

Inquiry into Local Government funding and services – Victoria 2024



Animal Care Australia submission

Approved: 28th June 2024

“Animal welfare is animal care”



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ACA Background

Animal Care Australia Inc. (ACA) represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies including those representing dogs, cats, birds, horses, small mammals, reptiles, fish and exhibited animals. Some individual members also work in the rescue, care, and rehabilitation sectors.

Opening statement

Animal Care Australia would like to thank the Legislative Council Economy and Infrastructure Committee for providing us with the opportunity to submit to this Inquiry.

As a nationally recognised animal welfare organisation, Animal Care Australia regularly interacts and consults with local councils across Australia.

It is generally found that most council representatives, including Councillors appreciate our advice and advocacy for pet keeping.

In Victoria, as the committee would know, local councils have been granted the powers of enforcing all aspects of animal keeping and animal welfare, as authorised officers under the Prevention of Cruelty to Animals Act 1986 ¹, and the Domestic Animals Act 1994 ².

What the committee is most likely not aware of are the powers provided to councils to restrict the numbers of animals able to be kept on a property up to just five (5), empowered under Planning Provisions within the Planning and Environment Act 1987. ³ Animal Welfare Victoria have been actively encouraging councils to enforce these numbers. (See Attachment 1 to this submission)

Animal Care Australia's interactions Victorian Councils are more often than not in response to councils that are in our opinion abusing these powers and forcing their own officers' biases into changes of their local laws, including public orders, domestic animal management plans, and the issuing of, or more to the point, refusal to issue excess animal permits as required under the Domestic Animals Act and even enforcing outlandish conditions for approval of development applications.

It is our strong opinion that this occurs because too much power has been offloaded by the State government without the appropriate legislative amendments guaranteeing accountability and transparency of the councils.

¹ [POCTAA 1986](#)

² [Domestic Animals Act 1994](#)

³ [Planning and Environment Act 1987](#)

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In view of this, Animal Care Australia will be restricting our submission to clause (2) of the Terms of Reference.

Terms of Reference.

That this House requires the Economy and Infrastructure Committee to inquire into, consider and report, by 28 November 2024, on local government funding and service delivery in Victoria, including but not limited to —

- (1) the effects of cost shifting from the state and federal governments to local councils in an examination of vertical and horizontal fiscal imbalances.*
- (2) whether local councils are adequately delivering on their core service delivery objectives.*
- (3) the overall revenue structure of local government.*
- (4) whether the existing revenue structure is sustainable and appropriate or if alternative models of funding would be more sustainable and appropriate; and*
- (5) any other related matters.*

Response to Terms of Reference

(2) whether local councils are adequately delivering on their core service delivery objectives

It has become apparent in recent years that there are substantial differences in the way that local councils manage their funding around animal management.

The Parliamentary Inquiry into the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016⁴ highlighted that there were extra compliance requirements that would be placed on Local government, and their consequential cost⁵.

This extra responsibility was strongly opposed by the Municipal Association of Victoria (MAV) as at the time councils were not able to address the issues they had, and that an increase of responsibility would come with a need to increase staff and the experience of these staff⁶.

The Inquiry recommended⁷ that the State Government provide additional funding to local government to appropriately enforce current legislation.

⁴ [Inquiry into Domestic Animals Amendment \(Puppy Farms and Pet shops\) Bill 2016](#)

⁵ [Inquiry - Findings 2 - 4](#)

⁶ [Inquiry - Finding 5](#)

⁷ [Inquiry - Recommendation 2](#)

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The Government's response to the Inquiry ⁸ did not address this recommendation, however the Department's comment during the Inquiry was that:

"The Domestic Animals Act 1994 provided a cost-recovery scheme for local council implementation and enforcement of the Act. Local councils, wherever possible, are encouraged to set their registration fees for dogs and cats and domestic animal businesses at a rate that will enable them to recover costs for their services."

The Minister advised:

"The Domestic Animals Act currently provides cost recovery mechanisms for local government to enforce the Act. That is the way it was originally developed. Some councils take that up and fully cost recover their activities in relation to domestic animal businesses. Others do not. The department provides support as much as we can to councils in helping them determine how they will cost recovery, but obviously it has got to go through our local government process."

Despite the issues raised by the MAV, many of the changes were implemented as proposed, and issues have continued to arise across the differing Victorian councils around how they each handle their animal management and regulation requirements.

The database systems promised by the Victorian Government do not appear to have assisted councils streamline their compliance activities. Along with that Victoria's Applicable Organisations (member organisations) are reporting an increase in enquiries from Local Laws officers seeking information about whether an animal owner is a member of their organisation.

This is despite micro breeders continuing to breed without oversight and council funded pounds continuing to be responsible for animals that appear to be unable to be traced to the breeder via the animal's microchip and source numbers (which were features of the revised legislation), and promoted by both the government, and animal activists as the way for breeders to be held accountable for the animals they breed. This was also stipulated by the Australian Veterinary Association (AVA) during the Parliamentary Inquiry.

Some of the key differences among councils that we would like to highlight are:

- The differing amounts of animal registration costs, with examples ranging from \$40 up to \$120 for the same services provided.

There is no justification for this as all councils provide the same services.

- The same can be said for the price of 'change of land use permits' now required for animal husbandry. Referring back to the Victorian Planning Laws that were changed, which occurred soon after the changes to the Domestic Animal Act, now requiring breeders who reside in the majority of Metropolitan Melbourne, and who have more than 2 animals (agnostic of species or

⁸ [Government response to Inquiry](#)

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whether any are desexed), must apply for a change of land usage permit. In regional areas this is increased to 5 with some exceptions.

In some instances, these breeders do not need an excess animal permit under local laws (i.e., they have two dogs and a cat), however in many instances breeders now require both. Animal Care Australia have seen these planning permits costing from \$700 up to \$3000, again with no difference in the service provided.

This change to planning laws has also brought with it an increased risk to animal welfare which in the future will see further compliance issues. This is because the planning overlay change is not attached to the animal owner, it is attached to the property and is able to change hands upon selling the house with no confirmation that the same levels of animal welfare care are in place.

A council's only recourse is to initiate compliance inspections and enforcement action as they will not be able to stop the purchaser using the land for that purpose unless an enforcement action is taken.

- It should be noted, Animal Care Australia member Dogs Victoria met with the MAV in 2020 to seek advice on behalf of its members regarding what specific requirements needed to be met for a change of land use permit for breeding where members held a small number of dogs (e.g. 3-6) and where these were kept in the home and did not require any infrastructure (e.g. kennels).

The MAV were unable to provide any detail beyond that which is already required for the excess animal permit.

In effect councils therefore have two processes, one through local laws and one through their planning department that assess the same criteria twice, **driving cost and red tape for councils and small Applicable Organisation (AO) breeders**, who are already over regulated.

Some AO members report this process has cost up to an additional \$10k.

Animal Care Australia have seen an increase in spending by councils on 'so-called consultation.' While Animal Care Australia not only acknowledges consultation is an important part of any proposed changes, we also strongly recommend that it should be a legislated requirement for all reviews or proposed amendments to local laws and other regulations implemented by any government at all levels of government.

Some councils go to great lengths to underplay their consultation process, particularly choosing to exclude stakeholders or constituents that would be most affected by the proposed changes. While others continue to repeat consultations in order to achieve the desired outcome. Either way, due to the iterative nature of council consultation, Councils are spending large amounts to undertake consultation in the form of surveys and meetings but then they do not draft the plans based on the opinions of the respondents. Further, the majority of these consultations do not provide for written submissions, or for respondents that do not reside in their shires/municipalities. This mandatory

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postcode requirement effectively excludes the most important stakeholders, such as breeding associations and other animal welfare organisations – as they are either national or state-based organisations.

A recent example being Banyule City Council's review of their Public Order for Dogs and Cats in Public Spaces.⁹ Here the original (intended outcome) plan was passed with only minor amendments that do not reflect the majority of feedback council received during a second and more inclusive consultation. Initially a consultation took place by way of a poorly promoted survey. This survey was structured in a manner that invited negative comment only or had an obvious responsive outcome.

Banyule Council stated in the Discussion Paper that was (supposedly) based on the initial community engagement survey conducted in November 2022 that:

"88% of respondents believe that dogs should be controlled in public spaces and should be on a lead".

This did not correlate with the actual survey question, which was:

"Should dogs be controlled in public places?"

Clearly the vast majority of people would agree with dogs being controlled in public places.

When questioned on this during the 20th of May Council meeting, Council officers stated that the on-lead element of the 88% claim had been "inferred".

Evidence that Council then used that inference in the interpretation to skew results to a more restrictive and desired outcome. However, following public outcry a second survey was called and due to the actions of pet owners there was a significantly different response. The result was overwhelming support for the public order that is already in place and that order already met current community expectations – the same one council officers claimed needed changing. Further, the data provided (by council) indicated a reduced trend of incidents over time indicating better compliance. So why the change?

The draft of the order was not made available for community consultation and only became available in the meeting Agenda papers less than a week before the council meeting and vote. The consultation process caused enough distress to pet owners that two Councillors felt the need to apologise about this during the debate¹⁰, however despite some minor amendments made during the meeting, the order, as passed, continues to place greater restrictions on dogs in public places with no proportionate evidence basis for this.

There is no need to spend the money on a consultative process if the consultation is not regarded.

⁹ [Banyule Council – Public Order for Dogs and Casts in Public Spaces](#)

¹⁰ [24 June Ordinary Council meeting | Banyule Council](#)

All councils appear to undertake similar processes with varying levels of evidence basis, however unlike Banyule there is evidence that some other councils have provided drafts of their orders/policies for community consultation prior to their adoption.

Banyule Council did not reveal the costs of their process or implementation.

Mornington Shire Council advised a cost of \$250k for implementation of their recently revised policy, which was specifically for upgraded signage.

Animal Welfare Victoria (AWV) ¹¹ advises that 80% of dog attacks occur proximate to the house in which the dog resides, yet all Councils spend considerable time and money creating different approaches to regulating dogs in public places such as parks and reserves rather than the issue of dogs not being properly contained while at their home.

A review was undertaken by Banyule Council ¹² in 1996 (to inform the order that is being replaced) that revealed of the 664 complaints council received about dogs in the 12 months prior to November 1996, only 24 related to dogs in parks with 504 relating to dogs in the street and 396 of these related to dogs at large. This supports AWV's advice and points to a need for better home containment rather than public orders relating to whether dogs could be exercised off leash.

In addition, Banyule's Public Order doesn't appear to comply with Section 26 2(A) of the Domestic Animals Act in that it extends to all public places and there is no evidence Council has the agreement of all owners/occupiers of privately owned public places This was drawn to the attention of Council prior to their vote but this was not rectified. Other councils have better defined their Orders to state that they apply to all Council/Shire owned or managed land within the Council/Shire boundaries.

There is likely additional costs to Banyule to rectify this non-compliance in the future.

It is of great concern how little rigour was applied to the review process. It is quite obvious to observers of the process that Council was intent on achieving its own desires, rather than those of the community, to control an issue with no proportionate evidence basis at an unstated cost with the risk of:

- a decrease in social connection, a loss of social networks, an increase in social isolation and social cohesion, a decrease in the wellbeing and health in members of the approximate 10% of the Banyule community who own dogs.
- an increase in poorly socialised dogs and inadequately exercised dogs and a resulting increase in reported issues and incidents.

¹¹ [AWV – Preventing Dog Attacks](#)

¹² [Banyule Council – 1996 review](#)

The Banyule Council example above is just one of many that Animal Care Australia is aware of. Councils continue to waste exorbitant amounts of money to achieve outcomes that are more often than not driven by biases of individuals within Council.

Common Flaws in the Community Engagement Process

- Poorly designed survey questions in both surveys that:
 - invite negative comment only or lead for a desired response about dogs in public places
 - do not elicit appropriate information for the purpose of the review (i.e. Council already has data)
 - state the obvious: “Should dogs be controlled in public places?”
 - are not well publicised to reach important stakeholders in the community
- Hold Community sessions that are not attended Councillors, raising questions about how any feedback is provided to those Councillors ie: the decision makers
- Flaws in Discussion Papers:
 - Usually developed from limited responses
 - Based on opinions of people who usually have little or no understanding of the needs of the subject matter or the benefits to the community
 - No experts invited to provide input in the development of the options
 - False or biased claims in the Discussion Paper
 - Assumptions made without supporting data or that are evidence based.
 - Options are short-sighted and not innovative and could have a very negative impact on the community
- No assessment of whether enforcing the existing laws would address the issues
- The data not utilised correctly. Surveys also tend to allow for statistical outcomes (ie percentages) and not the ‘personal or community’ feedback necessary to determine an appropriate outcome. Restrictions to Yes or No responses effectively removes the most important ability to explain or justify a response
- Risks and issues associated are generally one-sided and not reflective of evidence based data or stakeholder consultation
- Risk vs Benefit to the community are usually ignored. As are alternative ‘options’ for consideration.

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Since 2019 Animal Care Australia has responded to multiple Councils pursuing a fair approach to their residents instead of the pursuit of those biases.

In many cases Councils employ ex-RSPCA and other rescue/shelter workers to fill Animal Management Officers positions. While that would appear to make sense, this means they are employing individuals who have seen the worst of some animal keeping scenarios. Nearly all of them have left those organisations with a jaded view of animal owners and particularly dog and cat breeders. Animal Care Australia has encountered numerous circumstances where breeders have been constantly thwarted by AMO's refusing to approve animal permits and/or continually adding further requirements to DA's all in order to drive up the costs to the breeders. The refusal to issue permits results in dogs and cats needing to be re-homed – or as in the case of Macedon Ranges Shire Council – residents were ordered to euthanise excess animals that had been with them for years.¹³ These were not hoarders or so-called puppy farmers – these were residents who had been keeping their animals under previously approved laws and permits.

Some of the DA application to and fro's have extended into years of ongoing additions needing to be processed and approved only to have more conditions added and the cycle start over again.

The amount of wasted money spent by these council employees to carry out their biases is concerning and requires greater accountability, transparency and consequences for councils found to be in effect extorting their residents.

The following is a list of Councils that Animal Care Australia has corresponded with. These submissions are in response to cases of poor treatment, but mostly, to inappropriate Domestic Animal Management Plans (DAMPs) clearly drafted by individuals who were either biased or uneducated in how animals should be kept. These DAMPs incur quite hefty costs.

- Banyule City Council – [Sub 1](#) [Sub 2](#)
- Baycity City Council
- Golden Plains Shire Council – [Sub 1](#) [Sub 2](#)
- [Hume City Council](#)
- Macedon Ranges Shire Council - [Sub 1](#) [Sub 2](#)
- [South Gippsland Shire Council](#)
- [Wyndam City Council](#)
- [Yarra City Council](#)

In more recent months we have been hearing from our members who have been told that their pre-existing Excess Animal Permits will no longer be approved as “this Council will be a dog breeding free council.”

¹³ [Macedon Ranges Shire Council issues.](#)

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Animal Care Australia is still pursuing these claims and we appreciate the opportunity to forward outcomes of these to the Committee in the future – should they be available prior to your reporting date of late November 2024.

Animal Care Australia does not believe that all local councils are delivering on their core service delivery requirements, and most importantly therefore not meeting the needs of their residents.

Animal Care Australia hopes an outcome of this Inquiry is to hold Councils more accountable and transparent, including greater access to the ability to appeal decisions by councils prior to having to appear before VCAT. For many, this is just not a viable economic option.

Animal Care Australia welcomes any questions and welcome the opportunity to provide testimony at this Inquiry.

This submission can be publicly listed.

On behalf of the Animal Care Australia Committee,

A handwritten signature in black ink that reads 'M Donnelly'.

Michael Donnelly
President
Animal Care Australia
Ph: 0400 323 843
E: president@animalcareaustralia.org.au

This submission has been developed in consultation with a range of members of Animal Care Australia residing in Victoria.



Planning requirements for dog and cat breeding

The purpose of this document is to explain how dog and cat breeding is regulated by the planning scheme. It does not apply to the keeping, breeding, boarding or training of racing dogs.

This document has been developed in consultation with the Department of Transport and Planning.

What is a planning scheme?

Each municipality in Victoria is covered by a planning scheme that regulates the use and development of land.

The planning scheme zones land for particular uses – for example, residential, industrial, rural or business. The zones are listed in the planning scheme and each zone has a purpose and set of requirements. The zone also contains information relating to land use, subdivision of land, construction of new buildings and other changes to the land. This information describes when a planning permit is required, and the matters that council must consider before deciding to grant a permit.

A zone sets out land use controls in three sections:

- Section 1: Land uses that do not require a planning permit
- Section 2: Land uses that require a planning permit
- Section 3: Prohibited uses

Some uses are not allowed on land in a particular zone because they may conflict with other uses; for example, industry is a prohibited use in the General Residential Zone.

The planning scheme also applies overlays to land. If an overlay applies, the land will have a special feature such as heritage values, significant vegetation or flood risk. While a parcel of land will always be included in a zone, it will only be affected by an overlay (or more than one overlay) where a specific development outcome is sought for that land. The overlay describes if a planning permit is required for development, and the matters that council must consider before deciding to grant a permit.

In some cases, a planning permit may be required for:

- both the use and development of land

- either the use or development of land.

When is a planning permit required for dog or cat breeding?

Under a planning scheme, dog or cat breeding is included in the meaning of domestic animal husbandry. Domestic animal husbandry is defined as 'Land used to keep, breed, board or train domestic animals.

The following table summarises when a planning permit is required to **use** land for dog or cat breeding:

Zone ¹	Is a permit required to use land for dog or cat breeding?
Residential zones	
Low Density Residential	<p>A permit is required for more than 2 animals</p> <p>A permit cannot be granted for more than 5 animals</p>
Mixed Use	
Township	
Residential Growth	
General Residential	
Neighbourhood Residential	
Industrial zones	
Industrial 1	<p>A permit is required for any number of animals</p>
Industrial 2	
Industrial 3	
Commercial zones	
Commercial 1	<p>A permit is required for any number of animals</p>
Commercial 2	
Commercial 3	
Rural zones	
Rural Living	<p>A permit is required for more than 2 animals</p>
Green Wedge A	
Rural Conservation	
Farming	<p>A permit is required for more than 5 animals</p>
Green Wedge	
Rural Activity	

¹ This table does not set out the permit requirements for public land zones or special purpose zones. Public land zones apply to Crown land or land that is owned, vested in or controlled by a Minister, government department, public authority or municipal council. Special purpose zones set out specific permit requirements that apply in a specific location. Refer to the relevant planning scheme for the specific permit requirements of a special purpose zone.

Even if a planning permit is not required to **use** your land for a particular purpose, a planning permit may still be required to **develop** your land depending on the planning controls in place, the location of the buildings and the nature of the works.

Development includes the construction, alteration or demolition of a building and the construction or carrying out of works.

What happens after I have met the requirements of the planning scheme?

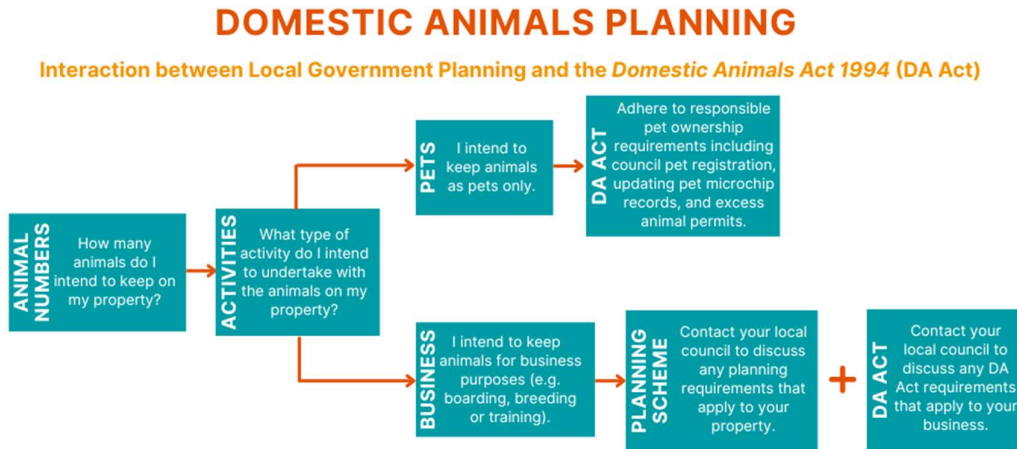
In addition to meeting the requirements of the planning scheme, it is important you meet the requirements of the *Domestic Animals Act 1994* (DA Act) and any other relevant requirements of the local council (e.g. excess animal permits).

The following table summarises DA Act requirements according to whether you hold a membership with an applicable organisation, and the number of fertile females you wish to keep. For a list of applicable organisations please visit www.animalwelfare.vic.gov.au

Member of an applicable organisation	
1-10 relevant fertile females*	<ul style="list-style-type: none"> Excess animal permit may apply
11-50 relevant fertile females*	<ul style="list-style-type: none"> Excess animal permit may apply Domestic animal business registration with local council required Commercial dog breeder approval from Minister for Agriculture required
Not a member of an applicable organisation	
1-2 relevant fertile females*	<ul style="list-style-type: none"> Excess animal permit may apply
3-10 relevant fertile females*	<ul style="list-style-type: none"> Excess animal permit may apply Domestic animal business registration with local council required
11-50 relevant fertile females*	<ul style="list-style-type: none"> Excess animal permit may apply Domestic animal business registration with local council required Commercial dog breeder approval from Minister for Agriculture required

* Relevant fertile female means a female dog, 12 months of age or more, that has not been rendered permanently infertile.

The below flowchart provides an overview of considerations under the planning scheme and DA Act, depending on the purpose of the animals you wish to keep. Contact your local council to discuss domestic animal business requirements (if relevant), and the need for any excess animal permits. To find your local council contact details, visit www.knowyourcouncil.vic.gov.au



Where can I find more information?

You should contact your local council for more detailed information about:

- the planning controls affecting your land
- whether a planning permit is required for the activities you want to undertake on your land
- if a planning permit is required, the matters an application will need to address and how the application will be processed by local council (including whether public notice of the application will be required).