosecution) over compliance and should be redesigned for compliance, with a focus on outcomes, not inputs.

In addition, because of this complexity and without the proposed Regulations it's hard to make sense of many of the sections. For many farm industries the Bill could mean closure, or cessation of investment; depending on the intent of the proposed regulations that have not been provided. Assuming that this is not deliberate, we suggest withdrawing the Bill and re-entering the consultation phase once the proposed regulations are available.

c) **POCTA**: The Prevention of Cruelty to Animals Act has served the state well, and over time has been tested by changes to the Act and regulations, as well as by precedent, to "iron out most of the bugs". While there are still come minor changes that might have updated POCTA, why is there a need to delete the entire Act and begin again?

d) **Certainty of Farming:** The Bill appears to suggest that any type of farming, including intensive farming will be able to be outlawed (or agreed national care guidelines be disposed of) at the stroke of a regulatory pen, simply by striking out an "approved industry arrangement" – presuming that farming is to be an "approved industry arrangement".

This is not acceptable to farmers who have invested up to $30M per farm including the highest animal welfare standards. Unless and until there is a specific compensation clause to the full value of the expenditure on the farm, equipment and labour plus future earnings, either the "Approved Industry Arrangements" should be included in the Act (not the Regulations) or the Bill deleted. Victorians need food, and this regulation alone is a powerful incentive to leave the state.

If farming is not to be an "approved industry arrangement" then the proposed Bill is even more confusing as it fails to consider modern farming or farming standards.

e) **Federal Oversight:** The Bill fails to consider the effect of nationally agreed Australian Animal Welfare Standards and Guidelines , to which Victoria has agreed, and appears to gives the Minister the ability to over-ride or simply shelve the nationally agreed standards. Given that Victoria was a key player in achieving national standards, this is inappropriate. The Bill needs to recognise and accept these standards, which are currently driving investment. *Ad hoc* alteration or removal of standards will drive good businesses out of the state and foster worse animal welfare outcomes by avoiding reinvestment. This is also a particular issue for those farmers and processors who farm across borders and rely on the effect of national standards across their businesses.

f) **Officers:** This Bill postulates the development of an alternative "police force" of Authorised Officers who will presumably carry guns and S8 poisons and other appropriate depopulation measures for the euthanasia of animals "with reasonable cause", including livestock. They are not required to euthanase animals humanely. We can only assume that they will have

had the level of training of an industry-specialist registered veterinarian and a Police Officer, otherwise animal welfare will be significantly compromised. Moreover, nowhere in this Bill is any reference to internationally agreed Veterinary Standards and Procedures for Euthanasia. This is also addressed in detail in the body of the document.

g) **Safeguards:** There is a real and genuine concern that this Bill does not have enough safeguards against misuse, particularly in relation to extremist animal activism. Animal Activism, which spares no regard for animal welfare, is a philosophy that animals should not be used for any purpose including food or entertainment and represents a consistent 1.68% of the Australian population. It is not the same as Animal Welfare. *Animal Welfare* is a widely held concept amongst Australians and is science-based, considers the context of use of the animal (eg individual vs group), considers short and long term, considers the hypothetical "5 Freedoms" model and is broadly represented by the RSPCA, *who are the specified Authorised Officers* in the Acts of many states.

   In the Bill as writ, there is a very real threat that a Minister (who may or may not have animal activist leanings), might appoint "Authorised Officers" with animal activist agendas (and this has already occurred in one state). Under this Bill these people would have almost unlimited powers to enter without consent; seize, dispose, and euthanase animals "on suspicion" that something might occur at some time in the future, and bring in untrained, unauthorised "persons" *ad hoc* to assist them in that task- perhaps other activists? This makes a mockery of trespass laws, and could produce the interesting scenario of legislative conflict if real, actual Police are called for trespass. In the case of Meat Poultry, this potential is not only real but may cause death of the birds. See comments below in text.

   Finally, the proposed Bill seems to leave "everything to the Regulations" which might be excellent, or not, but this provides no appropriate oversight from Parliament or even from public consultation. This is not appropriate when dealing with sensitive subjects such as views on animals and farming in particular.

h) **Failure to Consider the Obvious:** Paradoxically, this Bill does not protect the public in the *every-summer* conundrum of "the dog in the hot car" by STILL not protecting those citizens who act in good faith to break the window when the dog is in distress. This raises cause for concern that this Bill may not protect animal welfare in the most common scenarios.

i) **Parliamentary oversight:** The Bill's proposed broad ability to "adjust" farming industries or husbandry practices with a simple stroke of a Ministerial regulatory pen and without parliamentary oversight is cause for serious concern. This is likely to stop farming investment, and in serious cases farmers will leave the state with resultant effects on food security, state GDP and employment - and a paradoxical and presumably unintended negative effect on animal welfare as new technologies and practices will not be adopted.

j) **Individual v Group:** The entire Bill is focused on an individual animal, and not on that animal as part of a larger group eg flock, mob, batch. This is a luxury not even afforded to humans under the Public Health Acts and is unworkable in the farming sense, where mobs/flocks/batches are treated in the same way as public health interventions for humans. For example, under this Bill, if an animal dies as a result of a reaction to drenching performed to protect an entire flock, that would be classified as an act of aggravated animal cruelty. In a large flock health situation, that is an unfortunate minute statistical outcome to protect the

entire flock. Id that same drenching was not performed to protect that individual, then the entire mob would sicken or die.

Similarly in any population of 100,000 individuals (as often seen on meat poultry farms) there will always be a small proportion of individuals that has "pain or distress", including as a result of normal behaviors: "scrapping", chasing, playing, and running into things. This is no different to that which would be seen in a matched human population including a schoolyard. It is inappropriate to set a standard significantly higher than that seen in a schoolyard. Moreover, it encourages "over culling" (*excess* euthanasia) of animals that are in short term distress but will get better, in case someone prosecutes for one lame bird in a shed full of healthy ones. Adopting federally agreed Animal Welfare Guidelines assists but does not overcome this issue within the Bill.

k) **Cost and Load:** This Bill proposes a **hugely** significant cost and administrative load in determining authorisations, licensing, prescribing equipment/animals/farm types/traps/electronic collars; developing standards for approved industry arrangements, monitoring, inspections; developing, administering and reporting on industry compliance programs, and the like. Attached to this would be a breathtaking cost, and the majority of the regulated would be ignored. At one level "nil enforcement = no law", but perhaps more concerningly it is likely that individuals could be targeted when their neighbour (doing the same things) is not.

Unless and until it can be demonstrated that there will be sufficient funding for licensing and enforcement that provides a reasonable statistical likelihood of being caught if in breach, humans will continue to treat animals the same way – good and bad. Government will also find themselves targeting those for whom there is a *complaint*, not those who are genuinely doing wrong.

l) **Scope:** Finally, this Bill seeks to provide protections to animals that are well beyond those levels afforded to children – to whom we also have a duty of care, and who are sentient beings. Why is this the case?

Specific comments:

4. Definitions

Animal: includes in (ii) …any reptile, bird or other mammal *[which actually means a reptile or a bird is a mammal]*…that is below the midpoint of gestation or incubation….

The problems are:

- A person has a duty of care to an ovum – an egg, and may be prosecuted for not caring for that ovum – which is patently unenforceable (and slightly ridiculous). Notably, this goes well beyond the protections afforded to humans.
- Actually the person only has a duty while it is a zygote, and not in most cases, a foetus- a kind of reverse abortion rule.
- This supposed duty goes beyond that which is afforded to human foetuses – so why are humans now less important than animals?
- This completely rules out the use of "morning after" hormone treatments in dogs and cats to stop the development of pregnancy, which will result in more unwanted cats and dogs being born to owners who are unlikely to cope with the requirements of that animal. It will also

result in more unwanted feral kittens under Trap/Neuter/Release rules. While this might be preferable to those writing the Bill, native wildlife welfare will suffer.
- In many cases, particularly reptiles and invertebrates the owner may legitimately not know that they are "pregnant".
- A person could theoretically be prosecuted for stillbirths, which have a normal occurrence rate in all species as well as "excess" rates.
- It completely eliminates any chance that industries will develop "pre sexing" technologies and continue to have to destroy stock after hatching/birth instead.

"Approved industry Arrangement"
This appears to refer to any form of livestock farming, and also wild harvesting of feral animals for the purposes of protecting Australian native wildlife.

The concept that a farmer may invest $20M into a high-animal welfare farm, on the understanding that a Minister may now or at any time in the future simply fail to renew an "Approved Industry Arrangement" is offensive. It will not happen because farmers will not invest.

Farmers farming food in Victoria MUST have security of tenure over at least 30 year periods. No farmer will invest in new animal welfare friendly technologies in Victoria if a politician can remove their right to farm at the stroke of a pen.

This also suggests that every livestock farming industry will have to be licenced ("approved") by a politician or their delegate from time to time, opening the door for massive political campaigns from any group that chooses. At the same time that Victoria is finally opening a smart discussion about preservation of farms and farming land (The Food Security Inquiry), this Bill has the potential to eliminate whole industries!

Approved participant/Approved person
This Bill is seriously proposing the approval of every farmer, labourer, registered veterinarian (who is already separately registered), contractor, builder and maintenance person who works on a livestock farm? Is the Minister likely to sign these approvals personally? How large an office building will be required for all these staff?

This is unworkable and unenforceable and will require a huge investment in public service to ensure that these "approved persons" are and remain approved, even as groups.

"Entertainment" is not defined, and logically includes pet ownership, since there is no other reason to own a pet but for care and "entertainment".

"Event involving animals" somewhat conveniently fails to mention (but does include) dog shows, cat shows, agricultural shows, charity events like the RSPCA Million Paws Walk, the school pet show, grooming competitions, dog wash days and any other event that includes prizes. This is over-reach and should be redefined.

"Hunt" – on this definition includes jogging with my dog, searching for lost sheep, chasing an escaped cat and mustering cattle. OF COURSE "hunt" in the context of this Bill should use the dictionary includes to attack, injure or kill for sport or food, and this definition must be altered. Otherwise a person could sit on their verandah and randomly shoot rabbits, feral ducks and other pest animals, and not be considered to be "hunting".

"Intensive Environment" on this definition includes crating your dog at night while you both sleep. There is no definition of "small area" - which might be 1ha. Almost all racehorses would be defined in this category as most are stalled during parts of the day.

"Scientific Procedure" as writ includes normal "procedures" used on farm including drenching, vaccination, foot trimming or any act of veterinary science. The term "procedure" must be removed from this definition as the exemptions are unclear in this aspect, relying on the animal husbandry procedure being "authorised" - and therefore discouraging improved techniques.

Part 2 "Public Authority" there appears to be no real indication as what this group is to DO, other than to issue Guidelines – which in most cases of animal welfare in livestock industries are already entrenched in federal Guidelines. Is this or future Ministers now intending to over-ride the federally agreed Animal Welfare Guidelines to which Victoria was a party to developing?

If this is the case, how does the state of Victoria expect any farmer to invest in his farm or in new more animal welfare friendly technologies, if the Minister can simply "make a new Guideline", or swap to a state developed one?

Alternatively, this section could be interpreted that the "public authority" could do whatever the Minister chooses. The next Minister might do something different. How can one invest in the future under those circumstances?

g) "a person or entity prescribed to be a public authority" gives licence for any minister, at any time, to appoint any group including an activist group, or a motorcycle group, as a public authority for the purpose of enacting new Guidelines. Clearly this needs much tighter definitions.

s21 Acts of Cruelty (1)(a). There is no definition of "harm" and "distress" and therefore the definition is in the eye of the beholder, or alternatively by precedent set in court.
There is also no time definition. There is no doubt that putting baby chickens onto a farm can cause "distress", but that quickly dissipates as the birds find the food, water, social interaction and bedding. There is no doubt that emergency disease depopulation causes "harm" and "distress", but this must be done for the greater good, especially if the disease is zoonotic.
There is no doubt that mulesing causes both "harm" and "distress" even with appropriate pain control; but in the absence of better technology the short term issues are appropriate when compared to the agonising toxaemic flesh-eating death caused by flystrike. Is it an act of cruelty on a chicken that is slowly dying in acute respiratory distress from ILT to euthanase it? (note the contradiction with (e) in this case).

Finally, as writ, the terms "harm" and "distress" must be viewed in their dictionary meaning and this also include behavioural considerations. To that end, any dog held alone in a backyard, or even constrained in dwelling, is harmed as it is along, and will experience "distress" at times because they are social (pack) animals. Does the Bill intend to prosecute all single-dog owners?

Similarly, cats kept indoors may experience "distress" at various times of their lives, often when feral cats are annoying outside. Does the Bill intend to prosecute owners who do not let their cats out to hunt?

s23 Aggravated Cruelty (b) (ii) Under this clause it would appear that failure to vaccinate resulting in disease outbreaks would constitute an act of aggravated cruelty. Is this intended? If not, then the section should be changed. This may also include euthanasia of sick poultry, or sampling-euthanasia

of a statistical sample of birds in order to diagnose a disease or condition that would otherwise result in the death of an entire flock.

It is hinted that this might be considered in any future regulations **(31 (1)(a) and (b) and 31(7))**, but in the absence of these regulations the Bill must be interpreted as read. Note that the list of exceptions is confusing and not workable for those that wish to comply. In the face of such enormous complexity it is likely that people will simply continue to do what they used to do under POCTA – giving significant legal opportunities to those that wish to thwart work with animals.

S26 (2)(a) there is no definition of "blooding" a greyhound and thus can be badly misinterpreted. An alternative definition is offered in the sections below.

Part 3, s35 Definitions: Body Cavity. A parliamentary draftsperson cannot simply re-define this term to mean something different to that definition which is used worldwide in veterinary medicine. The definition given is NOT the worldwide definition of "body cavity" and this is likely to be challenged in court or at least result in complete confusion. The examples given are body **OPENINGS.** A Body cavity is any space, compartment or potential space and has NOTHING to do with "epithelium". Since any registered veterinarian would have noticed this, there is a question as to the level of consultation with the veterinary profession.

Division 2, Part 4, s36. What this section means is that a person cannot, without risk of prosecution, open the mouth of their dog to try and remove the stick caught across the top teeth. Instead they must stand by the screaming-with-fear animal, phone a registered veterinarian, get the terrified animal into a car, drive to the veterinary surgery, wait for the registered veterinarian to become available, and undergo general anaesthesia to have the same stick removed an hour later. That is cruelty! On fear of prosecution, they would also not be able to

…. assist with a birth,
….remove a piece of sock sticking out of an anus
….remove a grass seed sticking out of a nostril.

This also assumes that registered veterinarians themselves use pain relief, sedation or anaesthesia in every circumstance. They do not, and the decision is based around age, fed-status, concomitant disease, and other issues. So the hypothetical dog owner above may get to the get with the animal only to have the registered veterinarian just reach in and do exactly what the owner would have done!

Clearly, emergency and first aid situations must be exempted, and not in regulation, but in the Act.

…and the clause should read …body OPENING.

s37. This section requires that, for example, ...that a person must wait for up to 4 hours beside the thrashing and terrified horse that is caught in the fence by a skin flap (Common!) for the registered veterinarian to arrive, spray on a bit of local anaesthetic and trim the flap. That is abject cruelty! Moreover, the draftsperson has completely failed to identify that "tissue that contains nerves" does NOT mean that the tissue is sensate. All skin flaps and muscle "contain nerves" but most are either partly or wholly insensate in situations such as those above.

The same applies to dead teeth– "contains nerves", but the nerves are insensate. And animals can choke on loose, dead teeth if they fall out. Clearly they MUST be removed on the spot if possible.

Clearly First Aid and emergency situations must be exempted, and not in the regulation but in the proposed Act.

In addition, hooves and claws contain nerves. Does that mean we will now all be prosecuted for trimming our cat's claws? Filing the rough edges off our horse's hooves? Nail clipping our dogs?

Division 4. S41
The difficulty with this section is that defining "heritable" defects can be difficult. A "defect" may be random and/or only identified as heritable later. Is a chicken that has a heart attack on a hot day the result of "recklessly breeding a heritable defect", or just stress? Is a leg weakness in a chicken flock the result of a heritable defect or nutrition just slightly out of specifications?

Is it a "heritable defect" if it only happens when it's cold - for example, arthritis? (If that is the case can I sue my mother?)

If a sheep that might get flystrike one day in the future, is this the result of "reckless breeding of a heritable defect", if we know that good genetics results in less flystrike? There are thousands of such examples, too many to be specified in regulations.

Brachycephalia may be considered a "heritable defect" but is dependent on degree – by which the Minister is presumably intending to ban the breeding of most Bull breeds, Pugs, Himalayans, Ragdolls, Boxers, Lhasa Apsos, Cavaliers, Shih Tzus, Griffons, Pekingese, Shar Peis or Bostons etc, even for those breeders that take care to minimise the effect of brachycephalia?

The section needs to be rewritten to state that which is implied: that this section applies to specified and identified DNA-related issues like PRA.

S44 (1). This section must be rewritten. "Fights" can occur in any group of animals and a person can be prosecuted for "allowing" that which is natural behaviour (ie one of the hypothetical "5 freedoms"). In this context, the definition of "fight" is significant. In most groups of animals "tiffs" are common regardless of the proximity in which they are held – is this "fighting"?

Animal activists frequently inadvertently provoke "fights" when they illegally enter properties and force groups of animals together for photos - animal "fights" can ensue as hierarchical boundaries are temporarily violated. Are the activists to be prosecuted?

The term "must not allow" should be removed, or suitable alternative wording developed.

S45 (1)(a) The verb "to blood" a greyhound is not defined and can be misinterpreted. One correct terminology would be "to train the greyhound to chase to kill".

Division 1 (58) "Specified reason" This would appear to directly contradict previous sections and adds to the general confusion to evident in this Bill. Which section has precedence?

S59 adds even more confusion in that you can kill an animal except when you can't, unless it's specified, and then check the regulations "in case". How is a "reasonable man" to make sense of this? Moreover, regulations can be changed at the stroke of a pen: how is the "reasonable man" to make sense of a change of Minister/change of government, or Minister changing things at will?

S61 is even more confusing, is a horse in the high country a pest? So it's OK to seriously wound but not kill feral goats because they are "pests"?

S61(c) Note that "hunting" is used in its "reasonable man" definition in this section and not in the definition at the commencement of the Bill. Clearly the definition is an error.

S63. Again the "reasonable man" gets completely tangled between the Bill and the regulations. If a sheep needs drenching, and I demonstrate to a person how to drench without overdosing, then I can be prosecuted?
If I have a sheep handler on my truck, and the farmer that I'm visiting needs to handle sheep for some purpose like foot trimming, then I am required to stand there with my sheep handler lying idle while the farmer hurts his back trimming feet?
If I have a new chicken pickup machine that significantly reduces stress and improves welfare during pickup, the only way I can show the farmer how it works is to use animation?

This is likely to stop farms from adopting new technology that might result in *better* animal welfare? Of course farmers need to trial new products and technologies so they know whether or not to invest. Is the issue that other farmers might watch?

S64. Does the Minister *genuinely* wish to set up the bureaucracy to licence every territory manager, produce store operator, farmer (who might "illegally" demonstrate to another farmer!), construction manager, CEO, technical service operative in Australia? To what gain? What is the enforcement mechanism? This is unlikely to be workable and should be disbanded.

S65 (b) Not even more than one tertiary degree can work out this section. Noting that an "approved industry arrangement" may not cover a new product or piece of equipment that hasn't been invented before: as this section appears to be written, you can use an animal to demonstrate that novel and unproven piece of equipment, and then so long as you take that same animal and use it to hunt or kill wildlife or game you are exempt from prosecution? This section needs to be rewritten.

Division 5 Showing or exhibiting animals or using animals for entertainment.
Since there is no definition of "entertainment" in the proposed Bill, AND since the activist industry defines "entertainment" as including any use of an animal other than food, fibre or leather, then "entertainment" must be taken as including:

- Owning a pet (for what other reasons are pets owned than for care and entertainment?)
- Sheep dog trials
- Jogging with your dog
- School pet shows
- Agricultural shows
- Pet costume manufacture and sale
- Photography of pets doing funny things posted on social and other media?

S77 This will pick up all the above by default, as there is no definition. Does this mean that dog walkers will be inadvertently captured? Pet Sitters? Pet Minders? Grooming Competitions? Will the Minister have to admit into regulations all the hundreds of thousands of business interactions that we have with animals?

S78 This section includes by default any Influencer making videos involving animals for any social media. All will have to be licenced unless the Minister thinks to exempt, but where is the line between TikTok and TV, if TV regularly posts TikTok videos? Unless the Minister considers regulation,

a license will also apply to every dog trainer who posts videos on training dogs, any dog walker, any groomer (cat or dog) etc. This is over-reach and the limits of this section should be clearly included, rather than relying on which lobby group has influenced which Minister to adopt a regulation.

S79. In this section we are wholly and completely dependent on the Minister (or representative) remembering to include in the regulation all the business interactions we have with animals. Not only is this unlikely, but will require significant investment by government in licensing, enforcement and prosecution of the ordinary person. As it is writ, every school and daycare pet show (these are business entities), agricultural show, dog and cat bred show (almost all are run by not for profit business entities), sheep dog trial, horse endurance trial, crab and snail race (which are run by hotels, which are business entities) and every dog trainer , chicken pick up crew and day-old chick transporter will require a license.

There is also the question of whether quality, registered breeders selling puppies who "show" pups in advertising will be liable to be licensed.

Again, we are completely reliant on the mores of a Minister in regulation. This needs to be rewritten to include the elements that ARE included into the Bill.

Division 6 s83: This opens the possibility that at the stoke of a regulatory pen, a Minister can require that every meat poultry farm in Victoria has to be licenced. And if this is the case, that any meat poultry farm in Victoria without a license (for any reason) is bankrupted, because regardless of any penalty they are unable to continue to do business.

While "approved industry arrangements" are supposedly exempt, that is a regulation on which we have no assurance will exist. We strongly suggest the Bill be withdrawn and then readmitted to consultation with the proposed regulations attached.

Division 8 "Activities and events involving animals"

This would appear to be so tautologous to Division 5 as to cause complete confusion, except that it would appear to pick up riding schools, Riding for the Disabled, hospital and aged care visits by pets under the "Delta" business model, and companies training and providing assistance animals. It may also include authorised school visits to working farms. Delete.

S96 Conditions of licenses

Given the plethora of opportunities for the Minister to grant licenses above, there is a huge bureaucracy to be developed and enforcement and prosecution funded under this section. In addition, consultation groups will have to be developed to identify the "formal" vs "informal" qualifications that holders of the licences must have. These conditions must be monitored, and prosecuted as needed.

It would appear that licensed professionals would require relicensing under this section. Training courses would have to be developed so that people developed the relevant "qualifications". Records would have to be monitored and inspected and enforced.

It is worth noting that a piece of qualification paper UNDER NO CIRCUMSTANCES guarantees the care of an animal, in the same way that a driver's license does not stop speeding. Moreover, it is very likely that due to the sheer complexity of the proposals in this Bill, people would inadvertently not have the correct license or paperwork and be eligible for "innocent" prosecution. It is far better to focus on outcomes than inputs and we suggest that the entire Bill needs to be withdrawn and a

far simpler "plain English" version be developed for consultation with proposed regulations attached.

It's worth noting that even under the current POCTA act, there is a huge and underfunded gap in audit, enforcement and prosecution. Most animal businesses that *are* required to be inspected under current guidelines have not have a "regular" inspection, ever. That shortfall means that some of these business singled out by vexatious complainants receive almost weekly "attention" while far worse businesses are ignored, simply due to someone not making a complaint.

….and this Bill includes *orders of magnitude* more paperwork, licensing, inspection, audit, enforcement and prosecution than the current POCTA Act.

S110. We note that it is a requirement for a person conducting a scientific procedure to humanely kill injured animals, but NOT for anyone else including "Authorised Officers". The Bill (not the regulations) needs to adopt the AVMA Guidelines for the Euthanasia of Animals AND adopt the euthanasia methods approved federally for the depopulation of animals in the case of Emergency Animal Disease, both as amended from time to time. Otherwise it would be theoretically acceptable for puppies to be clubbed to death, provided it was performed by an Authorised Officer (and noting that registered veterinarians are required by their registration to engage in best practice).

S146. This section appears to over-ride Emergency Animal Disease (federal) declarations by adding an extra layer to bureaucratic decision making before action can be taken on that disease. We hope that disease isn't Rabies! There should be a specific automatic declaration in the case of Emergency Animal Disease, and this should mirror the time of declaration federally. Alternatively, if the Emergency Animal Disease declaration (federal) takes precedence, it is worth including this in the proposed Bill.

S147. Another layer of bureaucracy before a response to an Emergency Animal Disease. Comments as above. In addition, Emergency Animal Disease declarations (federal) already take into account advice of expert committees, and note that expert committees must be are subject to identification of the correct "experts" for that emergency, then arrange a time to meet, then meet, then provide advice – time that simply is not available under Emergency Animal Disease declarations.

S149. Failure to declare an emergency status in a timely fashion by waiting for a gazette to be published is negligent. Even in natural disasters, animals could die waiting, and in Emergency Animal Disease declarations (federal) could be disastrous and result in large numbers of completely unnecessary animal (and perhaps human, in the case of zoonosis) deaths.

Division 2: Approved Industry Arrangements

S153 As this is writ, it appears that the Minister's office will have to "approve" every farmer (and their staff), veterinary nurses, kennel hands, cattery assistants, laboratory animal worker, farriers, shearers, chicken sexers, contract musterers, dog trainers, dog walkers, rouseabouts, wool classers, territory managers, breeders, pressure cleaners, horse dentists, nutritionists, and every other animal business group. Each of these thousands and thousands of people, will have to have an individual approval stating that the arrangement is better than "if the arrangement was not approved" (**S154**)– which is a subjective assessment. To an activist, ANY use of animals is "worse than an arrangement not approved". To a farmer, an "arrangement" is food for Victorians.

AND this must be carried out every 4 years **(s156).** Faced with this lack of certainty about any Minister's office suddenly changing the rules for "approval" there will be no investment in farms, or

reinvestment, and farmers will be forced to move out of state. You cannot invest millions into a farm if you have to reapply to have a business *at all*, every 4 years.

Note that this has NOTHING to do with animal welfare – it is merely bureaucracy that allows a politician to take away a farmer's (or other animal business') livelihood at any time.

IF farming is to be included as "approved Industry arrangements" then they must be:

- On a whole of industry basis;
- In force perpetually until cancelled;
- Recognise federally agreed Animal Welfare Guidelines ;
- Not allow automatic "inspection", for biosecurity reasons;
- Allow these industries to make their own arrangements in relation to record keeping;
- Allow for these industries to develop a pool of *independent* "monitors";
- Recognise the training of the participants is NOT a function of a Certificate, but an animal outcome;
- NOT require regular "reporting" to the Minister, even at "regular intervals. **(s160(1))**

S161 As writ this section suggests that "Approved persons" must approve every participant in an industry. This is not possible, not feasible, not enforceable and does not improve animal welfare. It simply sets up a huge, unwieldly, costly bureaucracy.

S163. As writ, this section means that a Minister can set up a "Guideline" (without consultation, logic or science base) and then if it cannot be complied with **(s154)** simply cancel an entire industry without compensation **s170**. This is a denial of natural justice.

S184 (2) – This section means that a farmer with a high-biosecurity farm cannot refuse entry to an authorised officer, even if that entry carries germs that may cause disease or death in an entire population of the animals on that farm. Where is the animal welfare in that?

This is the reality for every meat poultry farm. Most of these farms (particularly in Vic) have visiting wild and feral ducks, and the excreta from these ducks carries diseases from Avian Influenza to Newcastle Disease to botulism. Even if the Authorised Officer moved from farm to farm (for example, for "monitoring"), endemic germs from one farm can be transferred to another where they are novel. In some minimal disease operations, even some germs carried normally in or on a human can create a disease in an entire population. If this clause is included, it MUST include automatic and full compensation to the farmer and the processor for any disease, "crowd crush", disease or loss of production that might result from the officer's entry.

It is also worth noting that to an animal activist, "crowd crush" or disease introduced to a flock is simply their "proof" that pigs, eggs, meat poultry, cattle and sheep feedlots should not exist. To a farmer, such an outcome is an animal welfare disaster, and a loss of food for Victorians.

S184 (4) and (5). "Insult" is in the eye of the beholder, completely subjective and must either be properly defined or removed. There are many failed court cases to attest to this subjectivity.

S206 In the event of contempt of court, the court should deal with this (which may include an instruction to the Secretary to give effect to an Order) and NOT the other way around.

S208 Since it is the court that determines if an adverse publicity order is required, then it should be the court that takes action (or instructs the Secretary to take action) in relation to "satisfactory", and

NOT the Secretary. Otherwise we could be in a situation where the Secretary is second-guessing the court on "satisfactory" and successful appeals launched.

S211, s214 There have been a number of cases in other jurisdictions where animals have been seized and disposed of on these grounds and "likely to experience" (**(3)(a)**). We suggest a stronger evidence requirement than "likely to" or seize and hold, AND compensation at market value for the disposal. Stud bulls and Rams are worth so much money and value as genetics (and even some rare stud dogs) that this must be included.

S216 has the same issues, BUT **(2)(a)** must be removed. It is inappropriate for an animal to be seized and disposed of (which may include euthanasia) if food and water COULD have been provided or arranged by an authorised officer. Note also that **(2)(b)(i)** and **(2)(b)(ii)** are tautologous. There should be no seizure and /or disposal if the animals can be managed in another way, eg by providing food and water.

S216 (4) Remove the term "or barriers". This may apply to chick barriers, but these are not essential for survival.

S217 – as s211, s214 and s216

S220 (2)(b) and **(3)(a)(ii)** and **s221 (4)(c)** and **s224 (e)(iii)** and **s227 (3)(b)(iii) and s228(3)(b)(iii)** and **230(3)(b)(iii)** and **s231(b)(iv)** and **s232(b)(iv)** and **s233(3)(d)** and **s235(2)(c)**
Remove. It is highly UNlikely that an "authorised officer" will have the expertise to take samples from an animal other than pre-voided faecal samples. This is particularly the case for sampling requiring euthanasia (eg meat poultry). The "Authorised Officer" should attend with a registered veterinarian, and the registered veterinarian carry out the sampling to animal welfare and veterinary standards. Otherwise the sampling may not be admissible in evidence, and the animal's welfare transgressed.

S222 (1)(b) – A search warrant for a dog locked in a hot car ("imminent threat")? For sheep on the top deck of a transporter that has broken down ("Imminent threat")? There does need to be absolute clarity on what an Authorised Officer or a member of the public can and cannot do in relation to animals in vehicles in the heat, given that this one of the most common animal welfare issues.

S225. Search warrants may be obtained by an Authorised Officer, but should only be served by Police. That does not appear to be countenanced here, and so we are faced with the prospect of "Authorised Officers" battering down doors to get to animals, which is not acceptable. In addition, the materials so seized or inspected are more likely to be classed as evidentiary, and the second person provides additional witness, if Police are involved.

S226 (1)(a) and **(b)** postulates that any *untrained* person could be nominated to execute. That is not acceptable legally or in the context of natural justice. Only Police should execute a warrant.

S227(1) This is entirely unacceptable for meat Poultry farms for reasons of biosecurity and potential "crowd crush", particularly if birds are at or close to "pick up". Entry of strangers to sheds (with or without consent, but particularly without their regular stockperson present) can panic the birds to flight and death, or introduce germs that make the birds sick or die. This is directly detrimental to animal welfare. This is particularly the case because it proposes to undertake this activity for what is essentially monitoring. In the case of meat poultry farms, it is also worth noting that meat poultry

are owned by the processor who has stringent monitoring and animal welfare provisions in place. Meat Poultry should be exempted from this section.

S229 Meat Poultry farms should be exempted for the reasons above. It is also worth noting that meat poultry farms area already under inspection by the processors, their registered veterinarians, their service personnel and in most cases the RSPCA and local Councils – but NEVER without consent because of the animal welfare risk to the birds of stranger entry. Even when there is a Notice, Undertaking or Order in place (**s230**) this is still so significantly risky to animal welfare that the order should include owner consent, and the owner or "familiar" staff must be present at all inspections.

S231 Any seizure activity other than that to which there is consent should only be carried out with a Police Officer present, for evidentiary reasons, for Authorised Officer safety and for witness reasons. Note also the comments in relation to **s216** and **s217.**

S232. Note comments for **s229** and **s231**

S233. This would appear to contradict or at least partly so, **s222**.

S236. This section would appear to remove or erode a person's Right to Silence, and also the Right not to Self Incriminate and if so is completely unacceptable. A person whose place has been so entered MUST have the Right to Silence , at least until having spoken with their own lawyer.

S237 Is the requirement to "give…address" oddly tautological if the Authorised Officers are "inspecting … the premises?

S238 (1) Assistance of another person. This MUST be specified as either a Police Officer or a Registered veterinarian. Otherwise there is no impediment to an Authorised Officer with animal activist leanings to appoint activists as "another persons". Using the Gippy Goat example, up to 40 activists "raided" the farm "on suspicion". This Bill has the potential to ratify (glorify?) such behaviour.

S239 "reasonable force". ONLY a Police Officer should be allowed to use "reasonable force". This is a contentious enough issue for police without adding a second group with the power to beat humans. Again, this is an invitation to those with activist leanings, it is completely unlikely that an "Authorised Officer" will have the level of training in these issues that a Police Officer has, there is no requirement for an "Authorised Officer" to wear a body cam, and it will be "he said/she said" unless a Police Officer is the force-user.

S240 detail vehicle. Again this should only be the remit of Police. It is also worth noting that a Police Officer is an emergency worker and used to responding to incidents involving related agencies quickly. There is also a real risk that the Authorised Officer may be injured by a vehicle if Police are not present.

S242 – Again this should ONLY be in conjunction with the Police. If the issue is significant enough to warrant use of these powers, then is sufficient to involve the Police.

S243 – would appear to contradict **s236**

S245 – This is referred to above – only a Registered veterinarian is qualified, trained and carries the correct pathology manuals to take correct and meaningful samples. This section needs rewriting, or it significantly reduces the likelihood of a conviction.

S247. Meat Poultry establishments must be exempted from this section for the reasons given above. Alternatively, and noting that these establishments are mostly also residences, entry as far as the office during business hours might allow some access.

S254 Meat Poultry must be excluded from this clause for the reasons given above. In addition, limits need to be included to stop vexatious complaints resulting in daily complaints requiring "investigation" – a problem that RSPCA has identified in the past in relation to dog breeding facilities.

S255(1)(a). Authorised inspectors tromping about inside meat poultry shed to examine the birds' physical appearance is likely to result in "crowd crush" deaths of thousands of birds. For activists, this may be their "proof" that humans should not eat chicken – but for those with an interest in animal welfare, it is a welfare disaster. Meat poultry should be exempted, or an alternative form agreed with industry and included into the national guidelines.

S256 – See the comments in relation to protections. As writ, this allows an Authorised Officer to draft untrained persons who may damage the animals and the property. IF there is an entry onto a meat poultry property it MUST be accompanied by the farmer do avoid "crowd crush", and ideally the processor (who owns the birds) as well. This section needs to be altered or exempted for meat poultry.

S258 An "Authorised Officer" must not euthanase animals! Euthanasia must only be carried out by a registered veterinarian according to internationally established animal welfare guidelines, or on rare occasions by those with specific training (eg specialised pound workers, or trained farmers) . The writer of the Bill clearly has no idea that the most humane, scientifically supported method of euthanasia varies by species, by physiological state, age, and injury status. Registered veterinarians have to train on these methods and must be aware of international manuals and guidelines.

Moreover, this section suggests that authorised officers will carry at all times (in case they need to euthanase) licensed firearms, captive bolt pistols, S4 sedatives and S8 poisons with associated sharps and disposal bins; since the most humane methods of euthanasia vary so widely by species. The Workplace Safety risk to the Authorised Officer (particularly in cases of vehicle hijack or robbery) is huge, and the potential for these drugs to be used by the Officer (eg suicide) or human harm (after robbery) is also significant.

Will Authorised Officers be trained in the Cervical Disclocation method for small meat poultry species? Clove oil concentrations and temperature for Fish? "Two Stage" euthanasia protocol for dogs? Euthanasia methodology for chickens is different for turkeys, piglets different to sows, dogs different to horses. Rifles or captive bolts for horses, cattle, sheep or goats? If the Authorised Officer gets it wrong, even by a millimetre, the animal welfare detriment is just awful and the inevitable social media video of such proceedings just as bad.

Clearly this is both unworkable and dangerous. Authorised officers should call on registered veterinarians (all cases) or Police (gun related euthanasia) as needed and depending on the species.

We note that there is no requirement for the "Authorised Officer" to use the most humane method of euthanasia as there is for some others (s110). Does this mean the Authorised officer" will just shoot everything? Does this protect animal welfare?

S261 (1) Means that a seized animal taken to "any place" may include a television studio, the Officer's kitchen or an activist demonstration down Collins St. This is NOT acceptable. This section must be rewritten to specify that any seized animal must be taken to a pound or shelter, to a registered veterinarian, to a saleyard, or into the care of another farmer (flock animals) where the receiving farmer consents and can handle the quarantine; and the owner notified.

S261(4) Directing that other persons must not have access to an animal may result in that animal not receiving the needed care -and should be removed in favour of the Authorised Officer producing a notice stating which persons DO have access to the animal. Animals under seizure may be ill, confused and frightened. Note also that the "animals care requirements" also include behavioural – in the case of communal-living animals, this means a flock/mob/herd. This section also appears to contradict **s17(2).**

S267 This would appear to contradict **s216/217**

S271, s276 IF an animal is in significant enough state to warrant seizure, then it should not be up to the Secretary to decide to return the animal or not - it should be up to the courts. Indeed, Secretariat decisions may conceivably impede or alter the progression of a prosecution through the courts.

S274 – would appear to contradict **s236**.

S276(2)(d) - Remove. ALL breeds and types *may* be used for fighting, and the fact that an animal may happen to be a Bull breed does not mean it is or has been used for fighting. "Breedism" is a significant problem worldwide and has been clearly shown to have no scientific validity.

S278 – Note that forfeiture is within 7 days, but VCAT can be commenced within 14 days. This defeats the purpose. (Is this deliberate?). The numbers of days should be the same at 14 days.

S279 – becomes a bit moot if the animal has been "disposed" of as per **s216/217** – and a reasonable person might think that the urgent cases are more likely to have been required for court proceedings? Note also the automatic presumption of disposal at **(iii)**

S284. Only a registered veterinarian or in some cases a licensed euthanasia operator (dogs and other companion animals only in pounds and scientific institutions) or a Police Officer or person under direct veterinary supervision can be permitted to euthanse an animal for training, animal welfare, WHS and staff safety reasons. Moreover, registered veterinarians have some legal protections in relation to euthanasia and are also insured against mishap. (For example, in the case of an Authorised Officer accidentally euthanasing a valuable racehorse as the wrong animal). Delete this section.

S286 Animal Welfare Officers are not Authorised Officers, veterinarians or Police. Unless they have appropriate training and are carrying the necessary drugs/firearms and the licence to do so, a registered veterinarian or Police Officer should euthanase.

S299 This section has the effect of making meat poultry farmers liable for the actions taken by their processor eg by processor actions taken at the hatchery that have an effect on the relative distress of the chicks on farm. A contractor or employee is required to undertake the orders of the master (body corporate or processor) and must therefore be indemnified from any action unless they have been individually negligent.

S302 This section implies that persons other than Authorised Officers or Police Officers can file charge sheets? If not, then we suggest rewriting for specificity.

S310 The Expert Advisory Committee must have the ability to co-opt as members any person with specialist expertise in various areas as needed. Eg on depopulation methods for turkeys, or expertise on fish. In **s310(4)(b)** covers a huge area of working with animals and should be broken into two individuals, not one.

S312 This section tends to cut through the operations of the Expert Advisory Committee and is not necessary if the Advisory Committee can co-op or form specialist advisors.

S314 postulates that if one or a few farmers are found to have created issues, the Minister can simply set up a compliance program for a whole industry involving biosecurity-breaching inspections. This is over-reach and should be focused on the individual operators and evidence-based outcomes, without setting up an additional funded bureaucracy, standards, and paperwork. Meat poultry should be exempted on the basis that it already funds/operates in compliance programs for the RSPCA accreditation, the federal Animal Welfare Guidelines, and Coles and Woolworths, and others; and in addition has strict biosecurity that will be breached by non-farm persons entering the farms.

Conclusion

It is clear that there are so many issues in the proposed Bill that a rewrite should probably be a minimum requirement; and the rewritten proposed Bill re-presented alongside the proposed Regulations for full and genuine consultation. This is so that the 80+% of those Victorians who regularly interact with animals have a Bill that they can understand, that there is appropriate parliamentary oversight, and that focuses on compliance and outcomes rather than tricky technicalities.

The Meat Poultry Industry is more than willing to be a partner in the rewriting and consultation on any new Bill, and we hope to work constructively with the Victorian government in the future for the best welfare of all animals.

Yours Faithfully

(by email)

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