



PARLIAMENT OF VICTORIA

Legislative Council

Economy and Infrastructure Committee

Inquiry into the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016

Parliament of Victoria
Economy and Infrastructure Committee

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Committee functions

The Economy and Infrastructure Standing Committee is established under the Legislative Council Standing Orders Chapter 23 – Council Committees and Sessional Orders.

The committee's functions are to inquire into and report on any proposal, matter or thing concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances, transport and education.

The Economy and Infrastructure Committee (References) may inquire into, hold public hearings, consider and report on other matters that are relevant to its functions.

The Economy and Infrastructure Committee (Legislation) may inquire into, hold public hearings, consider and report on any Bills or draft Bills referred by the Legislative Council, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

Government Departments allocated for oversight:

- Department of Economic Development, Jobs, Transport and Resources
- Department of Education and Training
- Department of Treasury and Finance

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This report is available on the Committee's website.

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Terms of reference

The Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 was self-referenced by the Committee on 25 October 2016:

That, pursuant to Sessional Order 6,

1. the Economy and Infrastructure Standing Committee undertake an inquiry into the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016;
2. the Committee reports its findings and recommendations to the Legislative Council by 6 December 2016, and
3. that the inquiry in particular examine the likely effect of the bill on:
 - a. existing Victorian dog breeders, and
 - b. the availability of both pet and working dogs in the state of Victoria.

Chair's foreword

I am pleased to present the Final Report of the Economy and Infrastructure Committee's Inquiry into the Domestic Animals (Puppy Farms and Pet Shops) Amendment Bill 2016 to the Legislative Council.

The Committee resolved to undertake this Bill Inquiry on 25 October.

The Report looks at the provisions of the Bill, particularly in relation to existing dog breeders and the availability of both pet and working dogs in Victoria.

Given the short timeframe available for this Inquiry the Committee has focussed on the key issues of concern raised by stakeholders at Public Hearings which took place on November 9, 15 and 16.

Stakeholders at Hearings and in correspondence to the Committee were unanimous in their support for animal welfare and for unethical breeders to be shut down.

Of great concern to the Committee were the issues raised at Hearings and in correspondence about the significant lack of genuine consultation on this Bill.

The development of the Bill is undermined by this lack of consultation and engagement with stakeholders in local government, business, animal welfare and the broader community. It is clear that the government has neglected to properly engage with the experts in this area; those who work with domestic animals every day and who would have been best placed to provide advice to the government about how to protect the welfare of domestic animals.

It is particularly concerning that the Municipal Association of Victoria was not properly consulted, given they are the peak body that represents local councils, who have responsibility for administering and enforcing what has been described as very burdensome legislation.

There are many other issues that were raised with the Committee that are discussed in the body of the report, one of the most significant of which was the lack of scientific evidence for the 10 fertile female limit on breeders.

I thank all of those who appeared before the Committee to provide advice about the Bill.

I would also like to express my appreciation to the Hon Jaala Pulford MLC, Minister for Agriculture, for her cooperation with the Inquiry, for appearing at the Committee's Hearing and for providing access to her staff for information and advice.

Animal welfare is an important issue, as is the health of an industry that provides many jobs to Victorians.

Chair's foreword

For this reason, the Committee recommends that the government withdraw the current Bill and immediately establish a stakeholder group of industry, municipal and community representatives to consult on the drafting of a new Bill.

I thank the Committee Secretariat, Lilian Topic, Secretary and Anthony Walsh and Michelle Kurrle, Research Assistants for the drafting of the report within a limited timeframe and for their professionalism.

Finally I thank my colleagues on the Committee for their work on this Inquiry.

A handwritten signature in black ink, appearing to read 'J Morris', written in a cursive style.

Joshua Morris MLC
Chair

Key Finding and Recommendations

2 Provisions of the Bill

FINDING 1: That consultation with relevant stakeholders with regard to this Bill was inadequate. 7

RECOMMENDATION 1: That the government withdraw the current Bill and immediately establish a stakeholder group of industry, municipal and community representatives to consult on the drafting of a new Bill. 7

3 Municipal Councils

RECOMMENDATION 2: That the State Government provide additional funding to local government to appropriately enforce current legislation. 13

RECOMMENDATION 3: That a new enforcement and compliance strategy be developed alongside the new Bill detailing the roles of the RSPCA and local councils in these areas. 19

RECOMMENDATION 4: That a compliance and enforcement unit be established within the Department of Economic Development, Jobs, Transport and Resources. The unit would be responsible for domestic animal business registrations, maintenance of the proposed central registration database and compliance assessments ensuring consistent application of the proposed legislation. 23

RECOMMENDATION 5: That longer timeframes for transitioning to the new Bill should be implemented to allow local councils sufficient time to manage the transition appropriately. 24

RECOMMENDATION 6: Requirements for domestic animal bill registrations should be more clearly standardised and avenues for grievance processes other than through the Victorian Civil and Administrative Tribunal be explored. 26

4 Dog breeder and rescue organisations

RECOMMENDATION 7: That the government abandon the 10 fertile female limit proposed in the Domestic Animals (Puppy Farms and Pet Shops) Amendment Bill 2016. 35

RECOMMENDATION 8: That the government exempt certain domestic animal hobby breeders from compliance with the proposed legislation. 41

RECOMMENDATION 9: That the government allow pet shops to continue to sell domestic animals from ethical domestic animal breeders. 46

RECOMMENDATION 10: That the government establish a more robust standards based approach to the health and welfare of dogs in commercial breeding establishments. 54

5 Other stakeholder groups

RECOMMENDATION 11: That the government, in a new Bill, specifically address the unique requirements for breeding, rearing, and selling cats. 60

RECOMMENDATION 12: The government undertake a full consultation with relevant stakeholders involved in cat breeding before redrafting a new Bill to specifically address the unique requirements for breeding rearing and selling cats. 60

RECOMMENDATION 13: That the government include provisions in the Bill addressing unregulated backyard breeding and trading of cats, particularly of non-desexed pets. 64

RECOMMENDATION 14: That the Cat Breeding and Rearing code be reassessed, with greater emphasis on breeder input for housing and taking the needs of different breeds into account. 65

RECOMMENDATION 15: That the government remove the words ‘caged birds’ from the definition of a pet shop in the Act. 71

RECOMMENDATION 16: That the government consult with stakeholders to determine where the Bill may need amending to ensure that there is not a negative impact upon aviculture in Victoria. 71

RECOMMENDATION 17: That Victorian Aviculture approved events be allowed to continue to sell non-native birds. 71

RECOMMENDATION 18: That the government provide an exemption for all bird clubs from section 96, *Domestic Animals Act 1994* in the interim period while the Bill is being reformulated to allow them to continue current sales practices. 71

1

Inquiry process and referral of the Bill

On 25 October 2016, the Economy and Infrastructure Committee resolved to undertake an Inquiry into the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 ('the Bill'). Also on that date the President advised the Council that the Committee was undertaking the Inquiry. At the time the Bill was before the Legislative Assembly.

The Bill passed the first reading stage in the Legislative Assembly with the second reading moved on 10 December. At the time this report was adopted by the Economy and Infrastructure Committee the Bill had not passed the Assembly and had not been introduced into the Legislative Council. This meant the Committee was able to undertake this Inquiry without delaying the consideration of the Bill by the Council.

The Committee's intention is that debate in both the Legislative Assembly and the Legislative Council can be informed by this report.

The Committee's self-reference states:

That, pursuant to Sessional Order 6,

1. The Economy and Infrastructure Standing Committee undertake an inquiry into the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016;
2. The Committee reports its findings and recommendations to the Legislative Council by 6 December 2016, and
3. That the inquiry in particular examine the likely effect of the Bill on:
 - a) existing Victorian dog breeders, and
 - b) the availability of both pet and working dogs in the state of Victoria.

A list of stakeholders who provided correspondence to the Committee is at Appendix 1.

The Committee conducted hearings on 9, 15 and 16 November 2016 with key stakeholders (see full list in Appendix 2). The Committee is grateful to witnesses for their time and for the evidence they gave at hearings.

Full copies of transcripts of evidence can be found on the Committee's website at www.parliament.vic.gov.au/eic.

The Committee's Inquiry focused on examining the impact of the amendment Bill on existing breeders and on the availability of pet and working dogs in Victoria.

2

Provisions of the Bill

The Domestic Animals (Puppy Farms and Pet Shops) Amendment Bill 2016 amends the *Domestic Animals Act 1994*. This amendment Bill introduces changes to the dog breeding and pet shop industries in Victoria. In summary the Bill:

- seeks to limit registered dog breeding businesses in Victoria to ten fertile female dogs. This provision comes into force on 10 April 2020
- requires members of organisations such as Dogs Victoria with fewer than ten fertile female dogs to register as a domestic animal business with their local council
- defines a ‘breeding domestic animal business’ as any person who owns three or more female cats and breeds and sells kitten, and any person who owns a fertile female dog and sells puppies
- establishes that breeders who meet this new definition must register with their local council
- includes ‘rearing’ in the definition so that anyone holding a domestic animal for sale is a breeder and must comply with the Act
- creates a central Victorian Animal Business Register to replace individual council business registers, to be maintained by the Department of Economic Development, Jobs, Transport and Resources
- creates an offence for breeders to sell cats or dogs through a pet shop
- means that pet shops will only be able to sell dogs and cats sourced from shelters and pounds
- makes it an offence to publish advertisements online for the sale of domestic animals unless the advertisement includes the animal’s microchip number, domestic animal business number and name of the local council
- provides that the council must refuse registration of a breeding domestic animal business premises if there is already a breeding domestic animal business, an animal shelter or a pet shop being conducted or proposed to be conducted on that rateable property
- creates a voluntary registration scheme for foster carers which includes access to reduced registration fees
- includes a new definition of ‘foster care’ as providing care of stray, abandoned or unwanted dogs or cats up to five dogs, five cats or a combination. A person who cares for more than this number must register as an animal shelter.

In relation to members of cat applicable organisations, the Bill means that:

- members with three to nine fertile female cats being used for breeding will no longer be exempt from registering as a domestic animal business with their local council

- defines a ‘breeding domestic animal business’ as any person who owns three or more female cats and breeds and sells kittens.

The government’s stated purpose in amending the *Domestic Animals Act 1994* (the Principal Act) is to fulfil the Labor party election promise to reform the dog breeding and pet shop industries in Victoria and to regulate the online sale of dogs and cats.

2.1 The Committee’s view

The Economy and Infrastructure Committee has reviewed the Bill and assessed the evidence provided to it by the major stakeholders. The Committee makes a number of findings and recommendations, listed below. These are discussed further in Chapters 3 to 5 of this report.

In summary the Committee found:

Consultation and general

- There is agreement amongst all stakeholders that unethical breeders should be shut down
- The development of the Bill is undermined by a significant lack of consultation with stakeholders in local government, business, and the community.

10 fertile female dogs

- No clear scientific reason has been established to reduce the number of fertile female dogs in breeding establishments to 10
- No correlation between the number of dogs in an establishment and the health and welfare of those dogs
- If implemented, the Bill will lead to a reduction in the supply of pet dogs in Victoria and in particular, popular cross-bred family friendly dogs
- The Bill may lead to a significant reduction in the supply of livestock working dogs in Victoria and may have consequences for farmers and the agriculture industry
- If implemented, the Bill may lead to an increase in the cost of pet and livestock working dogs in Victoria.

Sale of animals

- Outlawing the sale of animals from pet shops, contrary to the intention of the Bill may lead to less transparency and scrutiny of domestic animal breeding businesses, and therefore a decrease in animal welfare outcomes.

Local government

- Enforcing this legislation would be overly burdensome for local government as the responsible authority
- Local government will require additional funding to facilitate enforcement.

Enforcement

- Enforcement of existing regulations and codes of practice should be sufficient to ensure animal welfare
- Enforcement obligations for councils in the legislation may be unable to be met, resulting in incomplete compliance in the community with the new legislation resulting in ineffective policy outcomes
- A new enforcement and compliance strategy needs to be developed alongside the new Bill, detailing the roles of the RSPCA and local councils in these areas
- The establishment of a compliance and enforcement unit within the appropriate government department responsible for DAB registrations and maintenance of the proposed central registration database may alleviate the burden on councils and ensure consistent application of the proposed legislation
- The administration and enforcement of the transition and implementation process of the proposed legislation is likely to be extremely burdensome for local councils and may be unfeasible to be performed within the Bill's proposed timeframes
- The proposed enforcement role of local councils in the Bill is likely to have reputational impacts for councils with their communities.

Central register

- The central registration database is a positive step for improving the traceability of breeders and animals, and creating consistent compliance and enforcement strategies
- The central registration database will likely not be any less administratively burdensome on councils
- The central registration database may set community expectations on council involvement and enforcement of the proposed legislation too high
- Councils may not be appropriately resourced to ensure that the central database is updated and maintained effectively.

Implementation

- There is considerable confusion and cause for concern around consistency of implementation of the new Bill across municipalities, particularly around DAB registration requirements.

Animal Rescue

- Enactment of the proposed legislation may have a negative impact on animal rescue organisations in Victoria.

Cat breeders

- There is no evidence or business case supporting the view that changes to cat breeding practices are necessary, other than to make cat breeding practices consistent with those being imposed for dogs
- Cats are difficult to breed intensively and the number of cats being euthanised or housed in shelters is related to bad cat ownership practices in the community, not overbreeding
- Restricting the number of fertile females, a cat breeder can own is likely to impede or damage genetic diversity of certain breeds within the state, which will affect the community's ability to source healthy cats of a breed which suits their lifestyle
- Tightening regulations around small, purebred breeders is unlikely to improve cat welfare outcomes as unregistered, uneducated, and 'backyard' breeders will fill the gap in the market the purebred breeders will be unable to fill
- Restricting the size of a cat breeding operation has little to no direct correlation to improved animal welfare standards
- The Combined Cat Applicable Organisations Committee (CCAOV) were not adequately consulted in relation to cat breeder issues affected by the Bill during its formulation
- The proposed Bill provision for the sale of kittens in pet shops is positive and could go further.

Hobby breeders

- The proposed legislative changes make the overall regulations and legislative requirements too onerous for the majority of hobby-scale cat breeders to realistically meet
- The Bill assumes that all breeders who wish to obtain a DAB will be able to do so with their local council, however, this does not appear to be the case in practice
- The central registration database duplicates existing efforts and may raise privacy issues for breeders
- The existing Breeding and Rearing Code was identified by the CCAOV as being inadequate and not taking into consideration the differences in needs between breeds
- There is no business case supporting the changes to cat breeding practices other than to make cat breeding practices consistent with those being imposed for dogs.

Birds

- There is no evidence of any significant welfare concerns at any bird meetings, shows, sales, or auctions
- The animal sale permit application process is unnecessarily onerous and burdensome on bird owners and unlikely to significantly improve bird welfare at sales
- The implementation of the animal sales permits may drive the majority of bird sales online where they cannot be regulated by the wider aviculture community and is likely to lead to negative bird welfare outcomes
- Local councils are not adequately experienced in bird welfare topics to carry out and enforce their proposed role in the Bill
- There is no reason to believe that existing self-regulation practices are insufficient to ensure bird welfare at sales events
- This stakeholder group were not adequately consulted in relation to the effects of the Bill on their interests during the Bill's formulation
- Enforcement of existing legislation and regulation around animal and bird welfare is an underlying issue that will need to be addressed for the proposed legislation to be effective
- Enactment of the proposed legislation would have a negative impact on aviculture in Victoria
- There is no evidence of significant welfare concerns at any bird meetings, shows, sales or auctions.

As discussed throughout the report, the Committee received evidence from many stakeholders effected by the Bill that they were not adequately consulted. The Committee believes that the government should withdraw the current Bill and draft a new Bill addressing issues such as the 10 fertile female limit to be placed on commercial businesses. This is a major point of contention in the Bill. It is a provision that many witnesses believe will lead to the decline of the industry in Victoria as well as to unintended consequences that will be detrimental to animal welfare.

FINDING 1: That consultation with relevant stakeholders with regard to this Bill was inadequate.

RECOMMENDATION 1: That the government withdraw the current Bill and immediately establish a stakeholder group of industry, municipal and community representatives to consult on the drafting of a new Bill.

3 Municipal Councils

The Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 proposes a number of provisions which would rely on local councils for implementation, including:

- administering the processes for obtaining and maintaining domestic animal business registrations. This includes updating and using the proposed central register for domestic animal businesses to ensure compliance with the new legislation
- administering and implementing the proposed new foster care registration process and fee
- assessing and processing all requests for approval for animal sale permits
- continuing to monitor and enforce existing regulatory requirements around domestic animals, in addition to the new provisions in the bill. For example, ensuring compliance with the Breeding and Rearing Code.

The Committee received evidence from a range of stakeholders, including hearing from the Municipal Association of Victoria (MAV) and correspondence received from local councils. These stakeholders expressed their concern that councils are under-resourced to undertake the enforcement tasks they are already responsible for. There are concerns that if additional enforcement tasks are delegated to councils without the provision of adequate resources, the Bill's effectiveness may be undermined as a result.

This chapter will focus on issues identified by local councils and the MAV in relation to the Bill.

Broader stakeholder views about the role of councils and the ability of councils to meet the requirements of the proposed legislation are also discussed where relevant in other chapters of this report.

3.1 Resourcing

One of the main issues identified by local councils in their evidence to the Committee, is that of resourcing. The Bill's provisions require councils to take on additional responsibilities around administration and enforcement. Councils are concerned the need for additional staff and costs to manage these responsibilities will increase their overall resourcing burden.

The MAV made it clear to the Committee that the overall cost to councils to implement, administer and enforce the new legislation is unclear but anticipated to be significant and that this uncertainty is difficult for councils to manage.

Without the proper analysis of how many entities are going to have to be regulated under this – and we think it is potentially tens of thousands; certainly thousands but potentially tens of thousands – and without having that sort of sense at the start, it is hard to understand what the resourcing and administrative implications are for councils.¹

Stakeholders including councils and the RSPCA highlighted their concerns that the legislation will be ineffective if councils are unable to administer and enforce it appropriately.

... [Gannawarra] Council does not support the Bill in its present form due to the additional resources required to gain effective compliance under the new controls. As a small rural Council, any changes to legislation requiring additional resources needs to be carefully considered as legislation is ineffective if it cannot be appropriately monitored and resourced.²

Without available resources these [smaller breeding] establishments will not be subject to the current level of scrutiny, so the best practice values encompassed within the Code of Practice will be compromised.³

The RSPCA commented that: ‘We believe it is important that registration for breeders... is appropriately resourced.’⁴

The Australian Veterinary Association (Victorian Chapter) (AVA): ‘We definitely agree that the government needs to resource it.’⁵

The MAV and individual councils have indicated to the Committee that they are unwilling for this additional resourcing burden to be transferred to ratepayers and would prefer that the system be self-sustaining.

The resourcing issue includes considerations about costs to council, staffing concerns, and the potential impact of fees on rate payers and those registering for a domestic animal business (DAB).

Representatives of councils referred the Committee to costs they have experienced in relation to previous animal control legislation and regulation changes, which can be used as an indicator of the possible costs to councils from implementing the Bill.

Updates to the Code of Practice for Breeding and Rearing Businesses, made in 2014, significantly increased [Wellington Shire] Council’s workload and added costs of approximately \$100,000 to Wellington Shire Council’s expenses. In response to this, Council introduced a new fee structure for DABs to cover the increased expenses

1 Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

2 Corangamite Shire Council, *Correspondence*.

3 *Ibid.*

4 Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

5 Susan Chandler, Executive Officer, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

in 2015. It was determined that incorporating the costs into a revised fee structure was preferable to having our ratepayer base fund the registration processes and monitoring and enforcement activities.⁶

Councils and the MAV provided evidence to the Committee on the subject of costs. They believe that in order for local councils to resource their animal control departments adequately to maintain and enforce the proposed requirements the cost will be passed on to the community through increasing fees related to these services. Services such as DAB registration and animal sales permit inspections.

When you have got some rural councils with one officer responsible for this area as well as being responsible for a whole lot of other areas, maybe in 7000 square kilometres of area with dispersed population, it is going to mean significant up-resourcing for these organisations. When I look at the regulations and I look at the resourcing issues and you think about the consequences in terms of fees for those people or organisations that are regulated, you could only get the sense that the fees are going to go through the roof, because we do not expect that the ratepayer will be the ones who are subsidising this. The system should be self-sustaining.⁷

[Wellington Shire] Council; is of the view that without substantial increases in annual DAB registration fees to fund the additional resources required, the current level of scrutiny provided will be compromised.⁸

In answers to questions on notice taken at a Committee Hearing councils have expressed frustration regarding the doubling of the payment to the Treasurer from \$10 to \$20 for each domestic animal business registration. The MAV believes that given the need for them to achieve full cost recovery for domestic animal management duties this additional revenue for the State will be another cost to breeders.⁹

A significant concern expressed by Wellington Shire Council is that dog breeding will in fact become more difficult to monitor with dog breeders 'going underground' rather than paying extra fees.

Increasing annual registration fees is not without risk. One possible negative outcome of the proposed amendments and increased fees is the likelihood that some dog breeders will go underground. If that was to occur, we would quickly lose the ability to effectively monitor their activities.¹⁰

Many councils believe that increasing fees to achieve cost recovery will almost certainly lead to greater non-compliance in relation to breeding and animal sales. This in turn would lead to an increase in council compliance and enforcement costs.¹¹

⁶ Corangamite Shire Council, *Correspondence*.

⁷ Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

⁸ Corangamite Shire Council, *Correspondence*.

⁹ Municipal Association of Victoria Answers to Questions on Notice.

¹⁰ Corangamite Shire Council, *Correspondence*.

¹¹ Municipal Association of Victoria Answers to Questions on Notice.

Corangamite Shire has estimated possible costs for their Council to enforce the new legislation:

Preliminary costing for Corangamite Shire indicates that if the Bill is introduced as drafted, it will cost an additional staff member to be employed and although still not achieving cost recovery, increase animal registration by approximately \$45 per animal.¹²

Beyond direct costs of implementation and administration, the Committee heard evidence that councils may have to increase their staffing numbers to meet their obligations under the proposed legislation.

Preliminary costing for Corangamite Shire indicates that if the Bill is introduced as drafted, it will cost an additional staff member to be employed and although still not achieving cost recovery, increase animal registration by approximately \$45 per animal.¹³

The MAV have indicated that councils will require additional staff if the bill passes in its current form. There is a uncertainty across the sector about the quantity of recreational breeder registrations, foster carer registrations and animal sale permit applications that will result from the bill. But on average councils estimate that an additional two staff, vehicles, equipment, and training will be needed to administer the Bill.¹⁴

The Wellington Shire Council told the Committee that they believe they have reasonable capacity to meet the Bill's requirements under their existing staffing arrangements.

Council staff's ability to manage DABs in Wellington Shire is currently reasonable. The equivalent of two full time Local Laws staff are deployed to monitor and enforce activities in accordance with the Code of Practice for the Operation of Breeding and Rearing Businesses 2014.¹⁵

In their evidence to the Committee the MAV and the Minister discussed the existing cost-recovery mechanisms for local councils in the *Domestic Animals Act 1994*. These may mitigate the overall cost to councils in meeting their obligations under the new legislation and the necessity of passing along this cost to their communities by way of higher fees.

The MAV:

We have had, just in the last couple of days, the comment made to us that we will be able to set the fees at full cost recovery.¹⁶

12 Corangamite Shire Council, *Correspondence*.

13 Ibid.

14 Municipal Association of Victoria Answers to Questions on Notice.

15 Wellington Shire Council, *Correspondence*.

16 Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

The Minister told the Committee:

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.¹⁷

The bill does not change the cost recovery mechanisms that exist.¹⁸

... the capacity of local councils to cost-recover their responsibilities under the Domestic Animals Act will be unaffected by this legislation.¹⁹

The Department's view is 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 department has had conversations with many councils about the domestic animal business fees and has had assurances that councils will be reviewing their fee structures in light of the changes to the definition of a breeding domestic animal business.²⁰

FINDING 2: The overall cost and resourcing increase required for councils to meet their obligations under the proposed legislation is likely to be significant.

FINDING 3: The costs to local councils to implement, administer and enforce the proposed legislation are likely to be significant, however, cost-recovery mechanisms are allowed for in the existing Act and may mitigate the effect of these costs on councils.

FINDING 4: Cost burdens may be passed along to the community in registration and other fees associated with the new legislation and councils expressed reluctance to pass the overall costs of their new obligations on to ratepayers generally.

FINDING 5: Some councils will need additional staff to handle increased administrative and enforcement obligations under the new legislation.

RECOMMENDATION 2: That the State Government provide additional funding to local government to appropriately enforce current legislation.

17 Ibid.

18 Ibid.

19 Ibid.

20 Cassandra Meagher, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016.

3.2 Administrative responsibilities

The MAV described the responsibilities placed on local councils under the Bill as ‘administratively burdensome’.²¹ The administrative responsibilities for councils are among the bigger issues the sector has with the proposed legislation.

Our position is that in a policy sense we support the view that we need to be ensuring that animals are properly protected, safe and in an appropriate environment. Our issues are primarily about the administration issues that rest with this legislation.²²

... our sector is effectively the regulator responsible for registration; it has the most onerous tasks in delivering this legislation...²³ Other stakeholders, such as DOGS Victoria, agreed that the administrative workload being placed on councils under the Bill was extreme.

... with the workload on the councils I shudder to think of how they would even begin to manage that.²⁴

Under the proposed legislation the administrative tasks which councils would be responsible for include:

- processing domestic animal business registrations, including updating and using the proposed central register for domestic animal businesses to ensure compliance with the new legislation
- administering and implementing the proposed new foster care registration process and fee
- assessing and processing all requests for approval for animal sale permits
- continuing to monitor and enforce existing regulatory requirements around domestic animals, in addition to the new provisions in the Bill.

As with the cost implications, councils are unsure as to how significant the administrative changes will be to their operations, however, based on community interest and concern around the Bill it is expected to be considerable.

Without the proper analysis of how many entities are going to have to be regulated under this – and we think it is potentially tens of thousands; certainly thousands but potentially tens of thousands – and without having that sort of sense at the start, it is hard to understand what the resourcing and administrative implications are for councils.²⁵

21 Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

22 Ibid.

23 Ibid.

24 Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

25 Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

Following their appearance at a Committee Hearing the MAV informed the Committee that:

Councils are very concerned about the likely significant increase in the number of businesses / breeders required to register with council and to comply with the Code of Practice for the Operation of Breeding and Rearing Businesses if the Bill passes (assuming that breeders do in fact comply with the requirements).²⁶

Corangamite Shire Council also informed the Committee that the proposed administrative processes for assessment of animal sale permits is unnecessarily time consuming and complex.

There is a need within the current legislation to provide for one-off animal sales, however, the process proposed by the amendment is onerous and does not support improved animal welfare. The time commitment required of the applicants and Council to investigate and process applications to the Minister creates extensive red tape.²⁷

FINDING 6: Legislation would be overly burdensome for local government as the responsible authority.

3.3 Enforcement

The Committee received overwhelming evidence voicing concerns that enforcement of existing regulations is contributing to animal welfare issues in the state. For example, the Committee also heard that local councils are under-resourced to undertake the enforcement tasks they are responsible for under the existing regime.

The specific enforcement obligations placed on councils in the Bill have been criticised by stakeholders as unreasonable and ‘unenforceable in practice’²⁸ and the Bill as a whole as ‘unworkable in practice for councils.’²⁹

Banksia Park Puppies suggested that local councils were not ‘resourced to do the job that they were challenged with.’³⁰

The AVA also expressed concerns to the Committee about how local councils would manage their enforcement responsibilities.

... other shires throughout Victoria that may have less than one full-time animal officer are not going to have a good handle on it.³¹

²⁶ Municipal Association of Victoria Answers to Questions on Notice.

²⁷ Corangamite Shire Council, *Correspondence*.

²⁸ Claire Dunn, Manager, Environment and Regulatory Services, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

²⁹ *Ibid.*

³⁰ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

³¹ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

The majority of evidence received by the Committee suggested that enforcement of existing regulations would be sufficient to mitigate or eliminate illegal breeding activity. But, because of a lack of resources to dedicate to this task, councils were unable to ensure compliance and enforce existing regulations to bring about this outcome. Additional enforcement tasks delegated to councils as part of the proposed legislation, therefore, are likely to be ineffective if they are not appropriately resourced to conduct the activities. Without proper enforcement the Bill will not be effective.

Corangamite Shire Council informed the Committee:

It is not reasonable to expect every person selling a domestic animal to become registered as a business, nor is it reasonable to expect Council officers to undertake annual inspections of all of these properties, many of them rural, to ensure compliance with the mandatory code of practice.³²

Animals Australia expressed their concern to the Committee that if council enforcement was not able to be achieved ‘then dogs and cats in Victoria are not going to be properly protected’.³³

Upmarket Pets believed that if councils were funded to enforce existing laws that ‘you will achieve exactly what you want to achieve’.³⁴

Banksia Park Puppies told the Committee:

If the current code was enforced, there are provisions in there to take care of a lot of the problems³⁵

What we would like to see is a commitment by the government to adding resources to the code of practice that we have and following up with some enforcement and giving that code some time to work. This requires more resources and more commitment to local council and a genuine commitment to seeing this through and seeing it being enforced.³⁶

This review was reflected by others in the industry. For example, the Pet Industry Association Australia:

The current code of practice in Victoria is one of the strongest ones in the country, if not in many countries.... It has not been enforced. The RSPCA is under-resourced, the councils are under-resourced, so there needs to be money put into that enforcement side of things. No matter what goes through, if it is not enforced, it is irrelevant; it does not change a thing. So enforcement for us is a key word to anything going forward.³⁷

³² Corangamite Shire Council, *Correspondence*.

³³ Glenys Oogjes, Animals Australia, *Transcript of Evidence*, 9 November 2016.

³⁴ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

³⁵ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

³⁶ *Ibid.*

³⁷ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

Enforcement of the relevant codes has not taken place, and this is largely responsible for the problems that the industry is now experiencing.³⁸

DOGS Victoria made a number of comments about the importance of enforcement:

My view is that it is not necessarily adding layers of regulation that we need to do. We need to look at what regulation we have at the moment and work out how it can be better enforced...³⁹

Our concern with this bill is that the enforcement of compliance would seem to us to be virtually impossible. Presently, as other speakers have made evidence of and as we do too, some councils are under-resourced and they really do battle to enforce the current layer of compliance. This is an enormous new section that they would be needing to do, and we are just not convinced it would happen.⁴⁰

Dogs Victoria believe that a high volume of registered businesses means an added enforcement burden:

The idea of actually enforcing compliance over all of these extra people just does not make sense; it does not make any sense at all.⁴¹

Murray River Pets also emphasised the important of enforcement:

What is missing is the enforcement, and we keep coming back to the same thing: it is all about enforcement. The worry is that we add layer on layer of regulation with no enforcement of any of it, so if you are just unlucky, you get caught, but the other scum get away with it.⁴²

The AVA stated to the Committee:

If the code of practice was being adhered to now, we would have no problems. But councils just do not have the resources to monitor and enforce the code of practice now. The only thing that this legislation is going to do, with the capping, is drive out professionals. You are going to get more micro backyard breeders, who are going to be harder to detect.⁴³

In their evidence to the Committee the RSPCA highlighted the importance of any changes to breeder registration being 'easy to enforce and monitor'.

RSPCA, as a principle, believes good law is easy to comply with and it also should be easy to monitor compliance and to enforce it.... There is no doubt that this needs to be resourced.⁴⁴

³⁸ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

³⁹ Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

⁴⁰ Sylvia Power, Compliance Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

⁴¹ Ibid.

⁴² Dr Joanne Sillince, Managing Director, Pets Australia, *Transcript of Evidence*, 15 November 2016.

⁴³ Susan Chandler, Executive Officer, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

⁴⁴ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

How the new Bill's compliance and enforcement is intended to function is, as yet, unclear. The RSPCA discussed the need for a new compliance and enforcement strategy to be implemented alongside the new Bill, ideally involving cooperation between the RSPCA and local governments.

... the sheer scale of the number of domestic animal businesses means that the compliance and enforcement model need to be developed. I do not think it is clear on what it is at the moment.⁴⁵

... we are very happy to talk to local government about what a solution might look like. In fact, one RSPCA document around puppy factories, when it talks about enforcement and compliance it does talk about the RSPCA working hand in hand with local government.... This new bill really does need a whole new compliance framework, which we are very happy to have a discussion with the authorities about.⁴⁶

Bird clubs across Victoria also expressed concern that local council animal officers lack the expertise in some areas to appropriately assess and ensure compliance with the new legislation:

Local Government compliance officers and other appointed officers do not possess the skills to distinguish between avian exotic and native species.... We are unable to locate any 'domestic animal management plan'; by any Victorian Local Government that mentions birds whatsoever.⁴⁷

Whilst we will let the Municipal Association of Victoria speak for themselves we have some reservations that the staff to whom the task of compliance checking is given will have the appropriate skills to determine this matter to the full extent of expectations within the Bill. Councils have been supportive of current practices in relation to welfare and conduct of sales.⁴⁸

Corangamite Shire Council agreed, responding in their correspondence to the Committee, that '[councils] have little to no skills and experience with birds, mice, guinea pigs, reptiles or rabbits, to assess and monitor... [animal sales] permits.'⁴⁹

The Department responded to this issue specifically in their evidence to the Committee.

The next myth is that 'council enforcement officers will need to be experts in avian welfare to review an animal sale permit application for bird sale'. The animal sale permit scheme has been designed to ensure that the council has the right to refuse public sale of animals in their municipality. The scheme asked councils to provide advice to the minister in the form of a report. This is a simple form for council to fill in on a suitability of venue and suitability of the management and emergency management procedures for sale.... These are areas which local government animal management officers currently enforce under the pet shop code of practice.⁵⁰

45 Ibid.

46 Ibid.

47 Canary and Cage Bird Federation of Australia Inc., *Correspondence*.

48 Ibid.

49 Corangamite Shire Council, *Correspondence*.

50 Cassandra Meagher, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016.

FINDING 7: Effective implementation and enforcement of existing regulations and codes of practice would be sufficient to ensure animal welfare in Victoria.

FINDING 8: Enforcement obligations for councils proposed in the Bill are unlikely to be able to be met. This may result in ineffective policy outcomes, incomplete compliance and adverse outcomes in the industry and the community.

RECOMMENDATION 3: That a new enforcement and compliance strategy be developed alongside the new Bill detailing the roles of the RSPCA and local councils in these areas.

3

3.4 Consultation

The local government sector advised the Committee that they received very little consultation in the development of the Bill. A number of councils and the MAV told the Committee that the consultation which was undertaken was not wide enough and did not include enough influential stakeholders such as councillors and senior management representatives. The MAV informed the Committee that this approach is in breach of the state-local government agreement which requires consultation on issues that affect the sector.

There was no consultation with our sector as a whole. There was consultation at an officer level with three councils, we understand, but not with the sector, which is in breach of the state-local government agreement, which... requires consultation on issues that affect the sector, and so our sector has really been in catch-up since the legislation landed in Parliament.⁵¹

They consulted with some. I do not think they have consulted widely.⁵²

If you look at it from the local government sector, I would argue that that is an offensive process. The elected representatives were not engaged in it. I do not think senior management was engaged in it.⁵³

In the context of enforcement of the new regime and indeed the current regime, DOGS Victoria believe that had the government properly consulted with stakeholders during the development of the Bill they would have realised that enforcement will be problematic:

Our own investigations have found that many councils are largely unaware of their obligations under the proposed legislation and others have said that they do not have the resources or mechanisms in place to deal with what the bill would require of them. Given that councils are to be tasked with the granting, administration and compliance elements of the bill, the lack of consultation with councils and the MAV and the apparent shifting of both the administrative and cost burdens to local government, which is already under-resourced, puts further doubts on whether the bill can be enforced effectively even if it is passed.⁵⁴

51 Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

52 Ibid.

53 Ibid.

54 Wayne Fleming, President, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

FINDING 9: Consultation with stakeholder groups was manifestly inadequately in relation to the effects of the Bill during the Bill's formulation.

3.5 Central Database

The legislation's proposal to introduce a central registrations database for domestic animal businesses was welcomed by stakeholders in their evidence to the Committee.

RSPCA emphasised the importance of having all breeders registered in a central database to facilitate ease of access to information by enforcement agencies, compliance agencies, industry groups and the community.

I think the advantages of this bill are the traceability that it provides and the one standard of animal welfare. By making it mandatory for all breeders who are breeding for profit one littler per year and having a domestic animal business registration that is where the opportunity is, so that enforcement agencies, compliance agencies and indeed industry groups and especially the community can actually know where the breeders are and that they can be contained on that central register of animal businesses. That in and of itself is really, really important. The traceability is very, very important in terms of making sure that animals are ethically bred and providing the information about where these operations are. Knowing where they are means that we can have a compliance frameworks and an enforcement framework in place to make sure that those animal welfare standards are met. Under the current system... there is an enormous number of breeders and no-one knows where they are, and that is where the challenge lies.⁵⁵

The AVA were in agreement with RSPCA about the importance of the central database and facilitating the traceability of dogs and breeders.

A central database for breeder registration is imperative, and on this point we agree entirely with the RSPCA that a database and recording for breeder registration is imperative. Every breeder could be, issued with a breeder number so that the animal can be traced to its origins. This means all animals can be accurately traced to their source and breeders can be held accountable for the animals they breed.⁵⁶

A central database that was open and able to be accessed by councils and by the public would be a really good thing.⁵⁷

The AVA also said that a compliance and enforcement unit within the Department would be an effective way to administer the Bill.

We are suggesting a compliance and enforcement unit be established within the department. They would run the central registry and they would work with councils...⁵⁸

⁵⁵ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

⁵⁶ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

⁵⁷ Ibid.

⁵⁸ Susan Chandler, Executive Officer, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

In providing her evidence to the Committee, the Minister reiterated the importance of the central database in facilitating one source of information for all agencies at state and local government level to access and use for their animal welfare planning and enforcement activities.

The central register is a really important part of that. Councils of course have their role in registering. This information will then exist in one place, where of course each council will only be able to see the information relevant to their municipality but the department will have a much better view of this activity across the state. Right now the answer to ‘How many dogs are bred in Victoria?’ resident in 79 different locations. Little wonder we have problems with animal welfare.⁵⁹

However, in their evidence to the Committee, the AVA questioned whether local councils had the resources to administer this database.

We do not believe that there is a need to register every single breeder as a domestic animal business because in our opinion the current resources of council could not possibly cope with the responsibilities required to administer and monitor this.⁶⁰

The Department provided evidence to the Committee that the central database should reduce the administrative and resources burden on councils that are associated with registering domestic animal businesses in their municipality.

The Victorian Domestic Animal Business Register that is proposed in the legislation should also help reduce costs for councils because it provides a single database that will be administered and funded at the state government level that will allow councils to record all of the information relating to domestic animal businesses without having to have their own separate databases. That should help reduce costs, and the government will cover the cost of moving existing data for existing domestic animal businesses – and that is all domestic animal businesses, not just breeding businesses – across to the new database on behalf of councils. That should help reduce those costs.⁶¹

However, local councils expressed concerns that using the central database would not necessarily alleviate their administrative burden in relation to domestic animal business registrations and that it may foster unrealistic enforcement expectations in the community.

It makes sense to have a central database. It is still reliant on councils entering that information into the register. I do not know that it necessarily reduces councils’ burden. It is still dependent on councils providing the information, but in terms of improved animal welfare outcomes I would have thought it was a step in the right direction.⁶²

59 Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

60 Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

61 Dr Mariko Lauber, Manager, Domestic Animals Unit, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016.

62 Claire Dunn, Manager, Environment and Regulatory Services, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

While it is reasonable to develop a central database to which councils provide information, this becomes questionable when the law determines that everyone with a fertile female dog who sells a litter of pups must be registered as a domestic animal business. This will place an unrealistic expectation on Council officers to be checking everyone with an entire female on their property just in case they breed and sell puppies. The scale of this control is a major problem, as there are significant costs to meet the standards required in the code of practice which, although has some exemption, will include a large portion of the community who show dogs as a hobby or use them as part of their farming enterprise.⁶³

In answers to question on notice following their appearance at a Committee Hearing the MAV told the Committee:

Councils do not accept that the establishment of a central domestic animal business register will represent a cost-saving or a time-saving for councils. Councils already have registration databases to store domestic animal business registrations (and other animal registrations) so the creation of a new system does not necessarily offer any additional benefits to councils. Councils have noted that they will still have to maintain their own animal registration databases in addition to feeding data into the State's database. Councils consider that the State's register will likely lead to additional cost and administrative burden for councils.⁶⁴

The MAV reiterated this view further in the information they provided:

Councils consider the requirement to pass on registration details to the State within 7 days of having made a decision to be unworkable. Councils also note that the Bill requires councils to collect additional information to that currently collected by councils for registration, thereby increasing the administrative burden on councils and breeders.⁶⁵

The AVA proposed a solution which, they believe, alleviates the administrative burden on local councils and ensures that the proposed central database and domestic animal business registrations are administered to a consistent standard:

There is also the issue of 79 councils having differing attitudes towards the issues of permits, differing standards of monitoring and contrasting application fees, which sets a totally uneven playing ground for breeders throughout Victoria. A solution to this is the establishment of a compliance and enforcement unit within the government department responsible for a central registry.⁶⁶

The AVA, along with other stakeholders, believe that establishment of an enforcement unit within the Department would be the most practical outcome to ensure effective enforcement.

FINDING 10: The central registration database is a positive step for improving the traceability of breeders and animals, and creating consistent compliance and enforcement strategies.

⁶³ Corangamite Shire Council, *Correspondence*.

⁶⁴ Municipal Association of Victoria Answers to Questions on Notice.

⁶⁵ Ibid.

⁶⁶ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

FINDING 11: The central registration database will not alleviate the administrative burden on councils.

FINDING 12: The central registration database may set community expectations on council involvement and enforcement of the proposed legislation too high.

FINDING 13: Councils may not be appropriately resourced to ensure that the central database is updated and maintained effectively.

RECOMMENDATION 4: That a compliance and enforcement unit be established within the Department of Economic Development, Jobs, Transport and Resources. The unit would be responsible for domestic animal business registrations, maintenance of the proposed central registration database and compliance assessments ensuring consistent application of the proposed legislation.

3.6 Transition impact

Councils advised the Committee that their experiences with implementing similar legislation and regulation changes around animal control in their communities in the past has led them to believe that the transition impact on council operations is likely to be significant.

We know the experience with restricted breed dogs and how challenging that was for the councils, and this, because of its size... becomes again a really testing issue, I think, for councils.⁶⁷

The MAV noted specifically that they are expecting large numbers of new domestic animal business registrations in a short period of time and that the community will expect local councils to implement the legislation and meet their obligations comprehensively.

You are talking about essentially backyard breeders being required to comply with the code – and perhaps that is a good thing – but if they are registered as a domestic animal business, it creates a community expectation that they are complying with the code and that councils are ensuring they are doing so. We are talking about potentially tens of thousands of new businesses.⁶⁸

Other stakeholders provided evidence to the Committee supporting these concerns. Animals Australia acknowledged that it is unknown how many breeders will need to be registered with local councils and councils may ‘need time to ensure... they could do that.’⁶⁹

The RSPCA noted that there would be ‘a considerable scale increase’ and that councils could not be expected to transition quickly to cope with the new demands on their resources to meet their obligations under the Bill.

⁶⁷ Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

⁶⁸ Claire Dunn, Manager, Environment and Regulatory Services, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

⁶⁹ Glenys Oogjes, Animals Australia, *Transcript of Evidence*, 9 November 2016.

There are 79 councils and the Municipal Association of Victoria represents them, as I know does the Victorian Local Government Association. I think there is a considerable scale increase as I outlined: 90 to thousands of breeders. I think it would take quite some time — well and truly in excess of a year — to transition to something, and possibly two or three.⁷⁰

Modelling undertaken by Murray Park Pets indicated that council inspection numbers may need to rise by as much as 2000 per cent in some jurisdictions in response to the number of expected new DAB registrations.⁷¹

Corangamite Shire Council also expressed concerns about the flow-on effects of the Bill's implementation, including the possibility of an increased burden on council pounds during the transition.

Due to the transition timelines and life span of animals, there is the potential for council pounds to become overwhelmed and animal dumping to increase during this period.⁷²

FINDING 14: The administration and enforcement of the transition and implementation process of the proposed legislation is likely to be extremely burdensome for local councils and may be unfeasible to be performed within the current Bill's proposed timeframes.

RECOMMENDATION 5: That longer timeframes for transitioning to the new Bill should be implemented to allow local councils sufficient time to manage the transition appropriately.

3.7 Perceptions of Councils and reputation impacts

Both MAV and individual councils expressed concern to the Committee that community perceptions of local councils may be adversely impacted by their enforcement role in the Bill. The MAV believes that the councils will have to both enforce obligations under the Act on members of the community who may not be aware of new obligations or responsibilities, and maintain enforcement standards to a level acceptable to the community. Both of which contain risks for a council's overall reputation as a governing body within their community.

It is clear that this is going to catch a lot of people who have been operating in a relatively small way, I think. The obligation is going to sit within the council, so the council becomes the bogeyman.⁷³

It certainly creates community expectations – quite rightly so – that we fear councils simply will not be able to meet.⁷⁴

70 Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

71 Dr Joanne Sillince, Managing Director, Pets Australia, *Transcript of Evidence*, 15 November 2016.

72 Corangamite Shire Council, *Correspondence*.

73 Rob Spence, Chief Executive Officer, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

74 Claire Dunn, Manager, Environment and Regulatory Services, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

FINDING 15: The proposed enforcement role of local councils in the Bill is likely to have reputational impacts for councils within their communities.

3.8 Consistency of implementation

There are 79 local government areas in Victoria and the Committee received evidence that devolving implementation responsibility to their individual discretion has raised concerns that there will be significant variation in requirements, fees and processes for registering as a domestic animal business or as a foster carer. The Committee heard that this may undermine uniformity of application of the proposed legislation across the state and make it impossible to create an ‘even playing ground’ for breeders.⁷⁵

There were concerns that local government may refuse to register these businesses especially for breeders who operate out of residential areas. Witnesses from Oscar’s Law raised issues that local government may need to consider, such as how dogs would be separated in a residential setting when they are on heat.⁷⁶

Essentially the bill requires breeders to become registered as a domestic animal business. The problem is that those who live in residential areas, green wedge areas or residential rural areas are covered by town planning laws, and there are a large number of councils that have already said that they will just not issue them if you are in a residential area, regardless of what the state regulations are for the breeding of animals. Others that can be registered as DABs will find themselves in a situation where there is a complex layer of permits and approvals that need to be granted.⁷⁷

Several stakeholders presented evidence that they or those they represented in their industries had already experienced significant variability between local councils’ requirements to register for a DAB, including:

- providing differing advice about domestic animal business registration requirements
- uncertainty about what the requirements for the DAB currently are or will be under the new Bill
- refusing to register any new domestic animal businesses in their jurisdiction,
- differing standards for inspections
- unreasonable approval timeframes
- variability in DAB registration fees between municipalities.⁷⁸

The Minister and the Department have responded to these concerns, particularly in response to grounds for refusal for permits.

⁷⁵ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

⁷⁶ Debra Tranter, Oscar’s Law, *Transcript of Evidence*, 9 November 2016.

⁷⁷ Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

⁷⁸ Ibid.; Jodie Knox, Director, Murray River Puppies, *Transcript of Evidence*, 15 November 2016; Rod Cavanagh, President, Australian Utility Stock Dog Society Inc., *Transcript of Evidence*, 15 November 2016; Debra Tranter, Oscar’s Law, *Transcript of Evidence*, 9 November 2016.

... there are actually very limited circumstances in which council can currently refuse registration of breeding activity...

... there is a lack of clarity across councils or among those who are involved in recreational breeding, the government has determined that we will develop a planning code that will ensure that there is a consistent standard and that the rules are clear for everyone involved.

The Minister also noted that if a request for a DAB is denied by a local council the requestor is able to challenge this decision at VCAT.⁷⁹ DOGS Victoria indicated that this process is difficult for breeders and may not be an appropriate avenue for fielding these sorts of disputes.⁸⁰

FINDING 16: There is considerable confusion and cause for concern around consistency of implementation of the new Bill across municipalities, particularly around DAB registration requirements.

RECOMMENDATION 6: Requirements for Domestic Animal Bill registrations should be more clearly standardised and avenues for grievance processes other than through the Victorian Civil and Administrative Tribunal be explored.

⁷⁹ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

⁸⁰ Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

4 Dog breeder and rescue organisations

The term ‘puppy farms’ has been used extensively in the media. For the purposes of this report, the Committee will be using the RSPCA’s definition of this term, which states:

A puppy farm (also known as a puppy factory or puppy mill) is defined as ‘an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs’ behavioural, social and/or physiological needs’.⁸¹

The Committee heard that a significant proportion of Australia’s dog breeding occurs in Victoria because its climate and conditions are ideal for this activity:

Victoria is the best place in Australia to breed dogs, without a doubt. The reason for this is our climate. The temperatures and things where we live are perfect. We are not in Gippsland by accident; we are there because we did a lot of analysis before we decided to operate professionally. We do not have paralysis ticks, we do not have heartworm and we do not have certain mosquitoes that carry bugs that bother dogs. Again, this is something that I am pretty sure the government does not understand.⁸²

The Committee also heard that Victoria has some of the highest standards for dog breeding in Australia.

The Victorian Code of Practice for the Operation of Breeding and Rearing Businesses has been in operation since 2014. After considerable controversy over the existence of puppy farms in Victoria the Code was amended in 2015. The Committee heard that measures to ensure that animal welfare standards continue to be improved in Victoria are still required. This includes ensuring that puppy farms are eradicated.

The Committee supports the intention of this Bill to ensure an end to mistreatment of animals for sale by Victorian businesses.

But many stakeholders before the Committee expressed their frustration with what they saw as a lack of consultation with key groups in the development of the Bill and suggested changes. Consequently, there are parts of the Bill that are opposed by key industry stakeholders.

81 <www.kb.rspca.org.au/what-is-a-puppy-farm_322.html>

82 Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

4.1 Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016

4.1.1 Government consultation prior to introduction of Bill

In evidence to the Committee the Minister for Agriculture indicated that there had been extensive consultation with stakeholders prior to the introduction of the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 into the Parliament:

I understand that the committee has some interest in consultation with stakeholders, and if I can quickly just respond to that ... The Pet Industry Association of Australia were consulted in July 2015 and March 2016. I met with them in July 2015. Banksia Park I met with in June 2015, Pets Australia again in June 2015, Animals Australia were consulted in August 2015 and March 2016, the RSPCA in August 2015, March 2016 and August 2016. ... the Australian Veterinary Association in August 2015. I just add to that local councils in August 2015, March 2016 and August 2016 — so Wellington Shire Council, City of Casey, Cardinia shire and Gannawarra shire, as councils that have a particular knowledge and expertise in the operation of the *Domestic Animals Act 1994*.⁸³

As discussed elsewhere in this report, many of the witnesses confirmed they had spoken with the Minister or the Department, but refuted that they were meaningfully consulted. They suggested to the Committee that they were merely informed about the legislation and were not afforded an opportunity to provide input.

Banksia Park, one of the largest commercial puppy breeders in Victoria, stated:

We were basically told what the law would be, and I was asked if I could see any technical reason that it would not be enforceable or that it would not work. They were not interested in my opinion on whether it was a good thing for Victoria or the animal welfare concerns I had. It was basically a meeting to say, 'This is the law'. I truly feel it was to tick a box to say, 'Yes, we've talked to Banksia Park. We have talked to the industry. We can move on with this legislation now'.⁸⁴

The Pet Industry Association representative said:

I met with the Minister along with our then temporary CEO ... When we had the meeting with the Minister, she pretty much said that, 'We've made a decision and we're going to go through with our pre-election promise'. So basically whatever we had to say was listened to, but she had already made up her mind, which is very disappointing from our perspective because we are the industry body that should have been consulted during this time, and we were not. We too are concerned about animal welfare and concerned about those illegal puppy farms that are out there, but we were not given the opportunity to give our viewpoint on how we believe this problem can be fixed.⁸⁵

⁸³ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

⁸⁴ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

⁸⁵ John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

... soon after I started with the minister's senior adviser as well and there were the same words, 'This is an election promise. Nothing you can say to us will change our minds'.⁸⁶

The RSPCA Victoria stated:

We were aware of the clear intentions to create legislation that was in line with the election promise. ... were given a confidential and high-level overview of the legislation earlier this year, and it just went through the high-level aspects of the legislation in a short time period, and that was it.⁸⁷

The Australian Veterinary Association (AVA) stated that, in a meeting with the Minister they were told:

... that it was an election promise, that there was no room for any wriggle or discussion on it and to move on to the next topic.⁸⁸

There were several key stakeholders who advised the Committee that they had not been consulted at all in relation to this Bill, or were unaware of it until it had been introduced into the Parliament.

Dogs Victoria stated:

... DOGS Victoria was not consulted in any form prior to the Bill being tabled, and we believe that if we had been consulted, many of the concerns may have been avoided.⁸⁹

The Victorian Dog Rescue and Resource Group Inc. stated:

There was absolutely no consultation given to us. We were totally unaware that this was to be presented.⁹⁰

This report highlights areas of concern that it would have been more useful to address prior to the Bill being introduced into the Parliament.

The Committee believes that a more thorough consultation would have identified issues of concern to stakeholders and would have ensured the Bill was drafted in such a way that it may have been welcomed by stakeholder groups.

The government's failure to consult with stakeholder groups has meant they have sought to use this brief Bill inquiry by the Economy and Infrastructure Committee as a surrogate consultation process. For example, although the Committee did not call for written submissions it received more than 272 pieces of correspondence from individuals, organisations and companies that will be affected by this legislation.

⁸⁶ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

⁸⁷ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

⁸⁸ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

⁸⁹ Wayne Fleming, President, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

⁹⁰ Trisha Taylor, Victorian Dog Rescue and Resource Group Inc., *Transcript of Evidence*, 16 November 2016.

4.1.2 Intention of the Bill

Government position

In her second reading speech, Minister Allan advised the Legislative Assembly that the intention of the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 was to improve animal welfare:

We believe that the legislation regulating the breeding of dogs and cats should reflect this. All dogs being bred must be afforded the best possible welfare outcomes.⁹¹

The Committee and indeed stakeholders consulted by the Economy and Infrastructure Committee during this Inquiry support the intent of the Bill.

The government proposes to achieve this intent by limiting breeders to 10 fertile females and by regulating online sales.

Animal welfare organisations position

The intention of the legislation received support from animal welfare organisation such as Oscar's Law:

Those puppy farms that are operating with hundreds of dogs now are going to have to phase down to 10 females. It will not shut them down, but as we said, our goal is to have puppies treated as family pets, raised in the family home. ... We also do not want to see puppies removed from their mother at such a vulnerable time and placed in pet shops — transported by trucks and planes long distances away from their mother and put in pet shops. That is another thing that this legislation will do.⁹²

The view of the RSPCA is that:

This legislation has the potential to significantly improve animal welfare in Victoria. The RSPCA is committed to ending cruelty to all animals and believes this is a great step towards that goal.⁹³

However, they were concerned that legislation is not being applied uniformly:

The RSPCA is concerned that the Amendment Bill has singled out large-scale dog breeding facilities and not large-scale cat breeding facilities. The RSCPA has investigated several large-scale cat breeders, so we strongly believe that there should be consistency in legislation related to both species.⁹⁴

91 Jacinta Allen, *Legislative Assembly Victorian Parliamentary Debates*, 12 October 2016.

92 Debra Tranter, *Oscar's Law, Transcript of Evidence*, 9 November 2016.

93 RSPCA, *Correspondence*.

94 *Ibid.*

Pet industry position

The Committee received evidence from breeders and retailers that the Bill in its current form may not improve animal welfare. For example:

Banksia Park stated:

We do not believe that the Bill in its current form will achieve improved animal welfare standards across Victoria.⁹⁵

Ms Power from Dogs Victoria stated:

Personally I believe it would have a negative effect on animal welfare.⁹⁶

Dr MacDonald from Dogs Victoria suggested:

I do not believe it will improve animal welfare in its current form. If anything, there will be negative impacts, I would suspect, in some of the implications of the Bill. For example, the issue about if you have an accidental litter — however you define that, which is also another issue — then with those puppies you get a get-out-of-jail card if you give the puppies away. Now, that is never an ideal way of rehoming puppies: to give them away or to surrender them to a shelter or a pound, where the environment is less than ideal for developing puppies. So yes, there will be long-term impacts, and I believe they will be negative in terms of the animal welfare because of this Bill.⁹⁷

Pets Australia stated:

... if the intent of the Bill is animal welfare, then shipping puppies and kittens from Cairns is not to the benefit of animal welfare when there is a shortage in this state.⁹⁸

Specific impacts of the Bill on animal welfare, breeders and sales will be discussed in the following sections.

4.1.3 Limit of 10 female dogs

Currently recognised dog breeding businesses in Victoria range in size from 3 to 300 fertile female dogs.⁹⁹ As discussed previously, the Bill seeks to improve animal welfare primarily by reducing the number of fertile female dogs held by breeders to 10.

To many of those that the Committee consulted this appears to be an arbitrary number, and is the major point of contention in the Bill.

⁹⁵ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

⁹⁶ Sylvia Power, Compliance Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

⁹⁷ Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

⁹⁸ Dr Joanne Sillince, Managing Director, Pets Australia, *Transcript of Evidence*, 15 November 2016.

⁹⁹ Jacinta Allen, *Legislative Assembly Victorian Parliamentary Debates*, 12 October 2016.

Members also expressed concerns that the Bill would lead to a proliferation of ‘micro breeders’ which would be a more difficult environment for enforcement of regulation.

This section will provide an overview of the evidence received by the Committee from the key stakeholders in relation to this provision.

Government position

In her second reading speech, Minister Allan stated that this reduction was based on scientific literature that large scale breeding operations can fail to produce well socialised dogs.

According to the scientific literature, large-scale, commercial, dog breeding establishments, can fail to provide sufficient socialisation and enrichment to ensure the mental wellbeing of their breeding dogs. These dogs suffer from behavioural problems, poor socialisation and bonding with humans.¹⁰⁰

In her evidence to the Committee, Minister Pulford advised the Committee that the limit of 10 fertile females was based on advice from the RSPCA which led to this commitment being made prior to the last election.

The limit of 10 relates to the promise that the then Labor opposition made to the Victorian public before the election, and this Bill is about acquitting that election commitment. In terms of the dialogue with animal welfare organisations, predominantly the RSPCA but others, in the development of this election commitment, it was certainly put to us by animal welfare organisations, including at the time the RSPCA, that there was a relationship between animal welfare and socialisation and that the greater the number, the greater the risk — the key element there being around socialisation and human interaction. That is why the election commitment identified 10 as the number, and the legislation reflects the election commitment.¹⁰¹

Animal welfare organisation position

The RSPCA suggested in evidence to the Committee that there was no scientific evidence linking the number of fertile females and animal welfare outcomes:

I think it is fair to say that there is no evidence to show that the number of fertile female animals that you have has a significant bearing on the animal welfare. What really matters is the manner in which you care for those animals and how you look after their psychological, physical and social wellbeing.¹⁰²

They did however, advise the Committee that reducing the size of breeding operations would mean that if there were any breeders who were not placing the welfare of their animals as paramount then at least the scale of animal suffering at any one location would be reduced.¹⁰³

100 Ibid.

101 Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

102 Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

103 Ibid.

In evidence to the Committee, Oscar's Law suggested that

It will cap the number of [breeding] dogs allowed on puppy factories to 10, limiting the risk of behavioural and psychological damage caused by the deprivation suffered by these dogs, as evidenced by behavioural reports and veterinary reports we and other organisations have. We want to see breeding dogs kept as pets and their puppies born in the family home, and this is impossible when you have hundreds of dogs.¹⁰⁴

Oscar's law suggested that there was a link between the number of dogs and their welfare:

What I am saying is that if you are keeping hundreds of dogs in tin sheds, they are not pets. We are not talking about pets. They are production dogs. You cannot meet their needs. These are companion animals, and even on the government's own website they describe the dog as a companion animal. You cannot treat a dog as a breeding machine, a primary producer to supply puppies to a commercial market, and expect that dog to settle into a family home at the end of its breeding life. It is just not possible.¹⁰⁵

Oscar's law argued that the amendment Bill addresses a failure of the current legislation to consider a dog's behavioural or psychological needs. Under the current legislation the RSPCA are unable to intervene if a dog has got the right size pen and food and water are provided.¹⁰⁶

Veterinary professionals position

The Committee received evidence from both the AVA, and a number of veterinarians. This group told the Committee that there is not a correlation between animal welfare and the number of dogs in a location.

The AVA noted in evidence to the Committee:

... poor welfare in regard to breeding can happen whether you have one fertile female or many fertile females. I myself have seen poor animal welfare with breeders that have one breeding dog, and in contrast I have seen good animal welfare with breeders that have numerous breeding females.¹⁰⁷

Animal welfare is not dictated by the number of dogs a person has; it is more dictated by the attitude that the animal owner has or the people in charge of looking after those animals.¹⁰⁸

¹⁰⁴ Debra Tranter, Oscar's Law, *Transcript of Evidence*, 9 November 2016.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

¹⁰⁸ *Ibid.*

Dr Doug Black, a registered veterinarian with 38 years of experience stated:

Certainly the first thing that I have an issue with is definitely that maximum of 10 breeding females. I just see that as I have just heard that it has really been a figure that has been plucked out of the sky. To me it makes no sense that someone breeding 9 animals is more likely to comply with animal welfare conditions than someone breeding 11. It just does not make any sense. I understand that they wanted to specify a number, but I believe that numbers are totally irrelevant to the whole picture. The focus surely should be just purely and simply on animal welfare. Whether someone is breeding 1 dog or whether they are breeding 150 dogs, if someone is creating animal cruelty — it does not matter how many animals they have got — then they are open to the full force of the law, essentially.¹⁰⁹

While Dr Rohan Hart stated:

... I would like to just point out that a review in New South Wales came to the conclusion that the number 10 had no basis or impact on management on a property, so in other words management can be good or bad and is not controlled by any number, let alone the number 10.¹¹⁰

Pet industry position

Evidence from the Pet Industry Association of Australia, the peak body representing all sectors of the Australian pet industry, suggested there was no basis for limiting breeders to 10 fertile female dogs:

I think the number of 10 has just been plucked out of the air, really. As the minister's adviser said to us, this is an election promise, so there is no, I suppose, argument entering into it until now. It was an election promise. I do not know where the figure 10 was plucked from. There is no merit behind numbers at all.¹¹¹

Breeding numbers are not equated to better welfare. There is a lack of any scientific evidence indicating that limiting the number of breeding dogs improves animal welfare standards. ... Poor welfare practice can happen in large or small breeding facilities. Limiting the amount of breeding bitches on its own is not going to improve animal welfare. The focus needs to be on the social, behavioural and physiological needs of the dogs and puppies.¹¹²

This position was reflected in evidence from Banksia Park Puppies, who also disputed a link between animal welfare and the number of fertile female dogs:

There is no scientific evidence to suggest there is a link between this arbitrary number and the animal welfare standards in a breeding establishment. This is backed up by lots and lots of individual groups. I think even the RSPCA themselves have said that there is no evidence to suggest that 10 dogs will result in a higher standard of animal welfare.¹¹³

¹⁰⁹ Dr Doug Black, Director, Microchips Australia, *Transcript of Evidence*, 15 November 2016.

¹¹⁰ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

¹¹¹ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹¹² Ibid.

¹¹³ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

Local Government position

The Committee heard from the Municipal Association of Victoria (MAV), the peak body for local government, that the decision to limit breeders to 10 fertile females did not seem to have an evidentiary basis:

The 10 head limit seems arbitrary to me, but again we have not tested that with the sector as to what their view is.¹¹⁴

The Committee did not hear any scientific evidence that there is a link between animal welfare and the number of breeding females, and that rather than this measure, standards should be based on physical, social and psychological factors.

In conclusion, the Committee notes that in August 2015, the Joint Select Committee on Companion Animal Breeding Practices in New South Wales found:

The Committee finds no evidence that the number of animals kept by breeders is in itself a factor which determines welfare outcomes of breeding animals.¹¹⁵

FINDING 17: A reduction by breeders to 10 fertile female dogs has no link to improved welfare of breeding animals.

FINDING 18: Enforcement should be standard based (physical, social, psychological) rather than numbers based.

RECOMMENDATION 7: That the government abandon the 10 fertile female limit proposed in the Domestic Animals (Puppy Farms and Pet Shops) Amendment Bill 2016.

4.2 Impact on dog breeders

The Committee received evidence that the proposed legislation would have negative impacts on both commercial, domestic and hobby breeders. These included a reduction in the number of breeders, which would result in a reduction in supply and an increase in prices for puppies. These issues are discussed further below.

4.2.1 Commercial breeding

Closure of businesses and loss of jobs

The Committee heard evidence that existing commercial operations could not continue in Victoria if the 10 female limit is introduced. The Pet Industry Association stated that existing commercial breeders could not operate under the environment established by the Bill before the Parliament.

¹¹⁴ Claire Dunn, Manager, Environment and Regulatory Services, Municipal Association of Victoria, *Transcript of Evidence*, 9 November 2016.

¹¹⁵ Joint Select Committee on Companion Animal Practices in New South Wales, *Inquiry into Companion Animal Breeding Practices in New South Wales*, August 2015, p. 33.

What we are concerned about here is that breeders and retailers such as Matt, who operate under high ethical standards they set upon themselves, will disappear.¹¹⁶

Banksia Park Puppies supported this evidence, advising the Committee that this would lead to the closure of their business and the loss of 25 local jobs.

Our business as it exists today will be defunct. We have 150 fertile females at the moment that we manage. Ten obviously will be the end of that business in its current form. ... and unfortunately those 25 people in our rural area will also lose their jobs. That would be a certainty under this current Bill.¹¹⁷

The Committee heard from Banksia Park Puppies that they plan to move their business to New South Wales, which does not have these restrictions.

... demand is high in Victoria, so we certainly anticipate that there will be a flood of dogs coming in from New South Wales, which is currently under regulated or there is no enforceable code up there or they do not have a licensing system at least. We intend to go to New South Wales, take our Victorian standards with us and set a benchmark standard in New South Wales.¹¹⁸

The Committee anticipates that other commercial operators in Victoria will either close their business or move interstate. This potentially will mean that dogs are being transported over longer distances, which the Committee notes is contrary to the intentions of this Bill.

FINDING 19: Implementation of the Bill would see jobs lost in Victoria.

Loss of experience and impact on animal welfare

Banksia Park Puppies suggested that the loss of commercial operators would result in a loss of experienced operators and breeders and may result in a decline in animal welfare.

There is a lot involved in breeding a dog. We have seen some things, even with friends of ours, who have got their dog pregnant in their backyard. They have not understood the nutritional requirements, they have not understood the birthing process, and the dogs have suffered through a lack of experience, lack of facility and lack of knowledge as to what is happening. ... so I think that there will be a lot of bad outcomes that happen. The thing is we will never hear about them. They will not be in the media. They will just happen in the living rooms and backyards of inexperienced people, and that will be really sad for the dogs in those situations, I think.¹¹⁹

For example, Banksia Park told the Committee that, because of its size, they are able to have full time staff caring for their dogs 24 hours a day. If they were restricted to 10 fertile females, the owners would need to secure full time jobs outside of the business which would mean the dogs would be unattended for

116 Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

117 Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

118 Ibid.

119 Ibid.

at least 8 hours each day. They would also not be able to provide the same facilities. For example Banksia Park told the Committee that they currently have purpose-built nurseries with heated floors and vets available after hours.¹²⁰

If we had 10 dogs we would have to go and get a full-time job. Currently our girls birth in a nursery with a full-time staffer just to look after our girls while they are giving birth. Under this current Bill we will have 10 dogs, and unfortunately they will be alone for 8 hours during the day. I do not understand how this will be an improvement in the standards. So the impact will be devastating on our business and family as it sits right now.¹²¹

The Committee also heard that because of recent and ongoing public scrutiny of commercial breeders, these businesses operate transparently by necessity. These operations are required to be inspected annually by local government, and are inspected against the code of practice checklist.¹²² The Committee heard that smaller domestic or micro operations may not receive the same level of scrutiny, which may mean poor animal welfare practices are allowed to occur.

Given our transparency and our openness, the rules are often enforced very heavily on us, and so therefore our smaller competitors can supply the market cheaper and with a less-quality product than we do — if you want to call it a product. So yes, that has been frustrating, and we certainly think that that is something that needs to be addressed.¹²³

Farm working dogs

The Committee heard that a study by the University of Sydney found that farm working dogs contribute approximately \$1 Billion per year to the economy.¹²⁴ As such it was suggested to the Committee that these dogs should be in a separate category to domestic companion dogs.¹²⁵ The Committee heard that farm working dogs are not bred as regularly as domestic companion dogs.

We usually do not breed from them until they are 17 to 24 months old, and then, as I said, we wait and see what they have produced and how good their progeny are before we breed from them again. Quite often their work commitments come before breeding. So they are not bred from on a regular basis; hence we need more.¹²⁶

If breeders of farm working dogs must reduce the number of dogs they keep, the Committee heard it may mean they will be unable to maintain quality bloodlines, resulting in sub-standard supply.

120 Ibid.

121 Ibid.

122 Ibid.

123 Ibid.

124 Rod Cavanagh, President, Australian Utility Stock Dog Society Inc., *Transcript of Evidence*, 15 November 2016.

125 Ibid.

126 Joe Spicer, Victorian Yard, Utility and Farm Dog Association, *Transcript of Evidence*, 15 November 2016.

... making it against the law to keep and sometimes breed from the number of bitches that larger more successful studs which supply a large proportion of farmers and the smaller studs require in order to maintain the number of quality dam lines, or families if you like, needed to achieve sustained genetic gain;¹²⁷

It was put to the Committee that the Bill would most likely result in farm working dogs being imported from interstate, which the Committee notes is against the intentions of the Bill.

They will obviously source dogs from interstate, but they will not get to do what they do now, and that is come and have a look at the parents and pick out a puppy. One of the services that I give is that you can get the pup between 8 and 12 weeks old, have a look at its working ability and choose it for yourself. Now they will not have that option.¹²⁸

4.2.2 Domestic/micro breeding

Reduction in reputable breeders

The Committee heard evidence that the majority of dogs currently sold in Victoria are bred by unregistered small breeders.

Our analysis shows that the majority of dogs applied into the Victorian market are currently bred by legally unregistered small breeders and potentially illegally unregistered breeders as well. ... We do believe, however, that the Bill will have an impact on this amateur group, as they will now have to register as a domestic animal business.¹²⁹

The requirement under the Bill for small breeders to register as a domestic animal business (DABs) was raised as a concern to the Committee.

FINDING 20: The Legislation would be overly burdensome for hobby breeders.

4.2.3 Reduction in availability of puppies and increase in costs

The Committee received evidence that a reduction in both commercial and domestic breeders would result in an increase in the cost of purchasing puppies and result in puppies being imported into Victoria from interstate.

Victoria is one of the largest purchasers of puppies in the country. The demand is high in Victoria, so we certainly anticipate that there will be a flood of dogs coming in from New South Wales, which is currently under regulated or there is no enforceable code up there or they do not have a licensing system at least.¹³⁰

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

¹³⁰ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

If this proposal were to go through, the demand for particular breeds of dogs will continue, but supply will significantly drop, and this will have several of its own adverse consequences, including increasing the cost of buying a puppy, leading to reduced pet ownership. We will see unwanted effects on the social, mental and physical wellbeing of Victorians, as the health values of owning a pet are well documented. It will push the breeding and sale of dogs further underground. There would be an increase in the purchase of puppies from interstate and a huge increase in the sale of puppies online, already impossible to regulate.¹³¹

The Committee heard that this would particularly apply for cross bred family friendly dogs preferred by most buyers.

Commercial breeder concerns

If commercial operators either close or move interstate, there will be a reduction in the supply of puppies in Victoria. Pets Australia estimate the Bill will cause the supply of puppies in Victoria to drop by 15 per cent. This is occurring at a time when there is already a puppy shortage in Australia.

... this Bill will deny people the right to own a pet. On our modelling, dog supply will drop by up to 15 per cent ... There is a nationwide shortage of dogs that people want to own, most visible at the moment in WA but also on the east coast to a lesser extent.¹³²

Karen Peele from Mad about Pets advised the Committee that Victoria has an ageing dog population and will shortly be needing to increase the supply of puppies to meet future demand.

Senior dogs have actually increased to 34 per cent, and that is dogs of eight years of age and over. We are going to have quite a gap between the elderly dogs passing on and the lack of dogs coming through to actually meet those needs. ... It is not just lack of supply. But lack of supply is something that is going to hit quite quickly, and I think we are unaware of the effects of that, especially in Victoria.¹³³

Dr Hart, a veterinarian suggested that this reduction in supply would mean the price or waiting time for puppies would increase:

... removing the crossbred population of dogs from the state, reducing dog numbers, is going to drive up price, it is going to drive up waiting times and it is going to mean you cannot get the dog you want when you want it.¹³⁴

Upmarket Pets suggested to the Committee that prices for puppies could treble in the next three to five years as a result of the Bill.

¹³¹ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹³² Dr Joanne Sillince, Managing Director, Pets Australia, *Transcript of Evidence*, 15 November 2016.

¹³³ Karen Peele, Director, Mad About Pets, *Transcript of Evidence*, 15 November 2016.

¹³⁴ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016. Karen Peele, Director, Mad About Pets, *Transcript of Evidence*, 15 November 2016.

By effectively banning large domestic animal businesses ... as well as banning the sale of puppies and kittens in pet stores ... the supply of puppies to the Victorian community will be significantly reduced. This would result in the removal of one avenue of people's right to choose; an increase in the cost of puppies — we estimate prices to double or treble in the next three to five years, pricing eight week old puppies at between \$5000 and \$15 000; an increase in waiting times to have a puppy supplied; ...¹³⁵

Banksia Park Puppies suggested a similar situation would happen with prices were this Bill to be passed.

We anticipate the cost at least doubling in the next five to eight years. We have already seen dramatic increases in price over the last five years with the introduction of the other code and with people getting out of the market, as well as with an increase in demand.¹³⁶

Domestic breeder concerns

Dogs Victoria were concerned that the cost of obtaining a DAB licence, and the paperwork involved would result in many breeders ceasing operations. This will lead to a reduction in the supply of puppies in Victoria

The big issue for us is that we will see a lot of our small hobby breeders fail to be able to get their DABs, or they will not be able to continue because of the expenses involved, and we will see a reduction in well-bred pedigree dogs which are health tested, which have got known pedigrees and which are fit for purpose in a lot of cases to do the assistance work or the security dogs. People will have to either try to get their dogs from interstate or they will have to go elsewhere if they are looking for a puppy.¹³⁷

Dogs Victoria suggested to the Committee that domestic/micro breeders that remained after the introduction of this Bill would need to look at increasing the cost for their puppies to offset the increase expense of obtaining a DAB. As discussed previously, if commercial operators were to withdraw from the market, this would lead to increased prices and waiting times for puppies.

The other thing I should mention too is that those DOGS Victoria breeders that do stay will, in order to cover their costs, for the most part have to increase the price of their puppies ...¹³⁸

... the Bill in its current form will see less puppies bred by ethical registered breeders, and those that do continue will have to cover excessive costs regarding DAB registration, planning and in compliance with the code that is designed for commercial-scale breeding.¹³⁹

135 Mary Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

136 Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

137 Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

138 Ibid.

139 Wayne Fleming, President, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

FINDING 21: Implementation of this legislation would reduce the supply and increase the cost of both pet and working dogs in the State of Victoria.

RECOMMENDATION 8: That the government exempt certain domestic animal hobby breeders from compliance with the proposed legislation.

4.2.4 Increase in puppy farms

Many stakeholder groups raised concerns that given a decline in the number of reputable domestic and commercial breeders, the Bill may result in an increase in illegal puppy farms to capitalise on the increase in price for puppies.

The Pet Industry Association stated:

What we will have is the puppy farms that are already out there hiding under the blankets proliferate, and it will make things even harder. It would be impossible for animal welfare standards to rise. It would be impossible to regulate the amount of unknown breeders out there.¹⁴⁰

... will happen because the price of dogs will go up, and unfortunately it is going to attract the wrong people for the wrong reasons.¹⁴¹

In evidence to the Committee Banksia Park Puppies stated:

If you take large breeding businesses such as us out of the market, we are very concerned that it will push a growth in micro puppy farms and small, inexperienced backyard breeders.¹⁴²

There is a huge demand out there. Whether it is right or wrong or whether you agree with what we do, it is undeniable that the public and the people in the public want to purchase these puppies. ... These puppies are selling in excess of \$3000, and to me there is a lot of incentive there for inexperienced and backyard breeders to get into this industry.¹⁴³

Dr Black, a veterinarian, advised:

... I can tell you that some of the ones who are just basically in it for the buck, in a very small way, are under-resourced, they are generally not well educated in terms of requirements such as hygiene and basic conditions like that, nutrition et cetera, and they certainly do not follow through in terms of the progression of that pup in the family later on as well. So some of those, I believe, will probably be prone to being far more guilty of animal cruelty in the future.¹⁴⁴

¹⁴⁰ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁴¹ John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁴² Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁴³ Ibid.

¹⁴⁴ 146 Dr Doug Black, Director, Microchips Australia, *Transcript of Evidence*, 15 November 2016.

Dogs Victoria said:

Unregistered backyard breeders, who for the most part do not meet existing regulations and rules, such as microchipping and vaccination laws, will continue to operate under the radar.¹⁴⁵

Several witnesses identified a potential ‘loop hole’ in the Bill. A DAB is only required if you are breeding animals for sale. It was suggested to the Committee that puppy farmers could ‘give away’ their puppies to avoid registration.

... there is going to be a black market where if you give away your dogs, which they will obviously be selling for cash, you do not have to comply with the code. It is crazy. There is just going to be a surge of substandard dogs that are going to flood that Melbourne market.¹⁴⁶

Witnesses questioned why this ‘loop hole’ was permitted. They suggested that if the intention of the Bill was to improve animal welfare then the same requirements should be placed on all breeders regardless of whether it was for profit or not.

Why do those who give pups away not have to provide the same level of care as those that try to recoup the costs of providing the level of care required by this code?¹⁴⁷

4.2.5 Loss of genetics

If the number of breeders declines and the remaining breeders are limited to 10 females, the Committee received evidence that this will result in a loss of genetic stock, especially for breeders who produce crossbreed dogs. Genetic diversity is required in order to breed healthy animals.

So my concern for the dog population is if we force pure breeding because they are close to the only dogs available, that we actually make weaker the genetic stock of the dog population, rather than encouraging puglies, cavoodles, spoodles, labradoodles. All the designer crossbred dogs are actually really good genetically for the dog population.¹⁴⁸

The Committee also heard from Banksia Park Puppies that the 10 female limit will make it more difficult to develop bloodlines and produce quality animals.

We have spent 20 years focusing on our bloodlines and building healthy bloodlines. We do not breed our dogs for the length of their tail, for the length of their nose or for the way their eyes sit. We breed our dogs for health and temperament. So I think one thing the government does not understand because of their lack of consultation is what is involved in breeding a healthy family pet. Also, to be told you cannot replace your dogs means within two and a half to three years our lines will be gone. The lines that we have spent 20 years developing will be lost if we cannot keep stock from those

145 Wayne Fleming, President, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

146 Joe Spicer, Victorian Yard, Utility and Farm Dog Association, *Transcript of Evidence*, 15 November 2016.

147 Ibid.

148 Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

girls and improve and continue to keep that bloodline. If that happens, there is not a place you can go and just purchase more healthy bloodlines. It is not like a cattle sale or a sheep sale.¹⁴⁹

Similar issues were raised by farm working dog breeders. These dogs do not produce litters as regularly as commercial breeders, as such it was suggested to the Committee that the 10 female limit would either result in a shortage of farm working dogs, or the breeding of inferior dogs.

The restriction of 10 female dogs by 2020 for DABs is below the number that is required for seed stock breeders, and that is where we get our quality dogs from. The genetic breeding of livestock working dogs is highly skilled, and irreplaceable bloodlines may vanish. That would be a disaster. Thousands of replacement pups are required each year to maintain the number of working dogs needed. The future availability of high-quality practical working stock dogs in Victoria is not promising if this Bill goes through.¹⁵⁰

4.3 Central registry of puppy sales

4.3.1 Traceable animals

There was strong support amongst most stakeholders for the creation of a central registry. There was also widespread support for puppies to be sold with a microchip. It was put to the Committee that this would provide more transparency in relation to the origin of puppies, preventing sales from unlicensed or illegal operators.

The traceability is very, very important in terms of making sure that animals are ethically bred and providing the information about where these operations are.¹⁵¹

My view would be the only good part of the legislation is the microchipping requirement on everybody at the time of sale.¹⁵²

I think that the proposal of a central database is a fantastic proposal, and we would really like to see that happen.¹⁵³

The Committee heard that breeders are currently able to reuse microchips.¹⁵⁴ The central register created by this Bill should prevent this happening, meaning people will have certainty in determining where puppies are coming from.

This issue is discussed in the context of municipal Councils in Chapter Three.

¹⁴⁹ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁵⁰ Rod Cavanagh, President, Australian Utility Stock Dog Society Inc., *Transcript of Evidence*, 15 November 2016.

¹⁵¹ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

¹⁵² Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

¹⁵³ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁵⁴ Debra Tranter, Oscar's Law, *Transcript of Evidence*, 9 November 2016.

4.3.2 Pet shops

The Committee heard that pet shops can play an important role for first time pet owners — they can offer free support and sell a range of products that owners need.

Pet shops play a very important role, particularly for first-time pet owners, because we have the time and the know-how to actually guide them in the right way. We have got supporting products. We are also there seven days a week should they have any questions after they have purchased a puppy.¹⁵⁵

It was also suggested that pets purchased from pet shops are surrounded at a lower rate than pets purchased via other means.¹⁵⁶ A possible reason for this was put forward by the owner of Kellyville Pets in New South Wales, who advised the Committee that his staff will establish if a dog is right for a person before they allow the sale to proceed.

If someone comes in and they are interested in something in particular, we will ask them why. We establish whether they are the right person for that dog and then we will match them; and if they are not, we will match them with something else. In some cases it is not a dog.¹⁵⁷

The Committee heard that some pet shops also currently assist with rehoming pets, such as greyhounds. But there is still a demand for puppies which they should be allowed to meet.

We do a lot of rehoming programs in the store. We have rehomed nearly 50 greyhounds in the last 6 to 12 months. We have rehomed cats and so forth. So pet shops can still play a very big part in rehoming animals, and they should, but they should still also be allowed to sell puppies responsibly from sources that are breeding ethically and responsibly.¹⁵⁸

Closure of pet shops

The Bill seeks to ban the sale of puppies from pet shops. The Minister advised the Committee that the government does not consider that puppies and kittens belong in shop windows.¹⁵⁹

The Committee heard that there are currently about 10 pet shops in Melbourne that sell puppies and kittens.¹⁶⁰ In evidence to the Committee, one of these pet shops advised they would be forced to close if the Bill were passed and they were unable to sell puppies and kittens. The Committee notes that this firm has 50 employees over 3 businesses.¹⁶¹

¹⁵⁵ John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁵⁶ Dr Joanne Sillince, Managing Director, Pets Australia, *Transcript of Evidence*, 15 November 2016.

¹⁵⁷ John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁵⁸ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁵⁹ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

¹⁶⁰ Mary Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

¹⁶¹ Greg Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

If these proposals become law, pet shops like ours will only be able to sell dogs and cats obtained from an approved source, which would be shelters, carers and pounds ... Our customers want young puppies and kittens, not older dogs. It is highly likely that Upmarket Pets would close as a result of this change.¹⁶²

The Committee heard that many of the puppies sold by Upmarket Pets are cross breeds, which are not bred by Dogs Victoria members. The banning of commercial breeders and the sale of puppies in pet stores would make it very difficult to buy a cross bred puppy.

Upmarket Pets predominantly sells crossbreed puppies such as toy poodle crosses, cavoodles, Maltese cross, shih tzu cross, chihuahua cross, westy cross, Jack Russell cross and Scottish terrier crosses — breeds of dogs that are very rarely found in shelters or pounds but are in high demand. These breeds are not bred by pedigree breeders and would become extremely difficult to find if larger domestic animal businesses and pet shop sales are banned.¹⁶³

The Pet Industry Association suggested that the Bill would result in job losses across the sector:

Legitimate ethical breeders and pet store owners will be unable to maintain a viable business. This will lead to staff redundancies and other social and economic consequences.¹⁶⁴

Witnesses told the Committee that pet shop businesses would not be sustainable if the Bill becomes law.

Sales transparency

The Committee heard suggestions that pet shops are the primary source of market access for illegal breeders,¹⁶⁵ a suggestion that was refuted by the AVA:

There is little evidence that animals bought from pet shops contribute to unwanted pet populations or that they are the primary sales channels for puppy farmers.¹⁶⁶

Several witnesses noted that the NSW Parliamentary inquiry (referred to previously) found no evidence that banning the sale of puppies in pet shops would affect the operations of illegal breeders.

That inquiry in New South Wales also found that banning pet shops would have no impact on illegal puppy farm supply.¹⁶⁷

¹⁶² Mary Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

¹⁶³ Ibid.

¹⁶⁴ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁶⁵ Jacinta Allen, *Legislative Assembly Victorian Parliamentary Debates*, 12 October 2016.

¹⁶⁶ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

¹⁶⁷ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

In fact the Committee heard that the NSW Parliamentary inquiry found pet shop sales to be one of the most transparent ways of selling puppies.¹⁶⁸

The Committee heard from Kellyville Pets that as they have puppies in store, they are under constant public scrutiny as any the public would notice any breach no matter how minor, and they would be reported by to the RSPCA.

At a pet store, I consider every customer of mine that comes into our store — we have thousands of customers come into our store every single week, and I consider each and every one of those as an RSPCA inspector because they care about animals. That is why they are there. The fact that we are on public view seven days a week, very long hours — it is very hard not to be transparent in that sort of situation, so it is ideal for that.¹⁶⁹

Victorian pet shops are required by law to keep records of where puppies are purchased from, and for this to be provided to local government or the RSPCA. This means sales through pet stores are some of the most accountable.

... I would like to also make the point strongly that the legislation of July 2015 that required the pet shop to retain information and provide it to the council and the RSPCA on request allows absolute feedback of every dog or cat in the pet shop.¹⁷⁰

However, with pet shops having to keep detailed records, at least transparency is now present as opposed to with online purchases.¹⁷¹

It was suggested to the Committee that banning the sale of puppies from pet shops would shift sales to the internet, which is not currently regulated.

Pet shops are regulated and accountable at pre-sale, time of sale and post-sale. Consumers are protected by legislation, the code of practice and consumer law. The proposed changes will cause rapid growth in online sales, with the consequent negative impacts on regulation, control, animal welfare and consumer protection.¹⁷²

FINDING 22: Shutting down pet shops would lead to less scrutiny of animal welfare issues.

RECOMMENDATION 9: That the government allow pet shops to continue to sell domestic animals from ethical domestic animal breeders.

168 Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

169 John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

170 Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

171 Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

172 Mary Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

4.3.3 Internet sales

The Bill proposes that breeders will not be able to advertise puppies for sale online unless they have a DAB number.¹⁷³

The Committee heard that unlike pet shops there may be no after sale support for puppies sold over the internet.

If I go to Karen's pet shop, I can walk in and know that that pet shop is licensed, audited and registered. I can know that every animal in that pet shop comes from a licensed, audited and registered breeder. If she ceases to exist, I will go onto Gumtree, I will ring the mobile number and the nice man will say, 'I'm coming down to Melbourne on the weekend. I'll meet you in the McDonald's car park at Eildon and we'll do the trade there'. I have been involved in one of those.

The AVA advised the Committee of concerns in relation to online sales, and the lack of accountability. It noted that there have been reports of puppies purchased online with poor health and welfare issues.

Our members are not concerned about sales in pet shops; however, there is deep and growing concern about the sale of pets online. There are virtually no controls to protect animal welfare and certainly no accountability in online sales. Our members have reported significant health and welfare issues in animals bought online. Online purchases have continued to grow, and no real solution has been suggested as to how to stem this. A 2015 study of online advertisements through Gumtree estimated that that site alone is responsible for more than 149 000 puppy sales throughout Australia each year.¹⁷⁴

Unlike pet shops, which verify who a breeder is, where puppies come from, and the conditions they are raised in, it is harder to perform these checks for a website.

A problem also is that they can sell online and create a website that looks nice, but really that is not the reality because people cannot go and check and there is no authority to go and check for them.¹⁷⁵

At the moment we have an underground black market in puppies. Breeders hide behind brokers, who sell to pet shops and the online websites. The identity of who bred and sold the puppy is almost impossible to trace, and if something does go wrong with that puppy, the consumer has no recourse of action, as they cannot identify the seller.¹⁷⁶

The Committee notes it may be more difficult for buyers to undertake due diligence in their choice of breeders if the sale of puppies through pet shops is banned.

¹⁷³ Debra Tranter, Oscar's Law, *Transcript of Evidence*, 9 November 2016.

¹⁷⁴ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

¹⁷⁵ John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁷⁶ Debra Tranter, Oscar's Law, *Transcript of Evidence*, 9 November 2016.

4.4 Issues for foster organisations/animal rescue

4.4.1 Adoption/rescue not suitable for everyone

There was broad support for encouraging the adoption of rescue dogs,¹⁷⁷ however it was noted that adoption was not suitable for everyone. The Pet Industry Association suggested that the provisions in the Bill will not reduce the number of pets in shelters.¹⁷⁸ Reasons for this included lifestyle and specific breed.

A rescue dog may not be suitable for a person's lifestyle.¹⁷⁹ For example a person may not have the time in a domestic situation that is required to retrain a rescue dog.

I have had my clinics in South Melbourne for the last 20 years. I have seen adoption dogs — where people have to go to obedience training for a year or two years to readjust the dog, sometimes with good results and sometimes with bad results. Some people want to take that challenge on, but not every family wants to and it may not even be appropriate when you have got young children.¹⁸⁰

The Committee heard that some people want a specific breed, which may not be available at a shelter or pound.

Upmarket Pets predominantly sells crossbreed puppies ... breeds of dogs that are very rarely found in shelters or pounds but are in high demand. These breeds are not bred by pedigree breeders and would become extremely difficult to find if larger domestic animal businesses and pet shop sales are banned.¹⁸¹

The Committee heard that 50 to 64 per cent of people considered obtaining a dog from a shelter or pound prior to buying a puppy from a breeder. They ended up buying a puppy as they wanted a specific breed.

Around 50 per cent had visited a pound or shelter prior to coming to us, and some of them for up to two years have been visiting pounds and shelters waiting for a dog that was appropriate for their family. They have not found them and they have ended up at our place and made their purchase.¹⁸²

We did a survey on some of our customers, and we asked them if they considered rehoming a dog before they decided to come and buy a puppy from us, and 64 per cent of them said that they considered it and they had a look, but the overwhelming majority of customers bought a puppy from us because we had the breed that they wanted.¹⁸³

¹⁷⁷ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

¹⁷⁸ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

¹⁷⁹ Greg Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

¹⁸⁰ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

¹⁸¹ Mary Kirby, Proprietor, Upmarket Pets, *Transcript of Evidence*, 9 November 2016.

¹⁸² Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁸³ Mark Fraser, Chief Executive Officer, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

4.4.2 Foster care

The Committee heard that the Bill provides for the registration of dogs in foster care at the rate of \$7 for the first 12 months (The equivalent fee for cats is \$4).¹⁸⁴ The Committee heard that dog rescue and foster groups were unhappy with these provisions, as it means these dogs (and cats) are registered in the name of the foster carer.

In evidence to the Committee the dog rescue and foster groups advised the Committee that dogs should be registered to the relevant organisation because they are ultimately responsible for these dogs, not the carer.

I do have some concerns around the rescue foster element. It seems to put a lot of power into the hands of foster carers and take a lot of power away from the rescue groups. ... having to register the dogs in their name rather than that of the rescue group. It is the rescue group that is responsible for the care and that pays for the care of those dogs as well, not actually the foster carer.¹⁸⁵

It is a big issue to us that we did not want to register the dogs in the carer's name. We own these dogs. We look on it like we are the library. ... we never deny the carer has the responsibility to manage that dog — but the dog belongs to us, and we are being asked to register it in an individual's name.¹⁸⁶

All of the operative provisions in the Bill relating to foster care refer to foster carers as individuals. The only recognition that there may be such an entity as a community foster care network is in section 5, in the definitions. The operative sections refer to advertising, sale, registration and record keeping by individual foster carers. This does not accord at all with the reality of what we actually do and our role as community foster care networks. We take ownership of dogs and cats from pounds under a section 84Y agreement. They are desexed, vaccinated and chipped. We pay for all costs relating to those dogs: transport, record keeping, vet work, registration. We take dogs and cats from shelters and we take discarded puppy farm dogs and private surrenders, all with ownership to us as a group.¹⁸⁷

Another issue that was raised related to the fact registration of dogs is for 12 months, but dogs may only be in foster care for a couple of weeks. This means that every time a foster carer receives a new animal they need to register it.

And foster carers do not have the dog for a whole year. They might have it for two weeks or four weeks or six weeks. Every time you have a new animal come into your care you are going to pay a new fee. How much does that add up to?¹⁸⁸

The Committee heard that foster careers are also unhappy with these provisions, as they do not want responsibility for these dogs. As a result, this may mean the loss of foster carers.¹⁸⁹

¹⁸⁴ Cassandra Meagher, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016.

¹⁸⁵ Debra Tranter, Oscar's Law, *Transcript of Evidence*, 9 November 2016.

¹⁸⁶ Trisha Taylor, Victorian Dog Rescue and Resource Group Inc., *Transcript of Evidence*, 16 November 2016.

¹⁸⁷ Trisha Taylor, Victorian Dog Rescue and Resource Group Inc., *Transcript of Evidence*, 16 November 2016.

¹⁸⁸ Joanna Herceg, Pug Rescue and Adoption Victoria Inc., *Transcript of Evidence*, 16 November 2016.

¹⁸⁹ Trisha Taylor, Victorian Dog Rescue and Resource Group Inc., *Transcript of Evidence*, 16 November 2016.

Where do our foster carers sit with this? They do not want the responsibility. They take the dog and they care for it. We have the other responsibilities. They do not want inspections, further property checks and so on.¹⁹⁰

The Committee heard that provisions in the Bill will affect a number of similar voluntary organisations, such as by changing their incorporated status or requiring them to obtain permits. It may mean many voluntary or not-for-profit services, such as dog obedience training, are lost to the Victorian public if the Bill were to proceed.

The other thing though is that it impacts on obedience clubs and dog sporting clubs which are not for profits. ... They provide such an important service to the community. This Bill will impact on them in terms of things like their incorporated status, potentially, their ability to get grants from councils and their ability to lease grounds from councils. It will impact on their insurance; it will impact on a whole range of things.¹⁹¹

FINDING 23: Legislation may have a negative impact upon animal rescue organisations in Victoria.

4.5 Enforcement

Stakeholders expressed concerns to the Committee in relation to enforcement of the proposed legislation. Key concerns raised included:

- Existing, recently revised regulations (*Code of Practice for the Operation of Breeding and Rearing Businesses 2014*) not given enough time to prove its effectiveness
- Under-enforcement of existing regulations is currently leading to negative animal welfare outcomes and this is unlikely to change under the proposed legislation unless additional resourcing and enforcement strategies are in place

Municipal council enforcement concerns, including resourcing and feasibility in practice, have been considered in Chapter 3. This section aims to consider the evidence the Committee received related to the enforcement of the existing regulations and the proposed legislation from the perspective of breeders, veterinarians, and other dog-specific stakeholders.

4.5.1 Current code

The *Code of Practice for the Operation of Breeding and Rearing Businesses 2014* details ‘minimum standards of accommodation, management, breeding and care that are appropriate to the physical and behavioural needs of dogs and cats housed in businesses operating as breeding or rearing domestic animal

¹⁹⁰ Trisha Taylor, Victorian Dog Rescue and Resource Group Inc., *Transcript of Evidence*, 16 November 2016.

¹⁹¹ Terri MacDonald, Policy and Legislation Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

businesses', and must be 'observed by the proprietor, operations manager and all other staff of a breeding and/or rearing business, including all persons involved in the sale of an animal.'¹⁹²

In 2015 the Code was amended to make minor changes, such as requiring breeders to obtain a veterinary health check prior to each mating cycle and updating the Code with respect to Machinery of Government changes and the *Primary Industries Legislation Amendment Act 2014*.

In evidence provided to the Committee the amended Code has been referred to as 'one of the higher standard codes of practice in the country',¹⁹³ 'world's best practice', and 'one of the strongest in the country'.

Banksia Park Puppies in particular praised the Code and informed the Committee that it had not had a long enough implementation period to adequately assess whether it is effective as a regulatory mechanism.

Victoria having one of the higher standard codes of practice in the country — or the highest in the country. This code has not been given time to work. It was released in 2014.¹⁹⁴

4.5.2 Application

As noted in Chapter 3, enforcement of the existing Code has been identified by many stakeholders as under-resourced and, therefore, likely to be ineffective in practice.

Banksia Park Puppies, in their evidence to the Committee, argued that additional layers of regulation on top of or in addition to the Code was likely to be equally ineffective at curbing illegal breeding practices if adequate enforcement was not available.

If the current code was enforced, there are provisions in there to take care of a lot of the problems that we are seeing in the media nowadays. If there were some resources given to local council, we think they would be able to enforce the current code and improve standards dramatically. We need more time for this code to take effect and more resources committed to it.¹⁹⁵

...We need to fund either existing councils or start a new bureaucracy to enforce the existing laws, and you will achieve exactly what you want to achieve.¹⁹⁶

¹⁹² <agriculture.vic.gov.au/__data/assets/pdf_file/0013/306103/A_CoP-breeding-updated-July-2015-artwork-for-email.pdf>

¹⁹³ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁹⁴ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁹⁵ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

¹⁹⁶ Dr Rohan Hart, *Transcript of Evidence*, 9 November 2016.

The Pet Industry Association of Australia reiterated to the Committee that, in their opinion, the Code should be sufficient for ensuring appropriate breeding practices and additional legislation, if unable to be enforced, would not ensure better animal welfare outcomes in this sector.

The trouble is that those who are ethical breeders are the ones who are quite happy to register. The ones who are operating as puppy farms, they are the ones that will hide further in the bush. That is one of the unintended consequences, so we believe registration and licensing is the way to go. The current code of practice in Victoria is one of the strongest ones in the country, if not in many countries. ... No matter what goes through, if it is not enforced, it is irrelevant; it does not change a thing. So enforcement for us is a key word to anything going forward.¹⁹⁷

Several stakeholders raised concerns that capping breeding numbers — and thereby closing large commercial breeders — would further increase the inspection and enforcement burden and lessen transparency and inspection levels across the community.

The reality is that if we close large commercial breeders, we will not only have supply drop and prices rise rapidly but there will be thousands of additional licences needed for every small breeder and all those one-man dog training organisations. Our modelling suggests that council inspection numbers will rise by more than 2000 per cent in some jurisdictions. If we ban pets from pet shops, we will encourage untrained consumers to buy from poor breeders. At least current pet shops open their breeders for inspection. Even more licences will be needed. How will a dog trainer afford the mooted \$3000? Will they be indicted for not submitting an annual report for the minister to read?¹⁹⁸

All of a sudden you are going to have 1000 or 2000 backyard breeders breeding 10 dogs at a time. How are you going to police that? Isn't it easier to police someone who has got 50 dogs and you can go and visit them every month if you need to? How are you going to police it?'. They actually did not have an answer to that either. ... What is the difference between breeding guide dogs and breeding companion dogs, provided they are bred in the same conditions?¹⁹⁹

Stakeholders consistently emphasised that the issues with the industry related to a lack of resourcing for adequate enforcement of existing regulations and that until that was funded and developed appropriately the industry would not improve.

... it is so obvious that this issue needs enforcement and it needs funding provided for that enforcement. Whether it comes from the industry or whether it comes from government, it has to come from somewhere, and that is what will fix this issue.²⁰⁰

I think that the sheer scale of the number of domestic animal businesses means that the compliance and enforcement model needs to be developed. I do not think it is clear on what it is at the moment.²⁰¹

197 John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

198 Dr Joanne Sillince, Managing Director, Pets Australia, *Transcript of Evidence*, 15 November 2016.

199 John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

200 John Grima, Retail Director, Pet Industry Association of Australia, *Transcript of Evidence*, 15 November 2016.

201 Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

Currently, in my experience, there is no resource available capable of carrying out the sort of inspections and auditing that is required, so certainly if this is going to happen, something needs to be done in that regard.²⁰²

Our concern with this Bill is that the enforcement of compliance would seem to us to be virtually impossible. Presently, as other speakers have made evidence of and as we do too, some councils are under-resourced and they really do battle to enforce the current layer of compliance. This is an enormous new section that they would be needing to do, and we are just not convinced it would happen.²⁰³

4.6 A way forward?

The Committee received evidence from two commercial puppy breeders, suggesting two ways forward.

4.6.1 Option 1

That a cap is introduced for breeders. Once breeders prove they have the capacity to care for these dogs they can apply for an extension.

One thing that I think would be a good solution to me would be that we do introduce a cap, if that is what the government feels is appropriate, but people are given the opportunity to prove that they can care for animals and then grow in accordance with their proof of that fact. ... But I think that new businesses should start out small and then after inspections they need to prove their worth. Once they hit a certain benchmark, they can apply for an extension to, say, 25. When they hit that benchmark they can go 50 and right up to any number as long as they can prove that they can care for those animals.²⁰⁴

4.6.2 Option 2

That existing businesses be exempt from the new rules.

I have no problem with capping it in the future for the new domestic businesses that are coming in and that are going to learn how to take care of animals — what is the compulsory care, what is the welfare that is provided? But the businesses that are existing, that have been breaking their necks to get from one end of the hoop to the other end of the hoop and getting through it whilst it is on fire, are the ones that need to be audited and allowed to continue if their compliance is to standard and if that welfare is to proper care.²⁰⁵

The Committee poses these as options for the House to consider.

²⁰² Dr Doug Black, Director, Microchips Australia, *Transcript of Evidence*, 15 November 2016.

²⁰³ Sylvia Power, Compliance Officer, DOGS Victoria, *Transcript of Evidence*, 15 November 2016.

²⁰⁴ Matt Hams, Owner, Banksia Park Puppies, *Transcript of Evidence*, 15 November 2016.

²⁰⁵ Jodie Knox, Director, Murray River Puppies, *Transcript of Evidence*, 15 November 2016.

4.7 Conclusion

The Committee supports the intention of the Bill to improve animal welfare, however does not believe that this would be achieved if the Bill passed in its current form. Forcing the closure of large scale commercial operators will result in a shortage of puppies across Victoria. This will cause prices for puppies to increase and may give rise to illegal puppy farms, who breed dogs in poor conditions. Banning puppy sales in pet shops removes one of the most accountable ways of selling puppies. Overall the Bill, if implemented, would not lead to an improvement in animal welfare in Victoria.

RECOMMENDATION 10: That the government establish a more robust standards based approach to the health and welfare of dogs in commercial breeding establishments.

5 Other stakeholder groups

Despite its title the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 includes amendments to the *Domestic Animals Act 1994* that affect groups outside of dog breeders and pet shops. The committee therefore received evidence from stakeholders involved in cat breeding and a range of native and exotic bird groups.

These stakeholders expressed significant concerns with how the Bill would affect their existing operations. Those concerns will be dealt with individually in this Chapter.

5.1 Cats

The proposed legislation includes new provisions for cat breeding, including:

- Requiring members of cat applicable organisations with more than three fertile females used for breeding to register as a domestic animal business with their local council
- Pet shops will only be able to sell cats sourced from shelters and pounds
- Current exemptions for members of ‘applicable organisations’ to register as a breeding domestic animal business will be removed.²⁰⁶

The Combined Cat Applicable Organisations Victoria (CCAOV) body represents members of Australian National Cats Inc (ANCATS), Cats Victoria Inc (CVI), the Feline Control Council (Victoria) (FCCV) and the Governing Council of the Cat Fancy Victoria (GCCFV). All of the participating groups run a cat registry and aim to promote responsible cat ownership, breeding and overall cat welfare in the community.²⁰⁷

The CCAOV presented evidence that they believe that cat owners and breeders are being overlooked in favour of dog owners and breeders in the consideration of this legislation, despite what they see as the proposed legislation’s equal impact on breeders of both cats and dogs.

²⁰⁶ Department of Economic Development, Jobs, Transport and Resources, *Domestic Animals (Puppy Farm and Pet Shops) Bill 2016: FAQs for Cat Applicable Organisation members*.

²⁰⁷ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

The stakeholders interested in the provisions of the Bill related to cats and cat breeding expressed a number of concerns to the Committee. Like other organisations that the Committee met with or received correspondence from, the cat organisations told the Committee that they were not consulted on the Bill. They believe that they could have contributed insights and information for more effective policy making in this area.²⁰⁸

Other areas of concern these organisations expressed in relation to the Bill are:

- The new requirement to register as a Domestic Animal Business with the local council for anyone intending to breed kittens for sale from three or more fertile females. Previously members of cat applicable organisations only required registration when they had in excess of nine fertile females
- Privacy issues related to the proposed central registration database
- Inadequacies in the existing Breeding and Rearing Code

5.1.1 Number of breeding cats

The CCAOV provided evidence to the committee that, unlike dogs, cats are not able to be bred as intensively as dogs. For this reason the phenomenon of ‘kitten mills’ is much less common than puppy farms. These organisations suggested that in fact it would not be possible to breed cats in this way.

Cats do not lend themselves to commercial breeding or ‘kitten farming’ by virtue of generally not doing well in large colony situations.²⁰⁹

... there is no model for the large scale breeding of cats.²¹⁰

According to the CCAOV the Department informed them that the proposed changes to the legislation had more to do with consistency of legislation across cats and dogs, rather than to resolve any issues with cat breeding practices as they currently exist. The majority of activity which has prompted the introduction of a state-wide database of breeders has mostly been in connection to dog breeders.

[The Department] said that the rates that they had had figures on were primarily dogs, that they did not believe that there was a business case for the large-scale operation of cat facilities but that they felt that it was easier to just have one legislation.²¹¹

In the evidence provided to the Committee by the Minister, she acknowledged that cat breeding is different from dog breeding ‘in a number of ways’.²¹²

208 Canary and Cage Bird Federation of Australia Inc, *Correspondence*; Jane van Dyk, Victorian Management Team Representative, ANCATS, *Transcript of Evidence*, 15 November 2016; Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

209 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

210 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

211 Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

212 Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

The CCAOV were concerned that increasing legislative requirements on hobby breeders unnecessarily would drive small, responsible purebred breeders out of the industry or interstate with run-on effects for responsible cat ownership and breeding practices in Victoria.

Current legislation has already seen many breeders simply giving up and being forced out of their hobby due to the increasing costs of complying with more and more layers of control. Others have simply relocated.²¹³

The CCAOV stressed that in order to avoid having to register as a Domestic Animal Business (DAB) under the proposed legislation, breeders would have to have no more than two fertile females breeding at any one time. They advised the Committee that this restriction on numbers would have adverse effects on the genetic diversity of certain cat breeds in Victoria and increase the likelihood of hereditary diseases common to cats. This would therefore, reduce the ability of purebred cat breeders to provide healthy kittens to consumers.

Under this Bill, hobby breeders who no longer have exemption and who are not granted a DAB by their council will be restricted to a maximum of only two breeding females. Limiting a registered breeder to just two female cats will have serious consequences for the gene pool of Victoria's purebred cat breeds.... Operating with two females each makes it impossible to sustain enough genetic diversity in a rare breed without severe health impacts.²¹⁴

Restricting many of Victoria's registered cat breeders to only two breeding females will impact on legitimate breeding programs which are operating under best practice to provide outcross breeding lines to prevent problems with inbreeding and associated health and genetic issues. The impact of these restrictions will inevitably lead to a decrease in vigour, and increase in health issues associated with the shrinking gene pool, and will quickly cause the complete loss of some cat breeds from Victoria or in deed in some cases from Australia.²¹⁵

In evidence provided to the Committee, the CCAOV also noted the importance of purebred cat breeders being able to provide informed consumer choice.

... the reason a lot of people like the purebreds is they like knowing that personality. They say, 'Yes, I had a Persian, and that Persian died. I want to get another Persian because that is the personality type that I want, I am happy doing the care, but I want that cat. I don't just want to go to a pound and a shelter and get a cat of unknown ancestry'. Then there are some people for whom that is exactly the cat that they want, and that is fine. We are all about people having choice and being able to pick the animal and the cat that suits them and their family, because ultimately if they have picked something that suits their family and their environment, then they are less likely to be surrendering it at the end of the day.²¹⁶

213 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

214 Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

215 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

216 Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

... we tend to fit the cat to the right person as well. There are some people who turn up to buy a kitten, and a big energetic kitten will be the wrong choice for them, so we will point them towards another breed perhaps that is more suited to them... and we would refer them on to another breeder who would be a better fit.²¹⁷

The issue of unregistered or ‘backyard’ breeders was a significant theme throughout the evidence the Committee received from the majority of stakeholders, the CCAOV included. One of their main concerns around the Bill was that, while small breeders were required to register as a DAB when they had more than three fertile female cats, the Bill allows for unregistered or backyard breeders to give away ‘accidental’ litters. Therefore:

... the Bill will foster an environment where responsible and committed breeders will now be forced to give up their breeding due to not even being able to obtain a DAB permit, with a resulting irreplaceable loss of bloodlines built up through many years... and where the ‘accidental’ or ‘oops’ litter breeders will flourish – with such breeders being answerable to no-one, and in fact being protected by this Bill.²¹⁸

They would like to see the legislation go further towards addressing the issues of both backyard breeding and unregulated accidental community breeding, both of which they have identified as major sources of the unwanted and excess cat population in our pounds, shelters & rescue organisations.²¹⁹

The CCAOV also advised the committee of their concerns that restricting the activities of responsible, small breeders would not reduce community demand for purebred kittens and that community demand would likely be fulfilled by unregistered or irresponsible backyard breeders who are not educated in how to breed cats to avoid common hereditary diseases and health problems.

If registered breeders are closed down, where will this demand be supplied from? The Bill will actually facilitate backyard breeding, where the demand is there and the registered breeders are no longer.²²⁰

The demand will not change, so will actually drive more people to source these kittens instead from rogue breeders who are operating with a highly limited gene pool and no requisite health testing.²²¹

Backyard breeders have no need to operate under any code of ethics. They do not currently operate within the law, and they are even less likely to if flying under the radar is going to allow them to continue unchecked.²²²

The CCAOV expressed concern in their evidence and written submission to the Committee that existing legislation controlling cat breeding is not shown to alleviating the incidence of abandoned, and euthanasia rates of, cats, and that the bulk of cats euthanized are due to bad cat ownership practices rather than

217 Jane van Dyk, Victorian Management Team Representative, ANCATS, *Transcript of Evidence*, 15 November 2016.

218 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

219 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

220 Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

221 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

222 Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

bad breeding practices. They argue that the proposed legislative changes on cat breeding practices will have no discernible impact on the number of cats abandoned in the community, eventually ending up in shelters or euthanised.

Victoria's registered cat breeders who are adversely affected by this proposal are not among the kitten mills, they do not sell any kittens through pet shops or brokers, they largely desex pet kittens before sale, they select proposed owners and promote responsible pet ownership by encouraging indoor only homes, and they will often assist in future rehome. It is not purebred kittens produced by these registered breeders who are filling the pounds, shelters and rescues.²²³

It is not purebred kittens produced by the registered breeders who are filling the pounds, the shelters and the rescues, therefore the proposal to remove the exemption clause for members of AOs will not actually facilitate the stated purposes of this Bill.²²⁴

Statistics though do not back up that these layers of control are actually alleviating the incidence of abandoned cats and the euthanasiation rates of cats.²²⁵

... it is not the pedigree cat breeders who are the cause of the problem – they are simply easier to target as they are a visible target – precisely because their cats are registered and micro chipped and registered with a local council, as well as with their governing bodies.²²⁶

The Committee heard consistent evidence from a number of stakeholders that the size of the breeding operation has no correlation to the likelihood of better animal welfare practices. Several witnesses presented evidence to the Committee that supported this. The CCAOV informed the Committee that the proposed legislation's changes to cat breeding practices would likely have no impact on overall cat welfare in the community and that they do not believe that removing the current exemption granted to their members is in the best interests of animal welfare and the production of healthy, well-adjusted, purpose suited family pets.

I think it is fair to say that there is no evidence to show that the number of fertile female animals that you have has a significant bearing on animal welfare. What really matters is the manner in which you care for those animals and how you look after their psychological, physical and social wellbeing.²²⁷

... there is no scientific evidence whatsoever that the number of animals kept by a breeder in itself is a factor that determines the welfare of those animals.²²⁸

... smaller breeding operations are no guarantee of improved welfare, nor are larger scale ones a guarantee the animals are poorly looked after.²²⁹

²²³ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

²²⁴ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

²²⁵ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²²⁶ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²²⁷ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

²²⁸ Dr Paul Martin, President, Australian Veterinary Association, Victorian Chapter, *Transcript of Evidence*, 15 November 2016.

²²⁹ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

We would contend that most cases of cat related welfare offences in recent years have occurred not due to a commercial breeding operation, but rather due to a hoarding situation...²³⁰

... [we] do not believe that removing the current exemption granted to our members is in the best interests of animal welfare and the production of healthy, well-adjusted, purpose-suited family pets.²³¹

The CCAOV noted in their written evidence to the Committee, that restricting purebred activities in the community is also likely to have economic flow-on effects through the wider pet industry.²³²

FINDING 24: There is no evidence or business case supporting that the proposed changes to cat breeding practices are necessary, other than to make cat breeding practices consistent with those being imposed for dogs.

FINDING 25: Cats are difficult to breed intensively and the number of cats being euthanised or housed in shelters is related to bad cat ownership practices in the community, not overbreeding.

FINDING 26: Restricting the number of fertile females a cat breeder can own is likely to impede or damage genetic diversity of certain breeds within the state, which will affect the community's ability to source healthy cats of a breed which suits their lifestyle.

FINDING 27: Tightening regulations around small, purebred breeders is unlikely to improve cat welfare outcomes as unregistered, uneducated, and 'backyard' breeders will fill the gap in the market the purebred breeders will be unable to fill.

FINDING 28: Restricting the size of a cat breeding operation has little to no direct correlation to improved animal welfare standards.

RECOMMENDATION 11: That the government, in a new Bill, specifically address the unique requirements for breeding, rearing, and selling cats.

RECOMMENDATION 12: The government undertake a full consultation with relevant stakeholders involved in cat breeding before redrafting a new Bill to specifically address the unique requirements for breeding rearing and selling cats.

5.1.2 Domestic Animal Business Permits

This section will detail issues raised by CCAOV in relation to obtaining a DAB permits from local councils. The issues raised by local councils in relation to the proposed changes to the legislation around DABs have been detailed earlier in this report in Chapter 3.

²³⁰ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²³¹ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²³² Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

Like DOGS Victoria, CCAOV members previously had an exemption to needing to register as a DAB with their local council provided they had fewer than nine fertile females and complied with their applicable organisation's code of conduct and relevant state laws and regulations around cat breeding. The CCAOV presented evidence to the Committee that the majority of their hobby-scale breeders registered with applicable organisations in Victoria operated within their organisations code of conduct, state and local council laws and guidelines.²³³

The changes to legislative requirements around cat breeding include that all cat breeders will need to register with their local council as a DAB when they have three or more fertile females, without exceptions provided for applicable organisations.²³⁴ The CCAOV raised concerns that this requirement is a significant barrier for hobby-scale breeders to continue their breeding activities.

For these dedicated hobby breeders, already complying with over 300 pages of legislation, largely written to regulate commercial dog breeding and requiring an annual council audit of 96 pages, it is simply not a realistic event.²³⁵

In their evidence to the Committee, the RPSCA (Victoria) referred to the compulsory DAB registration for all breeders as a positive thing, however, they acknowledged that in order for the compulsory DAB registration system to be effective it must not be onerous or overly restrictive.

... smaller breeder contribution is currently enormous and... we do not envisage that that will change as long as it is fair, equitable and consistent for them to register as a DAB.²³⁶

... what is important about this is that it is not onerous or overly restrictive, and it is equitable and fair for them to be able to register as a DAB.²³⁷

The CCAOV advised the Committee that some of their members have already been told that their Councils will not be issuing any further DAB permits, mostly due to the legal inability of the Councils to issue a DAB in a residential zone, or because the council is not willing or able to complete the additional administrative and enforcement workload. They are concerned that the proposed legislation assumes that all currently exempt breeders will have the choice of complying with the new legislation when that is not necessarily the case.

The reality is that very few currently registered breeders will actually be able to get a DAB, as their local councils zoning and planning prohibit it, as they have already now been advised.²³⁸

Over 16 councils, such as Maroondah and Macedon Ranges, have already told our members that they will not be issuing any further DAB permits in those council regions, meaning that for these breeders, they will no longer be able to have any more

²³³ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

²³⁴ Department of Economic Development, Jobs, Transport and Resources, *Domestic Animals (Puppy Farm and Pet Shops) Bill 2016: FAQs for Cat Applicable Organisation members*,

²³⁵ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

²³⁶ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

²³⁷ Dr Liz Walker, Chief Executive Officer, RSPCA, *Transcript of Evidence*, 15 November 2016.

²³⁸ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

than 2 cats. The main reason for some Councils not issuing DABs is the legal inability of the Councils to issue a DAB in a residential zone, which highlights a fundamental flaw in this legislation's assumption that all currently exempt breeders will have the choice of complying with the new legislation.²³⁹

Another reason for breeders not getting permits is not because there are any issues with their animal breeding and rearing practices, nor their housing, it is simply the council is not willing or able to complete the enormous amount of additional work they would be required to complete in order to issue animal permits to the dozens, if not hundreds, of people in their council areas who have either cats or dogs, and are now caught up in this Bill.²⁴⁰

The Department's evidence to the Committee specifically responded to this issue and discussed the grounds on which a local council may refuse an application for a domestic animal business. These grounds are:

- The proprietor or a person applying for registration has failed to comply with the Act, the regulations and any code of practice applying to the business or terms or conditions or limitations or restrictions to the registration
- The proprietor or person applying for the registration has been found guilty of an offence under the *Prevention of Cruelty to Animals Act 1986*.²⁴¹

In addition to these existing grounds, the proposed legislation would include these further grounds for refusal:

- The requestor having an existing registration of a domestic animal business of any type, in any council in Victoria
- (in the case of dogs) exceeding the number of fertile females permitted on the property

Any council refusal to register a domestic animal business request is appealable through VCAT.²⁴²

The Minister also addressed concerns about planning and residential zoning interfering with DAB registrations while providing evidence to the Committee.

I indicate for the committee's benefit that, in addition to the evidence provided by Ms Meagher, I have agreed with the Minister for Planning to develop formal planning guidelines that will avoid any potential confusion.²⁴³

²³⁹ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁴⁰ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁴¹ Cassandra Meagher, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016; Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

²⁴² Cassandra Meagher, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016.

²⁴³ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

... there are actually very limited circumstances in which council can currently refuse registration of breeding activity, but to the extent that there is a lack of clarity across councils or among those who are involved in recreational breeding, the government has determined that we will develop a planning code that will ensure that there is a consistent standard and that the rules are clear for everyone involved.²⁴⁴

I have agreed with the Minister for Planning that we will develop formal planning guidelines to avoid any confusion and that they will provide uniform arrangements across the state. They will be developed next year, including a period of public consultation.²⁴⁵

FINDING 29: The proposed legislative changes make the overall regulations and legislative requirements too onerous for the majority of hobby-scale cat breeders to realistically meet.

FINDING 30: The Bill assumes that all breeders who wish to obtain a DAB will be able to do so with their local council, however, it does not appear that this will be the case in practice.

5.1.3 Consultation

A consistent theme in the overall evidence presented to the Committee in relation to this Bill has been the perceived lack of consultation by the Department and the Minister with relevant stakeholders. The CCAOV raised this issue in their evidence to the Committee, expressing their frustration at their inability to have direct input or be consulted in relation to the Bill before it was presented to the House for consideration.

... this Bill was drawn up without any consultation with any of the applicable organisations, neither the dogs nor cats.²⁴⁶

... at no time during the formulation of this proposed Bill was any consultation sought or input allowed from any of the four cat Applicable Organisations.²⁴⁷

It would appear that this Bill has been written with undue haste, with no consultation with any of the cat groups, and that we have simply been dragged along with the same legislation that has been largely written around dogs and the puppy farm industry.²⁴⁸

Lack of consultation was a consistent message delivered to the Committee by cat related organisations.

FINDING 31: The CCAOV were not adequately consulted in relation to cat breeder issues affected by the Bill during its formulation.

²⁴⁴ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

²⁴⁵ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

²⁴⁶ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

²⁴⁷ Linda Kitson, Assistant Secretary, Governing Council of the Cat Fancy, *Transcript of Evidence*, 15 November 2016.

²⁴⁸ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

5.1.4 Other

The CCAOV supports the inclusion of breeder name and organisation number details in microchips for tracing cat information and determining the breakdown in the cat population of unwanted/surrendered cats in shelters. However, they raised several concerns around the central database proposition, including:

- The information proposed to be collected for the central database is, theoretically, available in existing databases and these resources are not being appropriately utilised by agencies
- privacy concerns in relation to breeders' personal information being available to the public (as suggested in the evidence the RSPCA provided to the Committee)
- The funding going towards creating a central database for cat registrations could be better put towards community education around responsible cat ownership.²⁴⁹

The existing Breeding and Rearing Code was identified by the CCAOV as being inadequate and not taking into consideration the differences in needs between breeds.²⁵⁰

The CCAOV agreed with the proposed Bill provision for the sale of kittens in pet shops, going further to emphasise that in their view cats and kittens should not be sold through pet shops at all.²⁵¹

FINDING 32: The central registration database duplicates existing efforts and may raise privacy issues for breeders.

FINDING 33: The existing Breeding and Rearing Code was identified by the CCAOV as being inadequate and not taking into consideration the differences in needs between breeds.

FINDING 34: The proposed Bill provision for the sale of kittens in pet shops is positive and could go further.

FINDING 35: If implemented the legislation would establish a regime that is overly burdensome for hobbyist breeders.

FINDING 36: Unregulated backyard breeding and trading, particularly of non-desexed pets, is the major welfare concern for cat breeding.

RECOMMENDATION 13: That the government include provisions in the Bill addressing unregulated backyard breeding and trading of cats, particularly of non-desexed pets.

²⁴⁹ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁵⁰ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁵¹ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

RECOMMENDATION 14: That the Cat Breeding and Rearing code be reassessed, with greater emphasis on breeder input for housing and taking the needs of different breeds into account.

5.2 Birds

The Committee received a strong response to the Bill from Victoria's bird clubs. Victoria has more than 190 bird clubs throughout the state which cater for breeders and owners of Australian and exotic birds and all promote bird welfare, responsible breeding and sales practices.²⁵²

They will be primarily impacted by the proposed legislation's changes to the sale of birds at sales, shows, auctions or meetings.

Section 96 of the Act limits the sale of animals to private pet shops, private residences or approved sales. The combined bird clubs presented evidence to the Committee that this section, when introduced, was intended to exclude 'car boot' sales and did not adequately take into consideration the hundreds of club events running throughout the state.²⁵³

The crux of this issue is section 96 of the Domestic Animals Act. Currently this section restricts all trade in birds and other animals, including dogs, cats, guinea pigs et cetera, to pet shops and residential homes.²⁵⁴

The sale or exchange of birds at these events has been illegal for 20 years; however, the bird organisations were unaware of this regulation until mid-2015.²⁵⁵ The proposed legislation brings these regulations into the Act and introduces an Animal Sale Permit which is approved by the Minister and allows one-off animal sales to occur. The bird clubs, collectively, argue that the requirements for acquiring an Animal Sale Permit are inappropriate for all but the largest sales and are not appropriate to facilitate bird club activities as they currently exist.²⁵⁶

5.2.1 Animal Sale Permits

Under the proposed new legislation an Animal Sale Permit will be required to be applied for through the local council who will make a recommendation, which can then be used to apply for approval to hold the sale from the Minister for every animal sale conducted in Victoria. Local councils will assess applications for sales permits based on:

²⁵² Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016; Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁵³ Canary and Cage Bird Federation of Australia Inc, *Correspondence*; Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016; Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁵⁴ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁵⁵ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016; Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁵⁶ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

- The suitability of the location of the proposed animal sale
- Requirements for animal accommodation
- Guarantees for the sale of animals
- Animal care policies and procedures
- Emergency evacuation plans
- Veterinary support.²⁵⁷

In their evidence to the Committee, bird club representatives have referred to the proposed animal sale permits as ‘outrageous’²⁵⁸ and do not take into consideration the nature and quantity of existing bird sale events.²⁵⁹ Bird club representatives argue that the requirements to obtain an animal sale permit are too onerous and that the requirement will constrain existing bird sale practices and, potentially, drive sales to unregulated areas such as online. This in turn may produce negative animal welfare outcomes.²⁶⁰

... we predict nobody will be able to comply with the animal sale permits as they will be, so therefore all trading will shut down and therefore you will end up with illegal forms of trading – order the internet and so on and underground stuff – and obviously that results in negative animal welfare.²⁶¹

... the... requirements and conditions [to obtain an animal sale permit under the proposed legislation] are impossible for all but perhaps the largest sale events to fulfil.²⁶²

If the amendments pass into law as written, then sales, auctions and any trading of animals outside of pet shops and private homes will close down to the advantage of other means of trading that cannot be regulated, such as over the internet. We predict major animal welfare issues will follow.²⁶³

The bird clubs have detailed a range of concerns around the specifics of the animal sales permits to the Committee, including:

- The length of time required to allow in advance for the permit to be approved
- Other animal or livestock sales do not require these permits
- No clear grounds on which the Minister approves or disapproves a permit
- Species numbers and seller details are often unknown in advance and obtaining these details up to six weeks before the sale is problematic and unnecessary.²⁶⁴

²⁵⁷ Department of Economic Development, Jobs, Transport and Resources, *Domestic Animals Amendment (Puppy Farm and Pet Shops) Bill 2016: FAQs - Animal Sale Permits*,

²⁵⁸ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁵⁹ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁶⁰ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁶¹ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁶² Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁶³ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁶⁴ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

The Minister responded to the bird clubs' concerns when providing evidence to the Committee, explaining that the animal sales permits were intended to allow a widespread practice which is currently illegal to become legal.²⁶⁵

In providing their evidence to the Committee, bird club representatives stressed the animal welfare standards which already exist at bird sales throughout Victoria. They emphasised that, despite operating outside of the regulations for 20 years and operating self-regulated bird sales generally for decades, they have not had any welfare issues in relation to their standard sales practices.

There is no evidence of any significant welfare concerns at any bird meetings, shows, sales, or auctions. This record proves that welfare has been effectively self-regulated by aviculture for decades or in some cases centuries.²⁶⁶

... thousands of events going on annually. Thousands of these events have been going on in Australia for well over 100 years, and there have never been any investigations, there have been no charges and there have been no prosecutions – zero, none at all.²⁶⁷

Bird clubs throughout Victoria have routinely sold and exchanged birds at their sales, shows, exhibitions, auctions and meetings without incident. We have identified 200 bird clubs operating in Victoria, so we are talking about thousands of events annually. The RSPCA has no records of any welfare issues whatsoever at any of these events. For many clubs such events have been held continuously for well in excess of 100 years.²⁶⁸

The bird clubs advised the committee that they all take a proactive approach to the self-regulation of bird welfare at their bird sales events and that this self-maintains due to the public scrutiny of the sales themselves.

...the VAC have developed... a self-regulatory code of practice, which was introduced in October 2014. In October 2016 it was revised and updated again, and some of the issues that the code covers are venues, the health and welfare of birds, the presentation of birds for sale and regulatory compliance.²⁶⁹

You have got to maintain a really high standard or you are up for scrutiny. So in actual fact the bird sales are a better venue to sell birds in because you are being scrutinised rather than someone selling on Gumtree out of the back of his car at MacDonald's.²⁷⁰

We are very proactive towards it, and so at the end of the bird sales we have a general meeting, and at that meeting we resolve and adjust the code for the following year to make sure that we are up to speed with any issues that come up from year to year.... It just maintains that it is always up to date, and the welfare of the birds is always being acted upon.²⁷¹

²⁶⁵ Hon. Jaala Pulford, Minister for Agriculture, *Transcript of Evidence*, 16 November 2016.

²⁶⁶ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁶⁷ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁶⁸ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁶⁹ Mark Reynolds, President, The Australian Avicultural Society Inc., Goulburn Valley Branch, *Transcript of Evidence*, 16 November 2016.

²⁷⁰ Dr Stacey Gelis, Avian Veterinarian, Canary and Cage Bid Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁷¹ Lou Dall'Est, President, The Australian Avicultural Society Inc, *Transcript of Evidence*, 16 November 2016.

The bird clubs emphasised the longevity of their practices:

These sale/expo events, both public and in-house, have been in existence for many years with no adverse outcomes. Even so the clubs in question have actively participated in any upkeep of all welfare issues to ensure a modern approach is in place and disseminated to club members and the public that comes within their sphere of influence.²⁷²

Show and sales cage sizes were an issue the bird clubs noted that the wider community has expressed concern about in the past, however, they advised the Committee that these cage sizes are standardised according to guidelines – sometimes based on international standards – based on bird size and type, and that the birds are only housed in these cages for a short period of time. They further advised the Committee that bird welfare is maintained throughout the show by stewards who have been trained by avian vets and the clubs are proactive in educating their members and prospective sellers in their codes and standards relating to bird welfare and cage sizes prior to the sale.

The birds at these sales are... only housed in the approved cages for a short period of time on the day of the sale. All clubs have bird sale stewards whose responsibility it is to check all the bird sellers' cages and their birds, to ensure that the cages comply with the specified guidelines and that the birds are healthy and in good feather and that they have the appropriate food and water. Specialised training was provided for all chief stewards early this year, conducted by an avian vet, to ensure that best practice was known by all. The clubs have now introduced procedures that insist that all sellers book their space prior to the sale, thus enabling clubs to ensure that sellers are aware of the Code of Practice prior to the sale. All Compliance Officers, whether they be local council, Wildlife officers or from RSPCA, are always welcome to attend the sale and are encouraged to do so.

The combined bird clubs believe that the proposed animal permit sale and regulations are unnecessary and unlikely to improve bird welfare, and they expressed frustration to the Committee that their longstanding positive track record in relation to bird welfare has not been taken into consideration in the drafting of this Bill.

Why are we regulating a problem that does not exist?²⁷³

Regulating places where animals can be sold does not address welfare concerns. It is the manner in which the animal is managed during the sale process that is central to the animal's welfare.²⁷⁴

The specialist knowledge required to appropriately assess venues and accommodation for birds at proposed sale venues has been identified in evidence provided to the Committee as likely lacking in the local council compliance officers who will be responsible for this task under the proposed legislation by both the combined bird clubs and local councils.

272 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

273 Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

274 Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

Local Government compliance officers and other appointed officers do not possess the skills to distinguish between avian exotic and native species.... We are unable to locate any 'domestic animal management plan'; by any Victorian Local Government that mentions birds whatsoever.

Whilst we will let the Municipal Association of Victoria speak for themselves we have some reservations that the staff to whom the task of compliance checking is given will have the appropriate skills to determine this matter to the full extent of expectations within the Bill. Councils have been supportive of current practices in relation to welfare and conduct of sales.

... [councils] have little to no skills and experience with birds, mice, guinea pigs, reptiles or rabbits, to assess and monitor... [animal sales] permits.²⁷⁵

The Department responded to this issue specifically in their evidence to the Committee.

The next myth is that 'council enforcement officers will need to be experts in avian welfare to review an animal sale permit application for bird sale'. The animal sale permit scheme has been designed to ensure that the council has the right to refuse public sale of animals in their municipality. The scheme asked councils to provide advice to the minister in the form of a report. This is a simple form for council to fill in on a suitability of venue and suitability of the management and emergency management procedures for sale.... These are areas which local government animal management officers currently enforce under the pet shop code of practice.²⁷⁶

FINDING 37: The Committee did not hear evidence of any significant welfare concerns raised about bird meetings, shows, sales, or auctions.

FINDING 38: The animal sale permit application process is unnecessarily onerous and burdensome on bird owners and unlikely to significantly improve bird welfare at sales

FINDING 39: The implementation of the animal sales permits may drive the majority of bird sales online where they cannot be regulated by the wider aviculture community and is likely to lead to negative bird welfare outcomes

FINDING 40: As acknowledged by councils themselves, they are not adequately experienced in bird welfare topics to adequately carry out and enforce their proposed role in the Bill

FINDING 41: There is no reason to believe that existing self-regulation practices are insufficient to ensure bird welfare at sales events

²⁷⁵ Corangamite Shire Council, *Correspondence*.

²⁷⁶ Cassandra Meagher, Executive Director, Biosecurity, Department of Economic Development, Jobs, Transport and Resources, *Transcript of Evidence*, 16 November 2016.

5.2.2 Consultation

The Combined Bird Organisations are frustrated by the lack of opportunity to participate in the development of this Bill. They believe that their concerns and the impact the proposed changes to legislation will have on their events have not been adequately heard or considered in the drafting of the proposed legislation. In their view the legislation that is being proposed will have a negative impact on the activities of hobbyists without any corresponding increase in bird welfare.

...the big issue here has been the lack of consultation... in this case there was none of that at all.²⁷⁷

Ongoing lack of cooperative consultation, delays in responding to correspondence and then lack of evidence to support decisions made by the Minister and DEDJTR have been an unfortunate feature throughout.²⁷⁸

FINDING 42: This stakeholder group were not adequately consulted in relation to the effects of the Bill on their interests during the Bill's formulation.

5.2.3 Other

The bird club representatives reiterated the failure of appropriate enforcement of existing provisions in legislation and regulations around animal welfare - including birds - identified by other witnesses. They advised the Committee that additional legislation would be irrelevant until this underlying under-enforcement issue had been addressed.

.... your Prevention of Cruelty to Animals Act is the primary act that deals with animal welfare in this state, and that is not being enforced.... The money would be better spent enforcing the law that is there.²⁷⁹

The bird club representatives suggested to the Committee that the review of animal welfare policy currently being undertaken by the Department would be an ideal opportunity to engage key stakeholders such as themselves in improving regulations and standards around bird welfare.

A review of animal welfare policy has just commenced. This review is potentially a terrific opportunity for government to consult with stakeholders to develop evidence-based policy and subsequent legislation.²⁸⁰

FINDING 43: Enforcement of existing legislation and regulation around animal and bird welfare is an underlying issue that will need to be addressed for the proposed legislation to be effective.

²⁷⁷ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁷⁸ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

²⁷⁹ Sam Davis, Vice President, Canary and Cage Bird Federation of Australia, *Transcript of Evidence*, 16 November 2016.

²⁸⁰ Canary and Cage Bird Federation of Australia Inc, *Correspondence*.

RECOMMENDATION 15: That the government remove the words ‘caged birds’ from the definition of a pet shop in the Act.

RECOMMENDATION 16: That the government consult with stakeholders to determine where the Bill may need amending to ensure that there is not a negative impact upon aviculture in Victoria.

RECOMMENDATION 17: That Victorian Aviculture approved events be allowed to continue to sell non-native birds.

RECOMMENDATION 18: That the government provide an exemption for all bird clubs from section 96, *Domestic Animals Act 1994* in the interim period while the Bill is being reformulated to allow them to continue current sales practices.

Appendix 1

Correspondence

Correspondence received by the Committee by 23 November 2016.

1. Dawn Elvey and Darren Wooster	32. Deborah Patterson
2. Debbie O'Kane	33. John Grima
3. Linda Kitson	34. Beverly Rogers
4. Leanne Trenwith	35. Dr Matt Costa
5. Peter Holt	36. Loraine Smith
6. Sam Davis	37. Lisa Arton
7. Bill Scott	38. Irene Price
8. Dr Leith Bungey	39. Meg Mathers
9. Michelle Farrell	40. Ruth Elkner
10. Kerry Walls	41. Christine Clinton
11. Tabitha Parfitt	42. Judy and Trevor Pillinger
12. Dr Doug Black	43. John and Roxie Kennedy
13. German Shepherd Dog Club of Victoria	44. David Shepherd
14. Peter Hennig	45. Nola Williams
15. Lorraine Boyd	46. Donna Tait
16. Kelly Arndt	47. Sharon Seivers
17. Canary and Cage Bird Federation	48. Keith Lovell
18. Andrea Taylor	49. Bill Coggins
19. Faye North	50. Jane Godfrey
20. Julie Lehmann	51. Anne Pirie
21. Wendy Johnson	52. Liane Licester
22. Christina Mazzarino	53. Michele Ristuccia
23. Alex Hill	54. Gavin and Jill Mills
24. Greta Willenberg	55. Marlene Robbins
25. Frank Anastasi	56. Paul Simmons
26. Pam Ross	57. David Wall
27. Lisa Cook	58. Amanda Graham
28. Amanda Mangin	59. Marina Scott
29. Robyn Raven	60. Adam Taylor
30. Michelle Wilson	61. Lindsay Bolden
31. Pam Haigh and Keith Warren	62. Christine Cook

63.	Rob Booty	100.	Megan Whiteside
64.	Carolyn White	101.	Maree Buys
65.	Karen Mak	102.	Sean Bennetts
66.	Joel Wallis	103.	Garry Pettingill
67.	Marg Scott	104.	Jo-Anne Anderson
68.	Charles Foster	105.	Dr Kerry Fowler
69.	Betty Whitehurst	106.	Mad about Pets
70.	Anna Peatt	107.	Elizabeth Mitchell
71.	Narelle Cullen	108.	Claude Borg
72.	Fred Deveny	109.	Donna-Lynn Saltau
73.	Paula Davidson	110.	Cathy Webb
74.	Pia Kirke	111.	Kevin and Jacqui Caulfield
75.	Deborah Alford-Kerr	112.	Sharon Sabbatini
76.	Mary Prince	113.	Selina Man Wang
77.	Anneliese Taylor	114.	Alisha Van Dalmations
78.	Wendy Boce	115.	Karen Hoggard
79.	Kate Baker	116.	E A Manning
80.	Diana Cook	117.	Rod Dearden
81.	Kylie Gilbert	118.	Judy Belcher
82.	Glen Mason	119.	Upmarket Pets
83.	Mark and Leah Wendelborn	120.	Steve and Julie Gaskin
84.	Elizabeth Harding	121.	Jane Hodges
85.	Susan Krol	122.	A Chester
86.	Vicki Brown	123.	Tracey Hollier
87.	Eileen and Stan Slabon	124.	Vicki Moritz
88.	Donna James	125.	Christine Graham
89.	Carmel Dwyer	126.	Pets Australia
90.	Janice Cook	127.	Margaret Princep
91.	Gail Greer	128.	Jodie Knox
92.	Kate Buss	129.	Sharryn Aurisch
93.	Suzanne Thomson	130.	Leigh Colledge
94.	Carolyn Thomas	131.	Weinmaraner Club of Victoria
95.	Jill England	132.	Julie Lane
96.	Hayley Stocks	133.	Daisy Baker
97.	Maree MacCabe	134.	Larry and Liz Seear
98.	Robert and Nessie Brooks	135.	Lorna Fair
99.	Robyn Ross	136.	Jeanette Kania
137.	Jill Karena	138.	Australian Federation for Livestock Working Dogs

139.	Sylvia Noblett	176.	Lyn O'Neill
140.	Andre Wilmann	177.	Dan Murphy and Fiona McCoy
141.	Karen Bradford	178.	Teresa and Wayne Parkinson
142.	John and Gerda Stryder	179.	Daniel Tofler
143.	Julie Gaskin	180.	Rebecca Brown
144.	Carla Srb	181.	Jason Cotter
145.	Dog Rescue Association of Victoria Inc	182.	Ken and Lyn Brown
146.	Carol Hobbelen	183.	Jane Kibble and Melinda Naughton
147.	Judy Hughes	184.	Bethany Bieleny
148.	Kathryn Steenson	185.	Meryle Frame
149.	Marita Biggs	186.	Joan Jensen
150.	Trish Fernleigh	187.	Vicki Bridle
151.	Dianne Brown	188.	Claire Gore
152.	Kassie Loader	189.	Shakandah Birmans
153.	Jacinta Scott	190.	Lyn Rawlings
154.	Jen Eaton	191.	Robyn Wallis
155.	Jan Waite	192.	Combined Cat Applicable Organisations Committee
156.	Nick Norris	193.	Janet Sickinger
157.	Richard and Susan Axe	194.	Particia Brewer
158.	Rachel Greaves	195.	Liz Fern
159.	Leanne O'Sullivan	196.	Maggie Mooney
160.	LG Pro	197.	Linda Malseed
161.	Zita Vafiopulos	198.	Sue Wilson
162.	Robert, Michael and Stephen Attard	199.	Paula Alan
163.	Frank Mooney	200.	Hungarian Vizsla Club of Victoria Inc
164.	Philip and Jacque Smith	201.	Dogs Victoria
165.	Emmeline McCubbin	202.	Stacey Bennett
166.	Curly Coated Retriever Association of Victoria	203.	Jo Brown
167.	Francis Faux	204.	Claire Stipic
168.	Kate Dourley	205.	Paul O'Bryan
169.	Sue Smith	206.	Melanie Ryan
170.	Heather Miles	207.	Paul and Sue Flentjar
171.	Linda Dempsey	208.	Carolyn Gipp
172.	Colin Sarantis	209.	Golden Retriever Club of Victoria
173.	Dianne Mullett	210.	Nick Croom
174.	Victorian Avicultural Council Inc	211.	Kim Houlden
175.	Murray River Puppies	212.	Karyn Orzeszkzo

213. Amanda Murcutt	243. Emma Greenway
214. Kellick Kennels	244. Peter Austin
215. Dr G.P. White	245. Con Chrys
216. Leonie Freeman	246. Wellington Shire Council
217. Nikki Janetzki	247. Johanna Wright
218. Wendy Beer	248. Corangamite Shire Council
219. Heidi Miller	249. Animals Australia
220. Tracey Weaver	250. Taleigha Emmerson and Steven Sudero
221. Dr Roslyn Ateyo	251. Kaye Yarnold
222. Sharon Buchanan and Ross Primmer	252. Mark Cowley
223. Andrea and Stephen Cornwall	253. Elsa Hoggard
224. Claire Hodges	254. Marnie Hillis
225. Edgar Sison	255. Vanessa White
226. Maree McCabe	256. Garrett O'Dowd
227. Griffon Bruxellois Club of Victoria Inc.	257. Anette Hellenen
228. Sally Haynes	258. Rebecca Dorman
229. Rachel and Andrew Pritchard	259. Gannawarra Shire Council
230. Bronwen Cramond	260. Katrina Holmes
231. Bronwen Casey	261. Craig Carter and Sally Middleton
232. Tegan Whalan	262. Bullmastiff Club of Victoria
233. Peter Garlic	263. John and Angela McLeod
234. Helen Campbell	264. Sandra Ingpen
235. Papillon Club of Victoria Inc	265. Melissa McKenna
236. Louise Pettigrove	266. Mars Petcare
237. Gloria Jackson	267. Andrew and Dianne Brownlie
238. Ann Cleghorn	268. Poodle Club of Victoria
239. Gael and Robert McLeod	269. Laurence Egan
240. Eric Booth	270. Christine Ross
241. Bendigo Obedience Dog Club Inc.	271. Marie Edwards
242. RSPCA Victoria	272. Alpine Animal Doctors

Appendix 2

Public Hearings

Wednesday, 9 November 2016 Legislative Council Committee Room, Parliament House, Spring Street, East Melbourne

Name	Title	Organisation
Mr Rob Spence	Chief Executive Officer	Municipal Association of Victoria
Ms Claire Dunn	Manager, Environment and Regulatory Services	
Ms Debra Tranter	Founder	Oscars Law
Ms Glenys Oogjes	Executive Director	Animals Australia
Mr Greg Kirby	Proprietor	Upmarket Pets
Ms Mary Kirby	Proprietor	
Dr Rohan Hart	Consulting Veterinarian	

Wednesday 20 July 2016 Legislative Council Committee Room, Parliament House, Spring Street, East Melbourne

Name	Title	Organisation
Matt Hams	Owner	Banksia Park Puppies
Kirstin Hams	Owner	
Mark Fraser	Chief Executive Officer	Pet Industry Association of Australia
John Grima	Retail Director	
Dr Liz Walker	Chief Executive Officer	RSPCA Victoria
Mhairi Roberts	Animal Welfare Policy Manager	
Janet Wilson	Campaigns Manager	
Dr Doug Black	Director	Microchips Australia
Wayne Fleming	President	Dogs Victoria
Sylvia Power	Compliance Officer	
Dr Terri Mac Donald	Policy and Legislation Officer	
Dr Joanne Sillince	Managing Director	Pets Australia
Karen Peele	Director	Mad About Pets
Jodie Knox	Director	Murray River Puppies
Ms Jane van Dyk	Member, Breed Standards Committee,	Australian National Cats Inc.
Mrs Linda Kitson	Assistant Secretary, Governing Council of the Cat Fancy Australia and Victoria	Combined Cat Applicable Organisations Committee

Name	Title	Organisation
Rod Cavanagh	President	Australian Utility Stock Dog Society Inc.
Tully Williams	Vice President	
Jean Moir	Treasurer, Victorian Working Sheepdog Association	Australian Federation for Livestock Working Dogs
Joe Spicer	Victorian Yard, Utility and Farm Dog Association	
Dr Paul Martin	President	Australian Veterinary Association, Victorian Chapter
Susan Chandler	Executive Officer	

Thursday 21 July 2016
Legislative Council Committee Room, Parliament House,
Spring Street, East Melbourne

Name	Title	Organisation
Mr Lou Dall'Est	President	The Australian Avicultural Society of Australia Inc.
Mr Mark Reynolds	President, Goulbourn Valley Branch	
Mr Sam Davis	Vice President	Canary and Cage Bird Federation of Australia
Dr Stacey Gelis	Avian Veterinarian	
Mr Charles Hider	Honorary Solicitor	Victorian Pigeon Federations
Ms Trisha Taylor	President	Victorian Dog Rescue and Resource Group Inc.
Ms Tamara Burke	President	Beagle Rescue Victorian Inc.
Ms Joanna Herceg	President	Pug Rescue and Adoption Victoria Inc.
Hon Jaala Pulford	Minister for Agriculture	
Ms Cassandra Meagher	Executive Director, Biosecurity	Department of Economic Development, Jobs, Transport and Resources
Dr Mariko Lauber	Manager, Domestic Animals Unit	

Extracts from proceedings

Legislative Council Standing Order 23.27(5) requires the Committee to include in its report all divisions on a question relating to the adoption of the draft report. All Members have a deliberative vote. In the event of an equality of votes, the Chair also has a casting vote. The Committee divided on the following questions during consideration of this Report, with the result of the divisions detailed below. Questions agreed to without division are not recorded in these extracts.

1 December 2016

Mr Bourman moved, That Recommendation 1 stand part of the Report.

The Committee divided.

Ayes 4	Noes 4
Mr Morris	Mr Eideh
Mr Bourman	Mr Elasmarr
Mr Finn	Ms Hartland
Mr Ondarchie	Mr Leane

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Question agreed to.

Mr Finn moved, That Chapter 2 be adopted and stand part of the Report (including Finding 1 and Recommendation 1).

The Committee divided.

Ayes 4	Noes 4
Mr Morris	Mr Eideh
Mr Bourman	Mr Elasmarr
Mr Finn	Ms Hartland
Mr Ondarchie	Mr Leane

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Question agreed to.

Mr Bourman moved, That Chapter 3 (including Findings 2 to 16 and Recommendations 2 to 6) be adopted and stand part of the Report.

The Committee divided.

Ayes 4	Noes 4
Mr Morris	Mr Eideh
Mr Bourman	Mr Elasmr
Mr Finn	Ms Hartland
Mr Ondarchie	Mr Leane

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Question agreed to.

Mr Finn moved, That Chapter 4 (including Findings 17 to 23 and Recommendations 7 to 10) be adopted and stand part of the Report.

The Committee divided.

Ayes 4	Noes 4
Mr Morris	Mr Eideh
Mr Bourman	Mr Elasmr
Mr Finn	Ms Hartland
Mr Ondarchie	Mr Leane

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Question agreed to.

Mr Finn moved, That Chapter 5 (including Findings 24 to 43 and Recommendations 11 to 18) be adopted and stand part of the Report.

The Committee divided.

Ayes 4	Noes 4
Mr Morris	Mr Eideh
Mr Bourman	Mr Elasmr
Mr Finn	Ms Hartland
Mr Ondarchie	Mr Leane

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Question agreed to.

Adoption of Report

Mr Finn moved, That the Draft Final Report (Chapters 1 to 5, and Appendices 1 to 2), be adopted as the Report of the Committee, and that it be Tabled 6 December 2016.

The Committee divided.

Ayes 4	Noes 4
Mr Morris	Mr Eideh
Mr Bourman	Mr Elasmr
Mr Finn	Ms Hartland
Mr Ondarchie	Mr Leane

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Question agreed to.

Minority reports

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The Minority view

On 25 October 2016, the Economy and Infrastructure Committee resolved to undertake an Inquiry into the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 ('the Bill'). The Bill remains before the Legislative Assembly and has not been introduced into the Legislative Council.

During the course of the inquiry, the Government also notified the Committee that it had resolved to make a number of amendments to the Bill to address key issues raised by affected groups and individuals since its introduction.

All members of the Committee agree that unethical breeders should be shut down.

Individually and collectively, Government Members on the Committee supported the fundamental policy positions contained in this Bill, which was an election commitment. We remain committed to improving animal welfare, in line with our election commitments.

The Committee recommended that the Government abandon the 10 female fertile limit, which would allow large puppy farms to continue to operate. This would retain the status quo, and would mean no positive impact on animal welfare would be achieved.

In relation to the 10 female fertile cap on DABs, Oscar's Law noted:

"[it will limit] the risk of behavioural and psychological damage caused by the deprivation suffered by these dogs, as evidenced by behavioural reports and veterinary reports we and other organisations have."

The Committee also heard evidence that the Bill reinforces consistent minimum welfare and care standards that were introduced by the former Victorian Government in 2014. Improving transparency of companion animal breeding for the Victorian community is something we support.

The majority report makes some contradictory observations and recommendations. It recommends a compliance and enforcement unit be established within the appropriate government department, responsible for DAB registrations and maintenance of the proposed central registration database. However, it simultaneously calls for additional funding for local government for these functions.

Local government is today responsible for enforcing the provisions of the *Domestic Animals Act 1994* and Councils have the ability to recover the costs of this responsibility through fees, charges, and rates.

The Government remains committed to improving animal welfare. This inquiry has demonstrated this is a complex policy area, but that there is significant support across the industry to make animal breeding more ethical and more in-line with community expectations.



Khalil Eideh MLC

Deputy chair



Nazih Elasmr MLC



Shaun Leane MLC

The Domestic Animals (Puppy Farms and Pet shops) Amendment Bill 2016

The Greens believe that this legislation is important to protect the welfare of animals in this state. It is also long overdue and for that reason we could not support the main recommendation of the report that the Bill be withdrawn.

While we acknowledge that there are faults in the Bill we believe that with the cooperation of the Government amendments can be agreed to that would make the Bill both stronger and easier to implement.

The fundamental flaw in the process was the lack of consultation with a number of stakeholders, particularly the MAV. For this legislation to work the government must negotiate with the MAV to make sure that the legislation is workable.

Local Government will be essential in the success or failure of this Bill and they will need funding for the extra staff they will require to make it work.



Colleen Hartland, MLC

