



GETTING 2 ZERO SUBMISSION

Draft Animal Care and Protection Bill 2024 Consultation

Getting to Zero (G2Z) is a national program providing free, remote, and onsite, consulting and support services for local government, not-for-profit organisations, and community groups to improve outcomes for lost/stray and homeless animals, and their caretakers, in every community in Australia.

G2Z works closely with governments, animal welfare organisations and researchers and has specific and practical knowledge on companion animal welfare and management.

This submission mainly focuses on the draft Animal Care and Protection Bill however the feedback provided on the Bill can also be applied to the relevant Regulations.

G2Z welcomes the opportunity to engage at any level on the topic of companion animal welfare and management.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: Promote independent governance and administration

Recommendation 2: Improve decision making

Recommendation 3: Limit and remove loop holes

Recommendation 4: Strengthen enforcement mechanisms

Recommendation 5: Review and revise language used for unintended consequences



1. Independent governance and administration

The establishment of an independent **Victorian Animal Welfare Authority** is a critical consideration for the process of updating the legislation. The proposed Bill introduces numerous administrative and regulatory functions that would be best managed by a specialist agency. In the current system, the administration of the Prevention of Cruelty to Animals Act 1986, by Agriculture Victoria, has revealed a conflict of interest. This conflict arises as the promotion of animal welfare may not always align with the pursuit of commercial industry. An independent Victorian Animal Welfare Authority would allow Agriculture Victoria to continue providing valuable technical advice and assistance, while enforcement can occur under the oversight of the independent authority. The independence of an authority not only makes regulatory sense but also ensures the legislative objectives of the new Animal Care and Protection Act align with Victorian expectations and bolsters public confidence in the administration and enforcement of animal welfare law.

The independence of Victoria's new animal welfare framework would be further enhanced by expanding the remit of the proposed **Expert Advisory Committee** (EAC). The EAC should be positioned prominently in the Bill, reflecting its significance in Victoria's evidence-based approach to animal welfare policy. The EAC's advisory role should be expanded to include making regulations under the Act and should be enabled to investigate and provide advice independently, not merely at the Minister's request. The EAC should also be public facing and transparent with reports and information being made available to the public.

2. Improve decision making

Policy and regulatory decisions made under the new Animal Care and Protection Act should be evidence based and accountable.

It is positive to see the Bill recognise animal sentience by requiring decision-makers to pay regard to it in the administration of the legislation and regulations. It is also positive to see the proposed establishment of powers for the responsible Minister to issue guidelines to public authorities to assist them in exercising their duties and powers with respect to animals.



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While these provisions provide an opportunity for improved decision making, they do not impose a strong influence and depart significantly from what was proposed in the Government's Plan for the Animal Care and Protection Laws released in 2022.

The Plan proposed to enshrine enforceable, whole-of-government decision-making principles in the legislation itself. This would have significantly improved the consistency and accountability of decision-making under the new Act and across government. This does not appear to have been carried through to the proposed Bill.

Instead, the guidelines will not be mandatory, and the Minister will have no additional coercive powers to ensure they are followed. Legally, the Minister has no obligation to create the guidelines, and even if they were issued, they could be ignored by public authorities without legal recourse. The Bill also provides no guidance as what should be in the guidelines.

The weakness of these provisions is further accentuated by the proposed curtailing of any potential civil right of judicial review for decisions that fail to properly consider animal sentience, or relevant Ministerial guidelines should they be developed.

A fundamental deficiency of the traditional animal welfare legislative model is the lack of consistent principle and the gaping inconsistencies in legal standards of care applying to different species of animals in different contexts of use. The Plan proposed a robust, accountable, and transparent mechanism for addressing this limitation, but the Bill has watered this down and appears to leave it to Ministerial discretion.

Such fundamental components of the state's animal welfare policy and regulation should not be left to the whim of the Minister or the politics of the day. G2Z strongly encourage the Victorian Government to reinstate the Plan's proposal for decision-making principles to be enshrined in the legislation. This will represent a significant step forward for animal welfare policy development in Victoria and the nation.

3. Limit and remove loopholes

Inconsistencies in the legal standards of care applied to different species, or classifications of the same species, of animals in different contexts of use is a fundamental limitation of the traditional animal welfare legislative model. The draft Bill perpetuates these inconsistencies by replacing existing defences and exemptions with exceptions which weaken the protection of the legislation. Instead, the Bill should apply the same basic standards of care to all animals, and recognition of sentience, regardless of their use or classification. The power for the Minister



to unilaterally exempt industry practices under Approved Industry Arrangements undermines the whole purpose of the Act.

4. Strengthen enforcement mechanisms

The recognition of animal sentience in the Bill is a positive step. However, the enforcement of this recognition and the establishment of guidelines for public authorities are weakened by their discretionary nature. The government's original Plan for the Animal Care and Protection Laws proposed enforceable decision-making principles, which should be reinstated in the legislation to improve accountability and consistency.

The effectiveness of legislation largely depends on enforcement. We support the comprehensive powers proposed for authorised officers under the Bill. However, the limitations in the powers and arrangements for routine inspections of commercial facilities should be addressed. In addition, provisions for civil proceedings should be introduced to facilitate an important enforcement mechanism.

5. Review and revise language for unintended consequences

G2Z recognises the importance of the abandonment offence (Division 2, Section 21, 1d) and welcomes the Government's attempts to clarify certain elements. However, it is noted that even with the proposed amendment, there remains a risk of it being used to prevent effective management of cats which are neither owned domestic cats nor feral cats. In its current or proposed amended form, it may also prevent scientific research which is otherwise ethical and designed to protect to welfare of animals. A simple change in language of the word 'usually' to 'previously' may provide sufficient clarity to the situation.

Similarly, the specified reasons in relation to carrying out a procedure on an animal (Division 3, Section 67, e) in the draft Bill present a risk of preventing ear tipping of cats involved in a cat management reason if this is deemed to be 'cosmetic' rather than for important identification purposes.

CONCLUSION

Victoria has a unique opportunity to create a forward-thinking and effective framework for animal welfare for the future. The draft Bill, while an improvement on the current legislation, does not fully reflect contemporary animal welfare science and Victorian values. The existing



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model has notable limitations such as the lack of consistent principles, the absence of independent oversight, the use of wide-ranging exceptions, and a limited enforcement regime. We urge the Victorian Government to consider the arguments we have put forward and refine the draft Animal Care and Protection Bill accordingly. Let's seize this once-in-a-generation opportunity to establish progressive animal welfare law and policy and lead the rest of the country in this important area.