



Animal Welfare Draft Action Plan
DEDJTR
475 Mickleham Rd
Attwood, Victoria 3049

11 October 2016

Dear Sir/Madam

Submission on the Draft Action Plan 2016–2021

Thank you for the opportunity to provide a submission in relation to the *Draft Action Plan 2016–2021. Improving Animal Welfare of Animals in Victoria* (the Plan).

About the Animal Defenders Office

The Animal Defenders Office (ADO) is a non-profit, community law practice that specialises in animal law. The ADO offers information and representation for individuals and groups wishing to take action for animals. The ADO also produces information to raise community awareness about animal protection issues, and works to advance animal interests through law reform.

The ADO is a member of the National Association of Community Legal Centres.

Our comments on the Plan are set out below.

THE PLAN

The Victorian Government is to be commended for conducting an in-depth review of animal protection laws in Victoria (the review).

There are several aspects of the Plan which the ADO welcomes. We also have a number of concerns about the Plan in its current draft state.

Acknowledging animals' sentience

The emphasis on animals' sentience in the Plan and the accompanying Information Sheet¹ is to be applauded.

¹ *Victoria's Animal Welfare Action Plan. Improving the Welfare of Animals in Victoria*. The State of Victoria Department of Economic Development, Jobs, Transport & Resources, September 2016; referred to in this document as 'the Information Sheet'.

The ADO submits that any new contemporary animal protection law in Victoria must acknowledge that animals are sentient.

Currently, no Australian animal welfare law refers to animals as sentient. Yet in 2015 a number of overseas jurisdictions explicitly acknowledged that animals are sentient beings.

For example, on 28 January 2015 the French Parliament amended the nation's Civil Code to acknowledge that animals are 'living beings gifted with sentience'.² The statement applies to companion animals and wild animals.

On 5 May 2015 the New Zealand Parliament passed the [Animal Welfare Amendment Act \(No 2\) 2015](#). This Act updated the long title of the *Animal Welfare Act 1999* (NZ) which now recognises 'that animals are sentient'.³

On 4 December 2015 the Civil Code of Québec was updated to acknowledge explicitly that 'Animals are not things. They are sentient beings and have biological needs'.⁴

Changing Australian law to acknowledge animals' sentience would therefore be a move in line with both scientific knowledge and community attitudes.

The ADO urges the Victorian Government to lead the nation in this respect and include an explicit reference to animals' sentience in any 'contemporary' animal welfare legislation developed as a part of this review. Such an acknowledgement would certainly meet 'community expectations' (the Plan, p5), which is an objective of the review and Plan:

Animals are able to perceive their environment, and experience sensations such as pain and suffering, or pleasure and comfort.

Our societal expectations of how animals are cared for are increasing and we need to ensure our laws and activities reflect these expectations.⁵

Community expectations

The ADO welcomes the emphasis in the Plan on developing animal welfare legislation and guidelines that reflect community expectations.

We are concerned, however, about what is meant by 'community' in this context. The ADO submits that on many issues, 'community expectations' would not be met if the views of extreme minority interest groups outweigh majority community views on fundamental animal welfare issues such as duck shooting or greyhound racing or rodeos. For example, surveys have consistently shown that the majority of Victorians consider that the only acceptable

² From the *Code Civil Français*, Article 515-14:

Les animaux sont des êtres vivants doués de sensibilité. Sous réserve des lois qui les protègent, les animaux sont soumis au régime des biens. [emphasis added]

<http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070721&dateTexte=20160106>. Créé par [LOI n°2015-177 du 16 février 2015 - art. 2](#).

³ [Animal Welfare Act 1999 \(NZ\)](#), long title, subparagraph (a)(i).

⁴ Article 898.1. See: [An Act to improve the legal situation of animals](#).

⁵ The Information Sheet, p2.

animal welfare outcome in relation to duck shooting is to ban the practice altogether.⁶ Therefore, ensuring our laws and activities properly reflect ‘societal expectations’⁷ must mean that activities such as duck shooting are banned.

Consultation with ‘stakeholders’

The ADO is concerned that animal protection organisations are not identified as specific stakeholders in the Plan. Animal protection organisations, such as the ADO and numerous other voluntary, community groups established to promote better treatment of animals in general, are key stakeholders in the debate about animal welfare legislation, and must have an equal voice in any consultation process. Currently the Plan states its objective is to consult with ‘animal owners and industries, stakeholder and enforcement groups, and the community on developing new legislation’ (Actions 1.1 (b) and 1.2(b), p5). Presumably animal protection organisations are included in the generic term ‘stakeholder’ or ‘community’. They should, however, be referred to in their own right as arguably the most important representatives of animals’ interests.

‘Evidence-based’ animal welfare regulation

Action 1.2(c) of the Plan states that an objective is to ‘develop a contemporary evidence-based framework of regulations and codes of practice...’ (p5). This objective will be meaningful only if the community has confidence in the ‘evidence’ on which the regulatory regime is based.

The ADO submits that any evidence on which the regulatory animal welfare scheme is based must be completely independent and peer-reviewed. This means that the evidence must not be commissioned by or funded or in any way connected to animal industries. Too often animal welfare research and reviews are ‘captured’ by the industries which use animals for profit. This leads to a lack of confidence in the research by the community, and a failure to gain the social licence which animal welfare legislation must have to be effective.

Knowledge gaps and researching priority issues

The ADO welcomes the proposed deliverable of strengthening the ‘evidence base and knowledge to improve animal welfare practices through...identifying and prioritising knowledge gaps’ (the Plan, Action 2.1(a), p7). The ADO submits that knowledge of and research into outcomes of animal cruelty prosecutions is a high priority. Currently most animal cruelty prosecutions occur in the lower courts and are unreported. It is therefore extremely difficult to evaluate how animal cruelty laws and policies are being enforced, both by enforcement agencies and the courts. It is therefore difficult to assess what improvements to the compliance framework should be made and whether additional tools and measures are required eg new offences, infringement notices, higher penalties, register of animal bans, etc.

⁶ See for example: <https://www.thesaturdaypaper.com.au/news/politics/2016/03/19/victorias-duck-hunting-season-sparks-controversy/14583060003018> and <http://www.roymorgan.com/findings/finding-4239-201302262309>

⁷ The Information Sheet, p2.

Vulnerable animals

Action 2.1(c) refers to ‘vulnerable animals’ and calls for the identification of opportunities for collaboration to support such animals (the Plan, p7). The concept of ‘vulnerable animals’ is important. All animals are vulnerable to potential mistreatment and neglect by humans so in a sense all animals are ‘vulnerable animals’. If the Plan intends to focus on particularly vulnerable animals, then the ADO submits that other categories of animals should be included in this list, for example:

- Animals kept in intensive farming conditions, indoors and out of sight;
- The young of adult wildlife who are killed by hunters and shooters; often the young escape killing by the hunter or shooter, but are left to die a slow death from starvation, dehydration, predation, etc;
- Any wildlife, whether introduced or native, killed far from any scrutiny or monitoring ie in remote locations at night.

These are examples of particularly vulnerable animals who deserve extra protection under any contemporary animal welfare laws.

Important issues of animal welfare concern

Action 2.2(a) proposes the development of a process to identify priority animal welfare issues. This is another laudable feature of the Plan. However, much will depend on the interpretation of ‘priority’, and from whose perspective it is interpreted. If it is interpreted from animals’ perspectives, then the list of issues may be quite different from the examples listed in Action 2.2(a). For example, rather than referring to ‘animal welfare issues in wildlife populations, such as overabundant koala populations depleting their habitat’, the ADO suggests that issues such as unlicensed or non-compliant shooting and hunting of wild animals are far more significant ‘priority animal welfare issues’.

Action 2.2(b) refers to the development of ‘targeted communications and engagement strategies for priority animal welfare issues’ (the Plan, p7). Currently the draft Plan only lists examples relating to responsible pet ownership programs. While these are important, the ADO submits that any such strategies must also target farmed animals, and in particular factory farmed animals such as chickens, turkeys, and pigs. The numbers of these animals far exceed numbers of pets, and the conditions in which these animals are kept have inherent animal welfare concerns such as lack of space, inability to carry out natural behaviours, and so on.

Compliance and enforcement

The purported objective of Action 3.1 is that ‘Victoria has an effective and efficient compliance and enforcement system in place’ (the Plan, p11).

The ADO submits that the only way such an objective can be achieved is to take compliance and enforcement responsibilities away from private charities and government departments with conflicts of interest eg departments established to promote animal industries or recreational animal killing. These responsibilities should instead be given to publicly funded and accountable entities such as a special police unit or an independent office for animal

welfare. These public entities should have clear and transparent compliance, enforcement and reporting roles. Until this transfer of powers and responsibilities occurs, it is difficult for the community to have confidence in how animal welfare laws are monitored and enforced.

In summary, the ADO submits that the Plan has many positive features, but there are some areas of concern.

Any 'contemporary' animal welfare laws must acknowledge that animals are sentient.

Any animal welfare plan must give equal hearing to animal protection organisations, and not be captured by industry or minority human interest groups such as recreational hunters.

Such a plan must prioritise all animals with whom humans interact, including factory farmed animals, other farmed animals, victims of wildlife hunting, and introduced animal species.

Once created, any contemporary animal welfare laws must be enforced by public, independent authorities rather than industry or minority animal user groups or private charities with minimal accountability requirements.

Thank you again for the opportunity to contribute to this review of Victoria's animal welfare regulatory framework.

Tara Ward
Executive Director
The Animal Defenders Office