



Victorian
Farmers
Federation

SUBMISSION

**Response to the Plan for Victoria's new animal care
and protection laws**

October 2022

Introduction

The Victorian Farmers Federation (VFF) welcomes the opportunity to provide feedback on the Plan for Victoria's new animal care and protection laws.

New animal welfare legislation must ensure that Victoria's world-leading animal agriculture industries can continue to uphold the highest level of animal welfare standards and operate unimpeded by onerous legislation and regulation.

As Australia's largest agricultural producer, valued at \$17.8 billion (gross value agricultural production), Victoria's agricultural production and supply chains are essential to the domestic and export economy, representing 27% of Australian food and fibre export value. With top-earning agricultural exports in 2019-20 including meat (\$4.7 billion), dairy (\$2.1 billion) and animal fibre (\$1.4 billion), Victorian animal agriculture, and Victoria's animal welfare standards are present on the world stage and under scrutiny from importing nations.

Given the integral role of agriculture to the Victorian and national economy, it is vital that agriculture is appropriately represented across all elements of the Plan, and that farmers continue to be recognised as key stakeholders in animal welfare discussions.

This response explains the implications of the Plan for Victoria's new animal care and protection laws on Victorian animal agriculture, the wider farming community and recommend amendments to lawmakers that recognise agriculture's commitment to world-leading animal welfare standards.

Discussion

The Plan for Victoria's new animal care and protection laws outline a suite of changes to animal welfare legislation in Victoria that may have unintended consequences on the agricultural sector.

The VFF seeks several assurances from the Victorian government, outlined in the below submission, that a farmer's right to farm is not impacted by the new Animal Care and Protection Act, with current provisions under the Prevention of Cruelty to Animals Act 1986 (POCTA) and associated regulations under POCTA maintained in the new Act.

The VFF acknowledge that the new Animal Care and Protection Act permits legal and legitimate activities which includes fishing, hunting, farming, racing, slaughter and pest control, but recommends that there be distinction between recreational and commercial activities that may occur for activities such as fishing, hunting and racing. Given the position of farming in the Plan as a legal and legitimate activity, it is important this distinction is also understood in the wider community.

Recognising sentience

Initially, the VFF did not support the explicit recognition of animal sentience in the legal framework, given the Prevention of Cruelty to Animals Act 1986 (POCTA) is, in and of itself, an implicit recognition of sentience. Although, the VFF understands that sentience will be recognised in the new Animal Care and Protection Act. In line with the [VFF's Animal Welfare policy statement](#), it is important to note that the VFF believes all animals are living beings that can feel and perceive the world around them.

However, legislation and regulation in place to safeguard animal welfare must be designed based on peer-reviewed evidence informing the scientific understanding of sentience. The VFF insists that there should be no subjectivity in the determination of sentience and agrees that the recognition of sentience does not mean animals have legal rights, nor think or feel the same as humans. By recognising sentience in this respect, the VFF understands that animals can continue to be owned for all legal and legitimate purposes outlined in the legislation.

Standards of care

Farmers voluntarily use pain relief in husbandry procedures deemed painful to ensure that all animals are maintained under a high standard of care. The VFF believes that the legislation must recognise and reflect the work undertaken by the farming community, where relevant to voluntarily self-regulate and continuously improve animal welfare standards.

Case study: Dairy industry (Source: Dairy Australia)

The dairy industry has proactively worked on elevating their already high standards of animal welfare. The Dairy Australia Animal Husbandry Survey 2022 demonstrated that:

- 96% of farmers have a lameness prevention strategy
- 96% of farmers have cooling infrastructure
- 89% farmers actively use pain relief (topical spray + local anaesthetic) in disbudding for all calves, exceeding the requirements of the Australian Animal Welfare Standards and Guidelines for Cattle
- The practice of calving induction was **voluntarily phased out** in January 2022.

Similarly, the 2020 Dairy Sustainability Report determined that:

- 3 out of 4 consumers believe dairy farmers take good care of their animals

The dairy industry welcomes the prohibition of cosmetic tail docking in the new Act which has been deemed unacceptable by dairy farmers in Australia, with 96% farmers no longer conducting the practice as of 2019.

Regulated Activities

Controlled procedures

The VFF is deeply concerned by the introduction of ‘veterinarian-only procedures’ governed by regulation under the Animal Care and Protection Act. Current husbandry procedures regularly performed in line with agricultural best practice by farmers and associated agricultural professionals may be restricted under this specific section of the legislation, given they are not veterinarians (non-vet).

Recommendation: that farmers and associated, qualified agricultural professionals continue to be recognised as competent non-vet practitioners under the regulations.

The VFF seeks assurances from the government that farmers and associated agricultural professionals be recognised as competent non-vet practitioners under the regulations upon development. The VFF believes that the farming community have demonstrated voluntary and innovative progress in animal welfare stewardship consistent with being competent non-vet practitioners. Farmers also understand what is reasonably necessary for their animals and meet care requirements inherently, but also align with POCTA, industry quality assurance auditing systems and contracts. The removal of this recognition as a non-vet practitioner of husbandry procedures will have inadvertent consequences on the farming community and on agricultural professionals.

Where an animal may require assistance to maintain its welfare e.g. assistance with calving, lambing or in an emergency situation, farmers and associated agricultural professionals must continue to be recognised as capable of delivering best practice, in line with the current regulations under POCTA, current industry practice, quality assurance and auditing frameworks.

Case study: Artificial Insemination technician training (Source: Dairy Australia)

To address a critical workforce and skills shortage, Registered Training Organisations can now deliver the Unit of Competency 'Artificially inseminate livestock'. This course was co-funded and developed by the National Herd Improvement Association in conjunction with Dairy Australia to upskill students in the Certificate III in Agriculture and Dairy Production, as well as farmers with performing artificial insemination (AI). The course is equipped with the following:

- Animal Ethics Committee approval for RTOs
- A standardised curriculum
- Industry training, resources and assessments
- AQF Units of Competency
- Curriculum maintenance and governance plan

The 2022 Animal Husbandry survey by Dairy Australia indicated that:

- 89% farmers use AI, and 69% of calves born on-farm are born using AI
- 59% of farms surveyed in the National Herd Improvement Survey utilised professional AI services, while 41% of respondents practiced AI as a 'non-professional technician'

Note: A non-professional technician does not mean untrained

Veterinarians and experienced farmers continue to practice AI while the issue of workforce and skills shortage is addressed.

The VFF welcomes the introduction of good practice guidance and believes that good practice guidance must inform the development of regulation. The VFF understands that good practice guidance does not comprise mandates and can only be used in the legal process. Moreover, the VFF understands that the movement of current Codes of Practice under POCTA into regulation under the new Act presents an opportunity for review of regulations every ten years, subject to a stakeholder consultation process. As the Act relies on regulation to specify practices used depending on the species, as opposed to enshrining practices in legislation, review of regulation may also present an opportunity to renegotiate penalties for non-compliance. The farming community are acutely aware of malpractice and have actively engaged in the administration of pain relief in inherently painful procedures which may be governed by regulation, such as mulesing.

The VFF insists that husbandry practices involving the removal of sensitive tissue, such as mulesing, continue to be permitted under the new Animal Care and Protection Act, with farmers recognised as competent non-vet practitioners in the regulatory framework. Current workforce shortages in the veterinary industry limit the capacity of veterinarians to conduct veterinarian-only procedures as listed under the Plan, to the detriment of animal welfare. Further, the removal of this procedure from farmers as non-vets will compromise the welfare of livestock that are susceptible to flystrike.

Case study: Pain relief in mulesing (Source: Sheep Sustainability Framework – On-farm Insights from the National Producer Survey October 2022)

Mulesing is a husbandry procedure practiced by farmers and agricultural professionals to prevent flystrike, which causes painful death and illness in sheep, costing the industry approximately \$320 million in lost production, prevention and treatment.

In Victoria, pain relief during mulesing was made mandatory from 1 July 2020.

Prior to this date, 9 out of 10 farmers were voluntarily using pain relief for pain management during mulesing, in combination with several commercially available products: Tri-Solfen, Buccalgesic or Metacam.

The introduction of controlled procedures under the Plan may also have unintended consequences on the welfare of beef cattle, where farmers are also required to perform necessary husbandry procedures. Given these procedures are inherently painful, farmers have voluntarily administered pain relief to cattle to protect animal welfare without the need for a legislated or regulated mandate.

Case study: Voluntary pain relief in cattle husbandry (Source: Meat & Livestock Australia; Australian Beef Sustainability Framework 2022)

- 99.9% of farmers audited through the Livestock Production Assurance (LPA) program were acutely aware of Australian Animal Welfare Standards for Cattle
- As of 2021, 71% of farmers nationally are breeding polled (hornless) cattle which will limit the need for dehorning, disbudding and tipping (horn removal procedures)
- 35% of producers voluntarily administer pain relief during husbandry procedures, on target for 100% pain relief by 2030
- Of this, a combination of anaesthetic and antiseptic sprays is used at over 90% of surgery sites for horn removal or trimming procedures in calves and mature cattle.

Recommendation: necessary husbandry practices which benefit animal welfare, performed by farmers and agricultural professionals must continue to be permitted under the new Animal Care and Protection Act regulations.

Scientific procedures

The VFF believes that the new Animal Care and Protection Act must maintain the status quo and not empower licencing through the regulations, as husbandry practices within the specified classes of conduct in the Plan are already governed by codes of practice under POCTA. On-farm training is a critical aspect of education in the agricultural sector. The Plan, and POCTA define a scientific procedure which:

“...does not include –

(g) the treatment of an animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or

(h) the conduct of animal husbandry carried out in accordance with a Code of Practice;”

However, the VFF believes that these caveats to the definition of scientific procedures are unclear and must be appropriately defined in the new Animal Care and Protection Act. As it stands, this may be misconstrued as a requirement for farms conducting on-farm training to obtain a licence to perform husbandry practices which occur daily and are governed by industry codes of practice and quality assurance programs. Moreover, the VFF believes that licencing in this regard is unnecessary and serves to duplicate process already conducted by the agricultural sector.

Critical workforce shortages have been to the detriment of the agricultural sector. The VFF insists that this caveat be adequately defined through consultation, and in the legislation to reduce the impact on farmers to employ and train staff on-farm. This training is required under industry-led quality assurance programs, including the Australian Pork Industry Quality Assurance Program (APIQ).

Australian Pork Industry Quality Assurance Program (APIQ; Source: Australian Pork Limited)

Under 1.1 F. Management Requirements of the Management Standards and Performance Indicators: Staff induction and training is conducted and recorded and ensures that:

- New staff are inducted on commencement of employment and induction is completed within one (1) month.
- New and existing staff are trained and competent in their required tasks and ongoing training needs are identified.
- All staff are familiar with Standard Operating Procedures or Work Instructions for their specific tasks.

Recommendation: exceptions for scientific procedures must be explicitly defined, as routine husbandry procedures required for on-farm training of staff may be misinterpreted as scientific procedures in the legislation.

Ministerial discretion

The Plan states that an Expert Advisory Committee (EAC) will be available upon request by the Minister, but this does not indicate that all decisions at the discretion of the Minister will be examined by the EAC. The VFF is concerned that regulation without adequate consultation could be created by a Minister, introducing unnecessary burden onto farmers. The VFF seeks assurances that the primary decision-maker is sufficiently advised prior to recommending the regulation, dependent on the Act under which the regulation will be created.

Participating members of the EAC must also include relevant members of the primary industries. The VFF is concerned that discretion exercised in the appointment of individuals to the EAC may not represent the most relevant stakeholders. Farmers must be considered as a stakeholder impacted in any animal welfare discussion relating to the primary industries, including in the management of pest animals under the Catchment and Land Protection Act 1994.

Recommendation: The EAC provides for the inclusion of members from the agricultural industries, as each production animal species or pest species management process has unique welfare requirements. Where this expert advice is not available, the VFF supports the implementation of a sub-Committee to ensure that this advice is provided to the Minister.

The VFF acknowledges that animal welfare laws are relevant for all legally permitted activities, and strongly opposes intentional and unnecessary cruelty to animals. However, the VFF suggests that where animal welfare is sufficiently addressed in the Meat Industry Act 1993 and Catchment and Land Protection Act 1994, these pieces of legislation continue to be exempt from the new Animal Care and Protection Act as they provide the necessary safeguards against unreasonable harm to animals.

Compliance and enforcement

The Plan identified a suite of Authorised Officers that will be granted powers under the new animal care and protection Act. The VFF supports this in principle, where Authorised Officers must have appropriate training that is regularly updated. Given the agricultural sector comprises a multitude of species with their own unique requirements, Authorised Officers must be appropriately trained to best exercise their power under the Act. Where an Authorised Officer is not appropriately trained, they must be accompanied by an individual with suitable qualifications.

The VFF believes that Authorised Officers must only access farming properties where instances of cruelty or care offences are occurring on reasonable suspicion. The VFF always supports the prevention of cruelty to animals but believes that where reasonable suspicion is understood this must only be through credible, verified complaints as evidence.

The VFF believes that lowered thresholds for entry to farming properties must be thoroughly detailed, and circumstances for entry to a property must be outlined so farmers are aware of their roles and responsibilities. Moreover, the proposed lowered thresholds for entry must also include an acknowledgement of on-farm biosecurity protocols.

Recommendation: Lowered thresholds and circumstances for entry must be thoroughly detailed on reasonable suspicion at an absolute minimum. Authorised Officers must also acknowledge and follow on-farm biosecurity protocols in line with the Livestock Management Act 2010.

Compliance Inspection Scheme

The VFF believes in an objective approach to animal welfare legislation. The VFF understands that the Compliance Inspection Scheme will be accompanied by notice and consultation to the impacted industry or practitioners of the activity but is concerned that widespread misinformation and maligned social licence may lead to a subjectivity-based application of the Scheme. As such, evidence of widespread non-compliance, justifying a Compliance Inspection Scheme must be

objectively sourced. The VFF acknowledges that where 'market access' reasons apply, this must only be due to trade and economic factors where the supply chain may be impacted.

Recommendation: The Minister must be appropriately informed of the risk to care and protection which would necessitate the implementation of the Compliance Inspection Scheme.

Seizing of animals

The VFF understands that animals may be seized in the event of direct contravention of the Animal Care and Protection Act. While this may suit the companion animal sector, the VFF believes that the seizure of animals under the care of farmers must be considered on a case-by-case basis, as livestock may not be abandoned, but may have wandered or are considered stolen. Both instances are not the fault of the owner, but the Plan does not provide for these circumstances as it stands.