



Victorian  
Farmers  
Federation

# Submission to the Animal Care and Protection Bill – Exposure Draft

Victorian Government

Department of Energy, Environment and Climate Action (DEECA)

25 March 2024

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# I. Introduction

The Victorian Farmers Federation (VFF) appreciates the opportunity to provide this submission to the Victorian Government on the Victorian Animal Care and Protection draft Bill. The issues surrounding the draft Bill hold significant importance for Victorian farmers, who are deeply dedicated to maintaining the highest welfare standards for the livestock in their care.

Our commitment to animal welfare is not just a legal obligation but a core value that guides our farming practices. We continuously adopt and refine best practices, grounded in current legislation and practical evidence, to ensure the health, welfare, and safety of our livestock. This dedication often exceeds legislative requirements, underscoring our belief in the intrinsic value of animal welfare. Such commitment is crucial for maintaining health and productivity, thereby reinforcing Victoria's reputation for global leadership in animal welfare standards.

This principled stance is reflected in public perception, as evidenced by a 2023 National Farmers' Federation survey<sup>1</sup> where 72% of respondents reported a positive view toward Australian farmers. The enduring trust and support rate for the industry underscores the community's acknowledgment of our sector's significant contribution to the economy and the community, bolstering a strong foundation of public endorsement and confidence in the agricultural practices upheld by Victorian farmers.

The VFF emphasises that animal welfare legislation must maintain practical livestock management which is necessary for farmers to continue producing food for our community whilst enhancing animal welfare outcomes. We advocate for laws grounded in objective scientific evidence, recognising the distinctions among all animals including livestock, companion animals, wildlife and pest species. This approach acknowledges the unique welfare requirements, guidelines, and regulations for different animal groups and species, which may not be universally applicable or practical.

The VFF notes the Victorian Government's policy objectives in bringing forward reforms to animal welfare laws which focus on providing animal care and protection. In particular, we note the government's desire to introduce positive duties to care for animals. Victorian farmers endorse a care standard aiming for a positive affective state for animals, as outlined in the Five Domains Model. This is not necessarily incongruent with the existing legal framework established under the *Prevention of Cruelty to Animals Act 1986* (the POCTA Act), its regulations and Codes of Practice, and the Australian Animal Welfare Standards and Guidelines. This framework is thoroughly equipped to deliver the highest standard of animal care and has been developed through a process grounded in evidence-based science and extensive collaboration between the government, industry and animal welfare specialists, ensuring they meet both national and international expectations.

Nevertheless, we acknowledge the community's frustrations towards the complexity of these legal frameworks and the slow and considered processes that are required to make changes to the various

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<sup>1</sup> The referenced report is available upon request from the National Farmers' Federation (NFF).

parts of the framework to advance animal welfare outcomes. These frameworks and the way in which they are determined are important.

Given their comprehensiveness in addressing the welfare needs of animals, we firmly believe that the forthcoming regulations should not extend beyond these current well-established frameworks, as they fully meet their intended purpose. It would be a perverse outcome should Victorian farmers find themselves at a disadvantage to farmers in other states of Australia.

The VFF has identified a host of areas of potential improvements, concerns and risks within the draft Bill. Chief among our concerns are the broad discretionary powers being sought by the executive government which create risk of executive and regulatory overreach, potentially leading to onerous impositions on food production without adequate justification. We are concerned there is inadequate clarity provided in the draft Bill (including in the most fundamental areas of proposed change, i.e. licencing). At best, this leaves the government, our industry and other stakeholders with no meaningful parameters within which to operate. At worst, it places government in a position where it is establishing a framework for what should not be permitted to become a political issue. Specifically, the draft Bill enables further material rule-making via regulations, which depending on the political imperatives of the day, could result in an additional (entirely uncertain) layer of regulation of on-farm practices. It cannot be the government's intention to expose the agriculture industry to a new or different licencing regime whenever it feels or changes its mind. It is in the interests of all stakeholders that all licences be defined in the legislation and subject to direct parliamentary oversight.

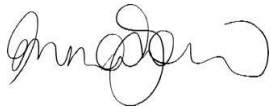
In addition, the VFF is concerned about the vagueness, ambiguity and scope around the new care requirements and the potential for these to encourage community members to undertake legal activism through the courts to redefine animal welfare standards. Additionally, the vagueness around how these provisions will be implemented introduces uncertainties for the sector, as we lack clarity on their application, the circumstances under which they will be enforced, and the specific requirements they will entail.

The proposed two-year timeframe for the revision of regulations is of great concern. Given the complexity of this process and the significant commitment and resources required from both government and industry, this timeline would undermine the thoroughness of the revision process. An adequate review period is vital for ensuring comprehensive discussions, maintaining Victoria's leadership in animal welfare, fostering trust in the agricultural sector, and keeping our practices at the forefront of global standards.

The VFF is also deeply concerned by the creation of new offences targeting farm businesses that operate in 'intensive animal environments,' or those which transport or show animals. These offences are not necessary, as general care and protection requirements are already provided in the rest of the draft Bill. All farm businesses should be treated equally under the law and the VFF vehemently opposes the creation of these new offences.

In conclusion, Victorian farmers are committed to upholding the welfare standards established by current legislation, backed by scientific evidence and a collaborative regulatory approach. We advocate for legislation that is equitable, science-based, and acknowledges the complex and varied practical needs of different animal species, underpinned by educational support for farmers. Such

legislation is necessary to maintain farmers' ability to enjoy the ongoing trust of the broader community, whose health and well-being rely on a sustainable and thriving domestic agriculture industry in Victoria.



**Emma Germano**  
President  
Victorian Farmers Federation



**Danyel Cucinotta**  
Vice President and Chair, Farming Systems Committee  
Victorian Farmers Federation

## II. Discussion

The VFF expresses deep concern over the impact the proposed legislation would have on the agricultural sector. The draft Bill's reliance on the establishment of regulations and guidelines and the lack of detail surrounding those undermines the transparency and fairness needed to develop a comprehensive legal framework. This uncertainty raises many questions, making it difficult to fully assess the draft Bill's impact on Victorian agriculture.

Significant issues such as the Victorian Government's determination to expand its regulatory power through discretionary licencing and compliance functions, and the recognition of industry arrangements were not discussed with industry stakeholders before the draft Bill's release, despite the reform process beginning in 2020. This omission has notably undermined farmer confidence in the legislative process.

The absence of clear legislative detail creates further unpredictability in an industry that must contend with a highly variable business environment. With the uncertainty that Victorian farmers have no choice but to contend with on a daily basis, it is not unreasonable for them to expect a stable and definitive regulatory environment within which to operate. This concern, along with the Bill's vague provisions, is a recurring theme that will be emphasised throughout our commentary on the proposed legislation.

This broader concern is reflected through the way in which the government has surveyed views on the new regulations via the Engage Victoria website. While public engagement is essential for democracy, the specific nature of the survey questions — requiring specialised knowledge to answer accurately — undermines this objective. Victorian farmers who staunchly advocate for high animal welfare standards, now face the risk of being overshadowed by well-funded activist groups with agendas that could undermine the future of livestock production and food security.

Our stance is not to exclude voices but to ensure a balanced and fair process where technical discussions are reserved for experts in the field. It is imperative to establish a platform where the complexities of animal welfare can be examined by those with genuine sectoral understanding, rather than through superficial surveys that lack the depth of informed expertise.

### **Recognition of animal sentience**

The VFF acknowledges animals as sentient beings, capable of feeling and perceiving the world around them. Whilst we believe that existing animal welfare laws provide for the implicit recognition of animal sentience, we do not oppose its explicit inclusion in the draft Bill. The VFF understands that it is not the government's intention to confer legal rights to animals through recognising sentience.

The VFF also recognises the potential benefits of such recognition for Victoria's agricultural industries, particularly in affirming our commitment to positive animal welfare outcomes to our trading partners, community and consumers.

## Care requirements

The VFF acknowledges the government's policy position to legislate the concept of meeting care requirements for animals, imposing a positive obligation on people to provide such care. This departs from the existing legislative framework under the POCTA Act which primarily focuses on negative duties aimed to prevent harm.

However, de facto care requirements for animals have been already established under the POCTA Act through the Codes of Practice. For example, Section 1.2 of the *Code of Accepted Farming Practice for the Welfare of Cattle* provides that 'the basic needs of cattle for adequate food, water, air, shelter, comfort and freedom to move and express normal behaviour patterns must be met, irrespective of the nature of husbandry or farming system.' These care requirements are mirrored across the various Codes pertaining to different animals, effectively mandating that farmers comply with these Codes to ensure positive health and welfare outcomes for animals. Compliance with these Codes also aligns with the POCTA Act, as it exempts farmers from its provisions only if their practices are consistent with an approved Code of Practice.

Whilst the VFF does not oppose the creation of a specific offence relating to the duty to meet care requirements, we are concerned about the risks created by the way those care requirements have been presented in the draft Bill. The list of care requirements under Clause 17(2) of the draft Bill is problematic and could potentially give rise to ambiguity in their application and understanding. This ambiguity introduces a risk of legal uncertainty and inconsistency, complicating practical compliance with animal welfare standards. Moreover, this lack of clarity not only risks encouraging third-party litigation but also creates potential difficulty for the government in prosecuting non-compliance. These challenges are further discussed in the section on litigation risks of this submission.

In addition, the care requirements under Clause 17(2) largely duplicate many of the requirements which are already set out in Codes of Practice and National Standards and Guidelines, which are anticipated to underpin the regulations and ministerial guidelines under the new Act. Consequently, the provisions of Clause 17(2) may become redundant, as they will be replicated in the new regulations. This duplication risks deepening the legal ambiguity surrounding the interpretation and application of the Act, intensifying complexities in determining adherence to either Clause 17(2) or the provisions within the regulations and guidelines.

The VFF proposes that the government adopt wording similar to Section 17 of Queensland's *Animal Care and Protection Act 2001*. This proposed wording, while addressing the essential care requirements for animals, entrusts the regulations with detailing these requirements, enabling them to explicitly address the specifics for different species and activities involving animals.

### Suggested Clause

#### **17 Care requirements**

- (1) *A care requirement for an animal is care that is reasonably necessary for the health and welfare of the animal.*
- (2) *The care requirements for an animal include any of the following that apply to the animal—*
  - (a) *appropriate food and drink;*

- (b) appropriate accommodation or living conditions;*
  - (c) appropriate prevention and treatment of disease or injury;*
  - (d) appropriate handling, including any confinement or transportation of the animal;*
  - (e) opportunities to display normal patterns of behaviour.*
- (3) *Without limiting this section, in determining whether care is appropriate for an animal, the following must be considered—*
- (a) the animal's species;*
  - (b) the animal's environment and circumstances including the livestock production system employed;*
  - (c) the animal's health and welfare;*
  - (d) the best available scientific evidence relating to the animal's species.*
- (4) *The regulations provide detailed care requirements for specific species and/or activity involving animals.*

In addition, the VFF recommends the inclusion of a provision within the draft Bill that clearly provides a defence for individuals charged under Clauses 18 to 20, provided they have acted in accordance with established regulations or guidelines. Such a clause would be similar to Section 11(2) of the POCTA Act which provides a defence for a person acting in accordance with a code of practice under the Act. This would significantly enhance certainty regarding compliance with regulations to ensure care requirements are met.

#### Litigation risks

The VFF believes the proposed Clause 17(2) in the draft Bill creates the unnecessary and unreasonable risk of encouraging third-party litigation against the government and against people responsible for the care and protection of animals. Animal activist groups (with their proven intention and means) may seek judicial review or other civil action through the courts in an attempt to alter laws and bring about the cessation of certain animal production activities. This is due to subjective and ambiguous language found in the draft Bill which invites legal interpretation through the courts.

Whilst the VFF acknowledges the importance of maintaining the right to judicial review, it is crucial for the government and parliament to be aware of the risks associated with imprecise legislation that may encourage baseless, frivolous or even vexatious legal challenges.

Such challenges could impose significant burdens on the community, through both the cost incurred by private defendants and the governmental expenses of mounting a defence. These litigations risk straining the food system, setting precedents that diverge from the legislative intent of animal welfare provisions, and inappropriately placing crucial decisions about food security and animal welfare into the legal arena, where the process and the outcome inevitably involve risk and cost for all parties. Such important issues for Victoria should not simply be left for interpretation by the Courts. If nothing else, this litigious environment construct burdens the courts unnecessarily.



## **Cruelty offences**

The VFF does not object to the cruelty offences as provided under Division 2 of the draft Bill. We recognise the importance of establishing clear legal parameters to prevent and penalise acts of deliberate cruelty against animals. This reflects our commitment to animal welfare and the establishment of a regulatory framework that protects animals from harm.

Farmers are required to undertake various procedures on animals that may cause temporary pain or discomfort but are done in the overall health and welfare interests of those animals. It is important that these actions are not classed as being acts of cruelty under the law, and we believe the draft Bill achieves this objective.

To further support this objective, the VFF recommends the inclusion of a provision within Division 2 that clarifies that actions taken in accordance with the Act's regulations, and established guidelines would constitute a valid defence against these offences. This approach not only reinforces the Bill's objectives to promote care and protection but also provides a measure of legal protection for those engaged in responsible animal management and care, aligning the law with the principles of fairness and accountability.

## **Penalties**

Whilst we recognise the necessity of severe penalties for deliberate acts of cruelty against animals, the expansion of the types of offences leading to possible imprisonment in the draft Bill raises concerns. Under the POCTA Act, imprisonment was reserved for specific acts such as cruelty, prohibited procedures, non-compliance with control and interstate orders, baiting and luring, trap-shooting, the sale and use of traps not prescribed by regulations, and offences related to scientific procedures.

The draft Bill, however, extends the possibility of imprisonment to include new offences such as failing to meet care requirements, performing restricted procedures, and the sale or use of electronic shock devices. While we acknowledge these actions may constitute offences, we contend that imprisonment is an excessively severe penalty for such violations. These offences do not equate to acts of deliberate cruelty or the most egregious forms of non-compliance that have traditionally justified imprisonment. Our concern is that applying imprisonment to these offences expands the cruelty definition too broadly, risking inappropriate penalties for actions that, although punishable, should not necessarily result in such extreme legal consequences. This approach could inadvertently penalise less severe infractions with disproportionate severity, undermining the principle of proportionate justice. Therefore, we strongly believe that imprisonment should not be extended as an option for these offences.

## **Regulated activities**

While the POCTA Act has established prohibited procedures and set minimum management and husbandry standards through the Codes of Practice, the draft Bill introduces 'restricted' and 'controlled' procedure categories. This categorisation raises concerns regarding the potential impact on standard animal management and husbandry procedures, which are necessary for the practical

management and welfare of livestock. Such procedures are also subject to continuous improvement as new technology and scientific advancement is made available.

It is critical that the regulations clearly differentiate between these newly introduced categories and routine management and husbandry practices. Multiple practices, such as shearing, hoof trimming, pulling calves, pregnancy management, and drenching, do not involve cutting tissue containing nerves and typically do not require pain relief.

Routine management and husbandry procedures should not be classified under the 'restricted procedures' category. Such classification would impose unnecessary burdens on farmers, complicating everyday farming practices without contributing to practical animal welfare outcomes. The VFF emphasises the importance of ensuring that the new regulations recognise the distinction between essential, low-risk husbandry practices and those procedures that genuinely warrant additional restrictions or controls.

This approach will safeguard the welfare of animals while also supporting the agricultural sector's ability to operate efficiently and effectively, adhering to both animal welfare standards and the practicalities of farm management.

### **Specified classes of conduct**

The VFF expresses significant concern regarding the draft Bill's classification of businesses involved in showing or exhibiting animals, keeping animals in intensive environments, and transporting animals as distinct classes of conduct. This classification grants the executive government broad authority to regulate these activities and institute penalties. We believe this would unfairly link these essential agricultural practices to potential contraventions under the draft Bill.

The proposal to delineate specific provisions for these activities diverges from the principle that care requirements and offences should be uniformly applicable across all animals, as outlined in Part 3 (Animal Care and Protection Obligations) and Part 4 (Control and Regulation of Certain Uses of Animals and Related Practices) of the draft Bill. Singling out farming systems such as intensive farming, animal showing, and livestock transportation creates an erroneous presumption that these activities have greater risks to animal welfare than others. This presumption does not align with the reality of modern agricultural operations, which adhere to stringent welfare standards, employ sophisticated management practices, and leverage technology to ensure the welfare and care of animals.

Given the strict welfare standards that will be established in regulations governing different species of animals, the VFF contends that there is no justifiable reason for these activities to be subject to an additional specific offence. Instead, these systems should be governed under the same comprehensive regulatory framework applicable across all farming businesses, ensuring a uniform and fair application of care requirements.

Legal frameworks governing animal welfare should prioritise outcomes for animals, focusing on their care and protection rather than prescribing or discriminating against specific production methods. The VFF urges a comprehensive re-evaluation of the draft Bill to eliminate its undue focus on specified classes of conduct. We advocate for a regulatory framework that is firmly rooted in evidence, promotes equity, and maintains consistency across all sectors.

### Showing of animals

The practice of showing and exhibiting animals plays a pivotal role in Victoria's agricultural sector, providing an invaluable platform for farmers to showcase breeding stock, share expertise, and foster community engagement. Events such as the Melbourne Royal Show, Bendigo Sheep and Wool Show and Dairy Week at Tatura are not only cultural milestones but also critical for economic and developmental purposes within the agricultural community.

These events underscore the significance of agricultural achievements and facilitate vital networking opportunities that drive innovation and advancement in farming practices. They represent a tradition that celebrates the hard work and dedication of farmers across Victoria, contributing significantly to local economies and the state's agricultural heritage.

The draft Bill proposes regulatory measures that would impose undue burdens on agricultural societies and livestock breeders, potentially limiting the scope of showing activity. Additionally, the fact that the draft Bill only provides an offence for a business, without addressing individuals engaged in animal showing as a hobby, suggests a presumption that operating a business leads to negative animal welfare, rather than being focussed on the actual animal welfare outcome itself.

### Intensive environments

The draft Bill carries a presumption that intensive environments inherently jeopardise animal welfare outcomes. We believe this presumption is based on subjective notions of the relative 'happiness' of animals in intensive environments compared to others. Ultimately, due to the inability to 'measure' the meaningfulness of an animal's life, these choices should be left to the consumer's preference regarding their own personal ethics.

Intensive farming operations are held to the same stringent welfare standards as all other farming systems. For example:

- **Biosecurity and health:** Intensive systems implement stringent biosecurity measures, crucial for animal and public health. These protocols are as robust, often surpassing those in any other farming system.
- **Nutrition and care:** Animals in these systems receive tailored diets and constant care, ensuring their health and well-being.
- **Environmental control:** The controlled conditions of intensive farms, including optimal temperature, humidity and ventilation, are designed to maximise animal comfort and health.
- **Monitoring and veterinary access:** Advanced technology and regular veterinary oversight in intensive settings facilitate exceptional welfare standards.

Given these considerations, it is clear that intensive environments have an inherent ability to prioritise animal welfare.

The VFF contends that there is no valid basis for the draft Bill to single out intensive farming systems for specific offences, as it perpetuates the incorrect assumption that these systems inherently risk causing harm, pain or distress to animals, a stance unequivocally rejected by the VFF.

Finally, the VFF rejects the definition of 'intensive environment' in the draft Bill which is entirely arbitrary and constantly changing. The suggested definition risks enabling the government to categorise these farming systems in whichever way it chooses at any point in time. Animals in a farming system that may ordinarily be defined as 'extensive' (i.e. grazing in paddocks may be subject to greater vulnerabilities than those in an 'intensive' environment. This is because even a paddock can be classified as a confined space when there is more than one animal, with those animals being dependent on the carrying capacity of the land. The essential focus should be on whether the animals are consistently provided with their necessary nutritional and care requirements, rather than the arbitrary labels of farming systems.

### Transportation of livestock

The transportation of livestock is a critical aspect of agricultural operations, enabling the movement of animals from farms to markets, processing facilities, and between different sectors. This practice is essential for the agricultural supply chain, ensuring that animals reach their destinations safely and in a manner that prioritises their welfare.

Established protocols and practices in livestock transportation are meticulously designed to uphold animal welfare. These include:

- **Animal welfare standards:** Governed by detailed national welfare standards, the transport of livestock ensures humane treatment, encompassing guidelines on loading, travel duration, rest, and access to necessities, aiming to minimise animals' stress and discomfort.
- **Industry best practices:** Transporters are versed in best practices, focusing on the animals' well-being during transit by mitigating stress, avoiding injury, and promoting health, demonstrating a commitment to maintaining high welfare standards.
- **Innovation and technology:** the sector's investment in innovation and technology enhances livestock transport, with advancements in vehicle design for improved comfort, safety, and real-time welfare monitoring.

### **Licences**

The draft Bill's approach to regulatory enforcement through licensing regimes represents a radical departure from the established framework under the POCTA Act, extending licensing requirements to a broader spectrum beyond rodeos and scientific activities.

The VFF is deeply concerned that the draft Bill aims to give the executive government extensive discretionary powers to devise licensing regimes and with them, potentially imposing substantial costs on the community. The discretion given to the government to decide the timing and scope of licensed activities is alarming, as such critical determinations should be explicitly stipulated within the Act itself, akin to the approach in the POCTA Act. The VFF notes that a licensing regime is not established for livestock under the Queensland *Animal Care and Protection Act 2001* with which the draft Bill shares extensive similarities. Indeed, under the animal welfare laws across all jurisdictions, the activities which may be subject to any licensing arrangement are specified within the respective Acts of parliament.

This extension prompts serious concerns about transparency, accountability, and fairness in any licensing process. The lack of clearly specified criteria heightens the risk of arbitrary regulatory response by the executive government, undermining confidence in the regulatory system and complicating farmers' capacity to plan and invest with certainty, given the unpredictability of how future regulations might impact their operations.

Moreover, the rationale for mandating licences for animal-related activities on welfare grounds appears tenuous, considering the overall legislative framework that will prescribe animal care and protection outcomes. All animals ought to be treated and managed as per these requirements. The insinuation that businesses require government authorisation to operate casts doubt on their competence in adhering to welfare standards, challenging the notion that any business failing to meet these regulations is inherently unsuitable to operate. Such a licensing approach introduces unwarranted complexity, bureaucracy and financial burden on farmers.

What's more, the licensing provisions as detailed in Part 5 of the draft Bill connected to specified classes of conduct (intensive environments, showing and transporting) maintain the erroneous presumption that animals that are kept as part of a business are somehow subject to greater risks to their welfare than animals which are not. Persons who keep animals domestically or in connection with their hobby, would not be subject to any licencing regime under this part of the draft Bill, even if their activities posed a similar or greater risk to animal welfare. There is no empirical evidence that has been shared with the VFF by the government which supports this clear bias in the draft Bill.

It is important to acknowledge that licensing itself doesn't inherently prevent non-compliance, similar to how driving licences don't stop people from speeding.

Indeed, there is a risk that the government may use licences for ulterior purposes by using licences granted under one power to control activities that the government may not have the power to control elsewhere. Licences could be repurposed to support other government objectives that may not align directly with the original intent of promoting animal welfare. For instance, whilst a licence might be intended to ensure that livestock transporters comply with animal welfare regulations, it could also be adapted to restrict transport routes, limit the size of transport vehicles, or impose conditions that indirectly address environmental or traffic concerns. Similarly, licencing that may restrict stocking densities could be created to control for certain planning and environmental objectives.

Ultimately, these licensing regimes would have adverse consequences on food production, food volumes and food security. It would lead to the government being the arbiter of what food is produced, where and how. The VFF strongly cautions the government away from accepting and abusing such power as these choices are best left to community members to determine through their market power as consumers, rather than through state-led control.

In light of the above concerns, the VFF recommends the following amendments to the draft Bill:

- Clearly defined licensing scope: The draft Bill must explicitly outline the activities requiring licences, ensuring that any expansion of licensing remains directly connected to the objective of promoting animal welfare. Should there be a belief that licensing needs to expand, it ought to be formalised through an amendment to the Act, ensuring enhanced transparency and accountability through direct parliamentary oversight.

- **Transparent criteria for licensing:** Establish specific, transparent criteria within the draft Bill for granting, renewing, and revoking licences, which would prevent arbitrary or biased decision-making.
- **Limitation on discretionary powers:** Restrict the discretionary powers of the executive government by detailing within the draft Bill the circumstances under which licensing is required, thus ensuring consistency with the established framework under the POCTA Act.
- **Regular review and adjustment mechanism:** Include provisions for the regular review of the licensing framework to ensure it adapts to changing animal welfare science, industry practices, and technological advancements, maintaining its relevance and effectiveness.
- **Impact assessment requirement:** Mandate a comprehensive impact assessment to evaluate the potential consequences of the licensing regime on the agricultural sector.

### **Approved industry arrangements**

The VFF acknowledges the potential benefits of approved industry arrangements in offering regulatory flexibility whilst upholding stringent animal welfare standards. Such arrangements present an opportunity for a collaborative approach between the industry and government regulators, enabling the creation of solutions tailored to the unique challenges of animal industries.

However, the VFF underscores the importance that these arrangements do not undermine the evidence-based and scientifically supported farming practices currently in place. It is critical to establish transparent and robust governance structures within these arrangements to prevent conflicts of interest and ensure accountability.

The draft Bill's lack of clarity on the application process for an industry arrangement is a significant concern. It remains ambiguous whether there will be consultation with the industry prior to the Minister approving an industry arrangement request. Moreover, it should be noted that participation in these arrangements cannot be compulsory for all industry members.

Furthermore, the VFF highlights the complexity of Quality Assurance Schemes, which cover broader aspects of the farming system beyond animal care and protection. Given the draft Bill's focus on animal welfare, it must clarify how it will handle instances where a farmer may fail to meet Quality Assurance Scheme standards but not necessarily fail in terms of animal welfare. The draft Bill should delineate the process for evaluating animal welfare specifically, even when assessed within the context of a broader evaluation scheme.

### **Compliance Inspection Programs**

The VFF expresses concern over the expansive discretionary powers granted to the government within the provisions for Compliance Inspection Programs outlined in the draft Bill. The absence of clearly defined criteria and identifiable thresholds for initiating such programs introduces significant uncertainty, which is particularly problematic for the agricultural sector. This lack of specificity in the legislative provisions creates an unpredictable environment, undermining the sustainability and operational stability of agricultural businesses.

The effectiveness of the program is closely linked to the composition of the Special Expert Advisory Committee. The VFF emphasises the necessity for committee members to possess specialised knowledge relevant to the inspection process, including a deep understanding of specific animal species and farming production systems. Mandating this level of expertise in the draft Bill is essential to ensure that the committee's advice is informed, relevant, and practically applicable, thereby enhancing the regulatory framework's effectiveness and ensuring the continuous maintenance of high standards in animal welfare and biosecurity.

Therefore, the VFF advocates for specific amendments to the draft Bill that clearly define the triggers for the Compliance Inspection Program. Such clarifications will align the program with the sector's operational realities and reinforce the principles of transparency and accountability, essential for maintaining trust and predictability in the agricultural industry's regulatory environment.

### **Authorised Officers**

The VFF highlights the necessity for authorised officers to possess specific qualifications, emphasising the importance of comprehensive knowledge in livestock inspection, including expertise in farming practices and biosecurity measures. This ensures that authorised officers are adequately equipped to understand the highest standards of animal welfare and biosecurity on farms.

Concerns are raised regarding the exemption of police officers from the qualification or training mandates that apply to other authorised officers. Given the complexity of biosecurity and its critical importance, the VFF recommends that all authorised officers, including police officers who may engage with agricultural environments, receive specialized training. This training is essential to address biosecurity risks effectively, ensuring that those who may not have a background in farming practices are prepared to manage these situations competently.

### **Expert Advisory Committee and Special Expert Advisory Committee**

The VFF recognises the draft Bill's proposal to establish an Expert Advisory Committee and, when required, a Special Expert Advisory Committee, both intended to provide counsel to the Minister. Given the substantial impact these committees could have on the livestock production sector, the VFF advises careful composition of both groups.

For the Expert Advisory Committee, the VFF underscores the importance of including a diverse array of members with specialised expertise in agricultural systems. It is essential that this committee comprises experienced farmers, veterinarians and animal industry representatives, ensuring a comprehensive perspective that encompasses the full spectrum of farming practices and animal welfare. This diverse expertise is crucial for the committee's advice to reflect the nuanced complexities and operational realities of the livestock industry, thereby enabling informed and effective decision-making.

Similarly, the Special Expert Advisory Committee, when convened to address particular animal industry concerns, should be formed exclusively by professionals with specialised knowledge pertinent to the issue at hand. This includes a deep understanding of the specific animal species involved and familiarity with the relevant farming production systems. Such specialisation will ensure that the committee's recommendations are well-informed, contextually relevant, and specifically

tailored to support regulatory adherence, enhancing both animal welfare and biosecurity standards effectively.

Both committees' composition is vital in ensuring that their recommendations and guidance accurately embody the sector's detailed knowledge and operational challenges, facilitating informed policy-making that genuinely benefits the agricultural industry and upholds high standards of animal welfare and biosecurity.

### **Animal Care and Protection Fund and Animal Care and Protection Compliance Fund**

The VFF does not support the establishment of the two funds outlined in the draft legislation. The agriculture industry already makes substantial contributions to research and development around improving animal welfare outcomes at a national level and there is little requirement for this to be duplicated by the Victorian Government at further cost to the taxpayer. Our opposition to the proposed expansion of the licensing regime is central to our perspective on the Animal Care and Protection Compliance Fund.

Were the government to proceed with the establishment of these funds, then we advocate for a transparent process where the industry's voice is part of the selection of research projects, guaranteeing that the initiatives funded are impactful and relevant.

### **Commencement**

Considering the livestock industry operates nationwide, it's crucial to establish uniform regulatory standards across all states. These standards should be shaped by strong scientific evidence and developed through widespread consultation within the industry.

The VFF holds deep concerns regarding the proposed 2-year timeframe for the revision of the regulations in accordance with the draft Bill and is the basis for the proposed delayed commencement of the Act. Currently, there are 31 Victorian Codes of Practice for animal welfare, with 10 related to farming and husbandry practices. The significant commitment and resources required from both government and industry within such a limited timeline are extremely concerning.

The farming sector needs guarantees that there will be sufficient time for all necessary consultations, as well as for the industry to conduct their policy risk analyses and submit their comments and feedback. In addition, the government must be adequately resourced to undertake this task, particularly in its ability to undertake thorough Regulatory Impact Statements. Therefore, the delayed commencement of the Act should be extended to ensure a comprehensive and fair discussion with all relevant stakeholders and to allow the industry to develop its position and contribute effectively to the revision process of such a critical matter. This is of the uppermost importance to ensuring all stakeholders trust in both the developed regulations and the process by which they are developed.



### III. Table of Recommendations

Draft Bill	VFF's comments
<p><b>4 Definitions</b></p> <p>In this Act—</p> <p><b><i>intensive environment</i></b>, in relation to the keeping of more than one animal, means an environment—</p> <p>(a) in which the animals are mostly confined to a small area, such as a cage, stall or pen; or</p> <p>(b) in which the animals are kept in close confinement with each other, such as a barn, feedlot or saleyard;</p> <p>Examples</p> <p>The following are examples of intensive environments—</p> <p>(a) intensive piggery farms;</p> <p>(b) intensive poultry farms;</p> <p>(c) intensive cattle feedlots;</p> <p>(d) housing of animals at sale yards;</p> <p>(e) rabbit breeding.</p>	<p>The VFF does not support the inclusion of specific offences relating to intensive environments and believes there is no need for the definition of intensive environment in the draft Bill.</p> <p>Any definition of intensive environment is problematic because there is no standard by which intensive environments can be measured, particularly with regard to animal welfare.</p> <p><b><u>Recommendation:</u></b></p> <p>The term ‘intensive environment’ should be removed from the proposed Act.</p>
<p><b>3 Commencement</b></p>	<p>The proposed 2-year timeline for the Act to come into force may pose a risk, given the complexity of revising regulations and guidelines and the significant commitment and resources required from both government and industry, compromising the thoroughness of this process. An adequate review period is vital to ensure comprehensive discussions with all relevant stakeholders.</p> <p><b><u>Recommendation:</u></b> This section should be amended to allow more time for the revision of the regulations and guidelines.</p>
<p><b>Part 3—Animal care and protection obligations</b></p> <p><b>Division 1—Care requirements</b></p> <p><b>17 Care requirements</b></p>	<p><b>1.</b> To determine whether care is appropriate, Clause 17(3) outlines that considerations will include the animal's species, environment and circumstances, health and wellbeing, and the best available scientific evidence. However, this provision does not account that livestock are raised in diverse production systems, which directly influence the required care due to varying handling practices, thus impacting the animals' care requirements beyond just species considerations.</p> <p><b><u>Recommendation:</u></b> Amend Clause 17 to explicitly include consideration of the production system within which the animal is raised. This should cover the specific handling practices and</p>

operational characteristics of each system to ensure care requirements are accurately defined and met in the regulations.

**Suggested wording:**

*(3) Without limiting this section, in determining whether care is appropriate for an animal, the following must be considered—*

*(a) the animal's species;*

*(b) the animal's environment and circumstances, including the livestock production system employed;*

*(c) the animal's health and wellbeing;*

*(d) the best available scientific evidence relating to the animal's species.*

**2.** Given that the regulation will elaborate on specific care requirements where and if necessary, we are concerned about the vagueness and subjectivity of care requirements which gives greater scope for legal challenges.

**Recommendation:**

Amend Clause 17 so that the care requirements be refined in order to minimise the risk of legal uncertainty and misinterpretation.

**Suggested wording:**

*(1) A care requirement for an animal is care that is reasonably necessary for the health and welfare of the animal.*

*(2) The care requirements for an animal include any of the following that apply to the animal—*

*(a) appropriate food and drink;*

*(b) appropriate accommodation or living conditions;*

*(c) appropriate prevention and treatment of disease or injury;*

*(d) appropriate handling, including any confinement or transportation of the animal;*

*(e) opportunities to display normal patterns of behaviour.*

**3.** Clause 17 does not mention that the regulations will provide further information to the care requirements considering the animal's species and the livestock production system employed. We understand that this is needed to link with the additional provision on this matter in the regulations.

**Recommendation:**

Amend Clause 17 to clarify that the regulations will provide detailed care requirements for specific species and/or activity involving animals.

**Suggested wording:**

	<i>(4) the regulations provide detailed care requirements for specific species and/or activity involving animals.</i>
<p><b>18 Duty to meet care requirements—person in charge</b></p> <p><b>19 Duty to meet care requirements—owner</b></p> <p><b>20 Duty to meet care requirements—person with authority to direct care</b></p>	<p>1. Clauses 18, 19 and 20 do not mention that it is a defence to a charge be in accordance with the regulations or the guidelines. This mention is needed since the animal’s species and/or the livestock production system employed can interfere in the requirements of care.</p> <p><b><u>Recommendation:</u></b></p> <p>Amend Clauses 18, 19 and 20 to clarify that it is a defence be in accordance with the regulations and guidelines.</p> <p><b><u>Suggested wording for subsection (2) in Clauses 18, 19 and 20:</u></b></p> <p><i>(2) It is a defence to a charge for an offence against subsection (1) if the person charged took all reasonable steps to provide the care requirement for the animal <u>in accordance with this Act or the regulations or the guidelines.</u></i></p> <p>2. Clauses 18, 19, and 20 foresee imprisonment as a penalty option for a natural person. Given that Clauses 21 to 25 define acts of cruelty and already include imprisonment as a penalty option, there is no justification for Clause 18, 19, and 20 to also have imprisonment as a penalty option for failing to meet care requirements. Should any failure of care be classified as cruelty, the offence should fall under Clauses 22, 24, and 25.</p> <p><b><u>Recommendation:</u></b></p> <p>Imprisonment should be removed as a penalty option from Clauses 18, 19 and 20.</p>
<p><b>22 Offence to commit an act of cruelty</b></p> <p><b>24 Offence to commit an act of aggravated cruelty</b></p>	<p>Similar to the provisions in the POCTA Act, actions taken in compliance with the Act, regulations, and guidelines should be considered a valid defence to these offences.</p> <p><b><u>Recommendation:</u></b></p> <p>Clauses 22 and 24 should be amended to explicitly state that compliance with the Act, regulations, and guidelines constitutes a defence for the person charged with an offence.</p>
<p><b>Division 2—Restricted procedures</b></p> <p><b>36 Offences for restricted procedures</b></p>	<p>The definition of restricted procedures in the draft Bill is overly broad, covering several common husbandry practices that are to be detailed in forthcoming regulations. Consequently, grouping all these procedures into a single category—restricted procedures—and making them eligible for imprisonment as an offence is excessively harsh and potentially damaging.</p> <p>Given that Clause 21 to 25 specifically delineate acts of cruelty, complete with imprisonment as a penalty option, there is no compelling reason for Clause 36 to also prescribe imprisonment for not adhering to regulatory requirements. Should any act be deemed cruelty, it rightfully belongs within the scope of Clauses 22, 24, and 25.</p>

	<p><b><u>Recommendation:</u></b></p> <p>Imprisonment should be removed as a penalty option from Clause 36.</p>
<p><b>Division 6—Electronic shock devices and traps</b></p> <p><b>Subdivision 1—Electronic shock devices</b></p> <p><b>47 Using electronic shock devices generally</b></p> <p><b>48 Sale or loan of electronic shock devices generally</b></p>	<p>Electronic shock devices are addressed in current animal welfare legislation, which does not include imprisonment as a penalty option. Except in cases where a person is selling or using a prohibited electronic shock device, there is no justification for subjecting a person who is not selling or using it in accordance with a licence or the regulations to imprisonment. Acts that could be deemed cruelty should instead fall under the provisions of Clauses 22, 24, and 25.</p> <p><b><u>Recommendation:</u></b></p> <p>Imprisonment should be removed as a penalty option from Clauses 47(2), 47(3), 48(2) and 48(3) when the use of electronic shock devices is allowed under a licence or the regulations.</p>
<p><b>Division 6—Keeping an animal in an intensive environment</b></p> <p><b>82 Offence to carry on a business of keeping animals in intensive environment in contravention of regulations</b></p> <p><b>84 Exceptions to offences under this Division</b></p> <p><b>85 Exception for registered veterinary practitioners and persons acting under instructions of practitioners</b></p>	<p>The distinction in the draft Bill between intensive farming businesses and others lacks justification. The legislation specifies requirements and offences intended for universal application, as elaborated in Parts 3 and 4. The portrayal of intensive farming implies negativity, risking misunderstandings, despite these operations adhering to strict welfare standards and using advanced practices to ensure animal welfare. Given that intensive farms face the same regulations as other agricultural businesses, singling them out in the draft Bill is unjustified.</p> <p><b><u>Recommendation:</u></b></p> <p>Clauses 82, 84 and 85 should be removed to guarantee the uniform application of animal welfare standards across all business operations.</p>
<p><b>97 Offence for failure to comply with conditions on a Part 6 licence</b></p>	<p>This offense appears to duplicate the provisions found in Clauses 47(2) and 48(2). Moreover, the imposition of imprisonment does not seem proportionate to the gravity of the offense. Acts that genuinely constitute cruelty should be addressed under the provisions of Clauses 22, 24, and 25.</p> <p><b><u>Recommendation:</u></b></p> <p>Imprisonment should be removed as a penalty option from section 97(1).</p>
<p><b>125 Requirements for applications</b></p>	<p>This clause mandates that applications must be "in writing in the form approved by the Secretary," potentially implying a requirement for a physical, paper-based format. To modernise and improve accessibility, an update facilitating digital or electronic formats is proposed.</p> <p><b><u>Recommendation:</u></b></p> <p>Amend Section 125 to clearly allow for submissions in both physical and digital or electronic formats.</p>

<p><b>Part 11—Enforcement notices, orders and related powers</b></p> <p><b>Division 1—Authorised officers</b></p> <p><b>180 Appointment</b></p>	<p>Clause 180(1)(c) specifies 'prescribed qualifications' for the appointment of authorised officers. The VFF underscores the crucial importance of these officers being highly qualified for livestock inspection. Qualifications should include technical knowledge in farming practices and biosecurity procedures.</p>
<p><b>182 Training of authorised officers</b></p>	<p>Clause 182 indicates that police officers are exempt from the qualification or training requirements that other authorised officers must complete. However, the Minister during the <a href="#">second reading</a> of the <i>Biosecurity Legislation Amendment (Incident Response) Bill 2023</i>, mentioned that <i>'In situations where police come across biosecurity issues or associated concerns arise, Agriculture Victoria, as part of the DEECA, will provide Victoria Police with advice to manage those risks.'</i></p> <p><b><u>Recommendation:</u></b></p> <p>Given the significance of biosecurity risks, it is recommended that all authorised officers, including police officers who may lack familiarity with farming practices and might need to enter farms, undergo training to manage these risks effectively.</p>
<p><b>183 Service of infringement notices</b></p>	<p>The term 'reason to believe' in Clause 183(1) underscores our comment on Clause 180(1)(c): 'prescribed qualifications' for authorised officers inspecting livestock should encompass technical knowledge in farming practices.</p>
<p><b>310 Membership of Expert Advisory Committee</b></p>	<p>Given the significance of an Expert Advisory Committee and its potential impact on the livestock sector, it is crucial that at least one committee member has expertise in farming when advising on livestock-related matters.</p> <p><b><u>Recommendation:</u></b></p> <p>Amend Clause 310 to stipulate that specialists in the field must be included on the committee for any matters related to livestock.</p>

## **Victorian Farmers Federation**

*The voice of Victorian farmers and rural communities since 1979*

Farrer House  
Level 3, 24 Collins Street  
Melbourne VIC 3000

1300 882 833  
[www.vff.org.au](http://www.vff.org.au)  
[policyteam@vff.org.au](mailto:policyteam@vff.org.au)