

New Animal Care and Protection Laws - Brumbies Submission Guide

Introduction

As a passionate advocate for brumbies, you have no doubt seen the sad and disturbing pictures of brumbies who've been shot and left behind as part of culls, and asked 'how is this cruelty permitted?'

Like most animals, brumbies are covered by multiple legislations that connect in complex ways. One of these is the *Prevention of Cruelty to Animals Act (POCTA)* which regulates how humans interact with animals. And one of the areas that POCTA discusses is how animals can be killed in ways that minimise their suffering - NOT prevent it.

Background

The *Prevention of Cruelty to Animals Act (POCTA)* has been in place since 1986. Despite its name, it has not provided an adequate framework to prevent harm to animals.

Work is currently underway to replace POCTA with a brand new *Animal Welfare Act*. The Act aims to improve existing provisions under POCTA and uphold the high standard of animal care and protection, expected by Victorians. A draft plan has now been released and public consultation is now open for a second round.

How are brumbies affected?

There are 6 key areas of the new plan that particularly affect brumbies - **1.Recognising sentence, 3.Legislative Framework, 4.Decision-Making Principles, 5.Application of the new laws, 7.Cruelty, & 9.Framework for specified classes of conduct**. We detail the good and bad parts of the new plan and what you need to include in your submission on the next page.

What Next?

If you agree that brumbies deserve better protection under the law, please take the time to write a submission and share your views. **Read the full plan for Victoria's new animal care and protection laws [here](#), or the summary plan [here](#), and access the feedback form [here](#)**

Submissions don't have to be long. A few sentences or a paragraph in your own words is adequate to make your point (although longer, detailed submissions are encouraged.)

Providing Feedback to the Plan

Our tips for making a Submission are on the last page of this document. Please read before completing your feedback!

Submissions are due: 16th October 2022

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Animal Care and Protection Act - How are brumbies affected?

1. Recognising sentience

Positives of the plan: For the first time, Victorian law will recognise that animals can have positive and negative experiences such as pleasure and pain. The Act will recognise that animals are sentient.

Negatives of the plan: The Act does not go far enough. It starts by recognising sentience, then describes many exemptions where this sentience is ignored. Animals are still allowed to be used, hunted and killed under circumstances where the Act justifies it as a 'legitimate activity'.

Our proposed solution to include: Remove exemptions that weaken the Act's protection for sentient animals such as brumbies.

3. Legislative Framework

Positives of the plan: The new Act will move Codes of Practice (which are not enforceable) into a combination of Regulations (which are enforceable) and Guidelines (which are not enforceable). For the first time, Codes of Practice such as those which guide how brumbies are culled/killed, will HAVE to be followed. (Of course, it's best if no killing of brumbies occurs, but whilst working to achieve that, this is the best interim option that holds shooters and decision makers accountable)

Negatives of the plan: The decisions around what is moved into (enforceable) Regulations and what is moved into the (non-enforceable) Guidelines will be part of a future consultation (stay ready to submit again!). This leaves a gap where activities such as aerial shooting as a method of killing can still be moved into guidelines in the future so that it can continue unchanged.

Our proposed solution to include: The act must specify that all Codes of Practice must be moved into Regulations, with no exemptions. This will prevent loopholes that undermine the Act's ability to protect brumbies.

4. Decision-Making Principles

Positives of the plan: For the first time, Victorian law will have a framework to guide decision-making that considers the protection of animals.

Negatives of the plan: The Act does not go far enough. The decision-making principles refer to avoiding unreasonable pain, minimising pain and considering alternatives.

Our proposed solution to include: The decision making principles must be written assertively. Pain for brumbies MUST be avoided, alternatives MUST be sought. If brumbies have been recognised as sentient (refer to #1) then no level of pain and suffering is acceptable or justifiable, and if population control is required, then alternatives (to killing) MUST be investigated.

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5. Application of the new laws

Positives of the plan: N/A

Negatives of the plan: The new Act is not allowed to contradict other legislation that already exists, as they sit 'side by side'. Therefore when other Acts state that an animal can be killed (whether for food, fun, or culling), this will still be allowed, even if the principles of the new Act acknowledge that this will cause the animal to feel pain or fear. This undermines the Act's ability to protect brumbies.

Our proposed solution to include: The prevention of cruelty to animals must be the guiding principle behind all legislation relating to how humans interact with animals. As such, the new *Animal Care and Protection Act* should be the overarching legislation. Only when its principles have been met **without** exceptions or exemptions, can other legislation come into force. They must therefore comply with *the Animal Care and Protection Act* first.

7. Cruelty

Positives of the plan: Cruelty offences apply to animals in the wild not just in someone's care. The definition of Cruelty has been clarified to include acts or omissions that cause physical and/or mental pain and/or suffering.

Negatives of the plan: The exemptions throughout the The Act create contradictory situations where the Act acknowledges that certain ways that humans interact with animals (e.g. shooting brumbies) may cause pain and suffering, but it justifies this as NOT cruel because it is 'required'.

Our proposed solution to include: Remove exemptions to cruelty from the Act. No acts that cause physical and/or mental pain to animals can be justified and therefore should not be allowed.

9. Framework for specified classes of conduct

Positives of the plan: There will be a more consistent framework to regulate high risk activities for animals.

Negatives of the plan: The Act does not go far enough. Activities that are high risk for sentient animals, such as 'killing or wounding' them, should not be permitted under any framework.

Our proposed solution to include: Remove exemptions from the Act which are used to justify and allow the continuation of activities that carry a high risk of harm to animals. Hunting and shooting should be banned.

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Providing Feedback to the Plan

To provide feedback, you are given the option of **Complete a Simple Survey**, or, **Complete the survey and make a submission** on the Participate Page

- <https://engage.vic.gov.au/project/new-animal-welfare-act-victoria/participate>

Please select option #2! Option #2 allows you then to attach a written submission to at the bottom by uploading a word doc or pdf.

It's of utmost importance to add a written submission so that you can address the key areas of the new plan that particularly affect brumbies;

- 1. Recognising sentience**
- 3. Legislative Framework.**
- 4. Decision-Making Principles**
- 5. Application of the new laws**
- 7. Cruelty**
- 9. Framework for specified classes of conduct**

Submission Writing Tips

Before starting, make sure you read through the Plan & the key areas affecting Brumbies (points 1, 3, 4, 5, 7 & 9 mentioned above) because it's important to familiarise yourself with the terminology used.

1. Start by introducing yourself and briefly explain why brumbies matter to you.
2. The consultation seeks feedback on these areas:
 - Priorities and concerns
 - Impacts
 - Unintended consequences
 - Gaps
3. When writing, the consultation asks you to identify which areas of the new Act you are concerned about. It's also useful to identify any areas you agree with. Please see our guidance notes below on some areas relating to brumbies, that you might like to discuss.
4. End with a thanks for the opportunity to contribute to the consultation