

# Prevention of Cruelty to Animals – Regulatory Impact Statement

15 August 2019

This Regulatory Impact Statement (RIS) has been prepared in accordance with the *Subordinate Legislation Act 1994* to facilitate public consultation on the draft *Prevention of Cruelty to Animals Regulations 2019* (POCTA Regulations 2019). A copy of the draft POCTA Regulations 2019 is provided as an attachment to this RIS.

This RIS was prepared for the Department of Jobs, Precincts and Regions by Ernst & Young (EY).

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# 1. Summary

## 1.1 Introduction

Animals are a part of the lives of all Victorians. Community attitudes towards the treatment of animals and animal welfare have evolved over time alongside scientific understanding and changing community expectations. Prevention of cruelty to animals is a long-standing Victorian Government policy and has been on Victoria's statute books since 1865.

In Victoria, regulations automatically expire (sunset) after ten years. The current *Prevention of Cruelty to Animals Regulations 2008* (POCTA Regulations 2008) were due to sunset in December 2018, however were granted a one-off 12-month extension in July 2018 to December 2019. An extension can only be granted once, and therefore the draft POCTA Regulations 2019 must be in place by 16 December 2019.

Following a thorough review and extensive consultation with a range of stakeholders, including representatives from industry and animal welfare organisations, the draft POCTA Regulations 2019 have been drafted. The draft POCTA Regulations 2019 protect animals by preventing, or minimising, harm through regulation of specific activities including use of electronic and other devices, capture and transportation of animals, use of fruit netting and conduct of rodeos and scientific procedures.

In accordance with the requirements of the *Subordinate Legislation Act 1994*, a RIS is required for proposed changes to statutory rules unless otherwise exempted. This RIS considers the nature and extent of the problem and the outcomes sought. The RIS also contains alternative options to the draft POCTA Regulations 2019 and makes a direct comparison between the costs and benefits of these and the alternative options.

## 1.2 Current regulatory arrangements

There are multiple elements in the current regulatory framework for animal welfare in Victoria:

- The *Prevention of Cruelty to Animals Act 1986* (POCTA Act) - the overarching animal welfare legislation in Victoria. The POCTA Act provides the legislative basis for the prevention of cruelty to animals, aiming to encourage the considerate treatment of animals, improve community awareness about the prevention of cruelty and promote behaviours aligned to values and behaviours which are accepted by the community.
- The Principal Regulations (POCTA Regulations 2008) - regulations designed to prescribe specific and enforceable requirements in support of elements in the POCTA Act. These have the primary objective of upholding and furthering the purpose of the POCTA Act and are the subject of this RIS.
- The *Prevention of Cruelty to Animals (Domestic Fowl) Regulations 2016* - the primary objective of these is to provide for the conditions under which domestic fowl are housed.<sup>1</sup> This RIS applies to the draft POCTA Regulations 2019 only.
- Codes of practice for animal welfare made under the POCTA Act - animal welfare codes of practice that set out the minimum standards and practices for species and animal related activities. Many of the POCTA codes are advisory, but some are mandatory.

The majority of the regulations in the POCTA Regulations 2008 are being remade (see Chapter 5 for a detailed description of the draft POCTA Regulations 2019) and in many cases there are only minor wording changes. However, there are some areas of regulation that are new or where

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<sup>1</sup> POCTA (Domestic Fowl) Regulations 2016

changes are proposed to existing requirements where the changes would improve animal welfare, address any implementation issues or assist with more effective regulation.

The draft POCTA Regulations 2019 are comprised of six parts:

- Part 1 – Preliminary: outlines the objectives, scope and definitions.
- Part 2 – Protection of animals: provides for regulations in relation to the protection of animals, many of which underpin offences in the POCTA Act. This includes regulations in relation to transport, farm animal husbandry, fruit netting and electronic devices.
- Part 3 – Traps: provides for regulations relating to setting, use and sale of traps.
- Part 4 – Rodeos and rodeo schools: sets out the requirements for rodeos and rodeo schools including licences/permits, responsibilities of licensees and permit holders and offences.
- Part 5 – Scientific procedures: provides for regulations which underpin Part 3 of the POCTA Act in relation to use of animals in research.
- Part 6 – Miscellaneous: provides for fees, orders, infringements and transitional provisions.

The making of draft POCTA Regulations 2019 is an extensive process and began in July 2018. After an initial review of the sunseting POCTA Regulations 2008, preliminary consultations were held with key stakeholders to gain a high-level understanding of changes that would need to be considered in the draft POCTA Regulations 2019. Following the appointment of a consultant to assist in developing the RIS, additional consultation took place that led to the drafting of the draft POCTA Regulations 2019 and the finalisation of the RIS for public consultation.

Public consultation will now take place, where all members of the Victorian community will be given the opportunity to review the RIS and make comments on the draft POCTA Regulations 2019. Following this phase, the RIS and the draft POCTA Regulations 2019 will be finalised for decision by the Minister and making by the Governor in Council, and the draft POCTA Regulations 2019 are then tabled in Parliament.

In addition to the development of the draft POCTA Regulations 2019, the Victorian Government has committed to modernising Victoria's animal welfare laws to support better harm prevention, improved education, a more effective regulatory response and effective penalties. Under a new modernised animal welfare legislative framework, new regulations will need to be developed. As a result, the current review and remaking of the POCTA Regulations 2008 has focused on existing areas of regulation and ensuring that Victoria maintains effective regulations to underpin the POCTA Act in the interim.

### **1.3 The need for animal welfare regulation**

Animals play an integral part in Victorians' homes, businesses, and sport and recreational activities, as well as supporting economic activity through employment and trade. Victoria has one of the highest pet ownership rates in the world. In 2016, over 60% of Victorian families owned a pet and an estimated 4.3 million pets were owned across the State.<sup>2</sup> In addition to domesticated species, Victoria has 948 native animal species - many of which are unique to the State.<sup>3</sup>

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<sup>2</sup> Pet Ownership in Australia, Animal Medicines Australia (2016), as cited in Animal Welfare Profile of Victoria, Animal Welfare Victoria (AWV) (2016), p. 4

<sup>3</sup> Native Plants and Animals, Parks Victoria, <https://parkweb.vic.gov.au/park-management/environment/native-plants-and-animals>

Animal welfare is universally recognised as an area that needs to be safeguarded because animals are sentient and unable to represent their own interests.<sup>4</sup> Community expectations on the treatment of animals have continually developed alongside the growing scientific understanding of animal welfare. Science-based knowledge of animal welfare has made significant progress since the POCTA Regulations 2008 were made in 2008. People have a greater understanding of animals' needs and the impacts of affective states such as hunger, pain and fear, often by measuring the strength of animals' preferences, motivations and aversions.

Humans are now better able to assess the physiological, behavioural and immunological changes and effects that animals show in response to various challenges.<sup>5</sup> Studies of brain systems in different mammals have found that the presence of neural circuits, artificial arousal and key brain activation patterns all suggest that animals are highly likely to have emotional feelings.<sup>6</sup>

The draft POCTA Regulations 2019 assist in the management of animal welfare and the achievement of public policy purposes by:

- Banning certain activities which are deemed to be unacceptable to the community or unacceptable for animal welfare outcomes.
- Allowing certain activities under licencing or permits. This approach controls who uses, or does things, and how they are done/used. The approach also provides an understanding (through record-keeping) of the individuals/organisations involved and provides an incentive to comply through a risk of having the licence/permit removed.
- Setting conditions as to who uses devices, or undertakes activities, and how they are used or undertaken.
- Setting deterrents for non-compliance via penalties through the courts or via infringement penalties.
- Prescribing monitoring and audit activities.
- Providing clarity and transparency around certain actions or activities (for example, defining what actions or activities are acceptable).

The draft POCTA Regulations 2019 set out the requirements for a broad range of activities, with the intention of ensuring that animals are treated in accordance with community expectations in relation to animal welfare. To do this they cover a range of areas and activities, acknowledging the value the community places on animal welfare and responding to developments in the understanding of it.

Regulation is needed to set the minimum standard of animal welfare and ensure it is maintained alongside community expectations, values and beliefs. With the growing level of knowledge, awareness and expectation for the welfare of animals, there is greater agreement that animals need to be better protected by legislation. The relationship between humans and animals continues to evolve. New equipment and devices have been introduced that impact the welfare of animals. In some cases, there are no prescriptions or rules on the use of this equipment in the current legislation. The development of the draft POCTA Regulations 2019 provides an opportunity to improve and better safeguard animal welfare, ensure that the regulations are effective in achieving

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<sup>4</sup> Regulating animal welfare to promote and protect improved animal welfare outcomes under the Australia Animal Welfare Strategy, Bloom (2008)

<sup>5</sup> Terrestrial Animal Health Code, Article 7.1.3, World Organisation for Animal Health (2019), [http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre\\_aw\\_introduction.htm](http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_introduction.htm)

<sup>6</sup> Affective consciousness: Core emotional feelings in animals and humans, J. Panksepp (2005), *Consciousness and Cognition*, 14(1), 30-80. p. 46

their purpose, remove unnecessary burden and address any issues with current implementation and enforcement.

## 1.4 Objectives of the draft POCTA Regulations 2019

The purpose of the POCTA Act is to:

- Prevent of cruelty to animals.
- Encourage the considerate treatment of animals.
- Improve the level of community awareness about the prevention of cruelty to animals.

The draft POCTA Regulations 2019 have the primary objective of upholding and furthering the purpose of the POCTA Act. Therefore, the key objectives of the draft POCTA Regulations 2019 are the same as the purpose of the POCTA Act, as well as the:

- Promotion of community accepted values and behaviours towards animals.
- Recovery of some of the costs of regulating animal welfare.

These objectives need to be balanced against:

- Circumstances where activities that may negatively impact on animal welfare are required for other public policy purposes.
- Activities which have some risk to animal welfare but are accepted by the community, where those risks can be managed or mitigated by the draft POCTA Regulations 2019.

## 1.5 Options definition and evaluation

Regulatory options were developed with the Base Case defined as letting the POCTA Regulations 2008 sunset and not be replaced, leaving the POCTA Act as the primary mechanism for safeguarding animal welfare. Regulatory options were then developed ranging from effectively remaking the existing POCTA Regulations 2008 as the first option, with additional options defined by changes (the addition or subtraction of regulations) compared with the previous option. Potential changes considered included:

- Additional regulation to more effectively safeguard animal welfare.
- Additional regulation to provide clarity and assurance for industry (but not necessarily change existing behaviour).
- Removal of unnecessary regulations to reduce burden/improve efficiency.

### 1.5.1 Quantification of cost and benefits

The set of options were analysed using Multi-Criteria Analysis (MCA) to identify a preferred option by identifying which option most effectively meets the objectives of the draft POCTA Regulations 2019. The criteria used to reflect these objectives in the MCA are:

- **Animal welfare** - this criterion is used to assess the effectiveness of the options in safeguarding animal welfare. This is the main focus of the draft POCTA Regulations 2019 and is therefore given the highest weight of all criteria, accounting for 50% of the assessment.
- **Regulatory burden** - this criterion aims to balance the achievement of other objectives with the burden placed on businesses, individuals and communities by having to comply with the

draft POCTA Regulations 2019. This criterion also captures additional costs faced by Government in administering and enforcing the draft POCTA Regulations 2019. This criterion accounts for 25% of the assessment.

- **Economic, social and/or environmental impact** - this criterion reflects the need to balance animal welfare objectives with the effect that the draft POCTA Regulations 2019 may have on other public policy objectives or community concerns. This criterion accounts for 25% of the assessment.

The MCA analytical tool was chosen as a way of capturing the full range of costs and benefits of the options and not being restricted to only those which could be quantified. Quantification of costs and benefits was undertaken where appropriate and possible, the results of which are described in the MCA to guide the scoring of options. Quantification was attempted for regulatory burden and economic impacts but not for animal welfare and social impacts. A range of approaches were used to identify data sources to enable quantification, including:

- Desktop research of official sources (e.g. Australian Bureau of Statistics (ABS) data, government department statistics, academic research).
- Desktop research of commercial information (e.g. the advertised costs of relevant products).
- A program of stakeholder consultations. Businesses, industry groups, not-for-profit organisations and government departments were consulted for potential data or estimates of cost and time implied by regulatory requirements.

While these activities resulted in quantitative measures in some areas, data availability or the ability to develop robust assumptions led to the conclusion that quantification in the remaining areas would have compromised the robustness of the analysis. Examples of these challenges include:

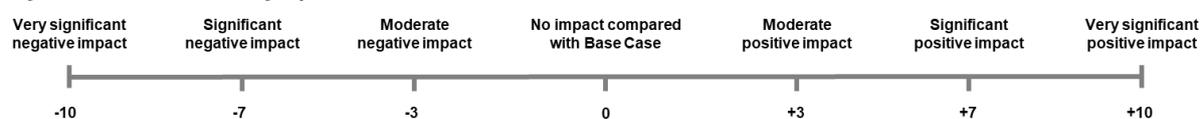
- Stakeholders' ability to estimate the time required to undertake tasks which they have not done before (and when they are uncertain about the level of support/guidance available).
- Uncertainty about market responses to changing requirements around products (e.g. estimating the effect on quantity, price, profit etc. for a business which substitutes from selling wildlife-unsafe fruit nets to selling wildlife-safe nets).

Costs and benefits in these areas are still considered by applying a qualitative analysis where quantification was not possible or beneficial.

## 1.5.2 MCA results

The following series of tables summarise the results of the MCA scoring. The options are scored against each of the criteria on a scale of -10 to +10 with the Base Case reflecting a score of '0'. Figure 1 indicates how this scale is applied in the qualitative analysis, with -10 indicating that the analysis suggests the option is likely to have a very significantly negative impact compared with the Base Case in the relevant criterion and +10 indicating that the option will have a very significantly positive impact compared with the Base Case.

Figure 1: MCA scoring system



The following tables show the options considered in each section of the draft POCTA Regulations 2019 and their performance in each of the criteria. The preferred option is indicated by the highest overall weighted score.

### 1.5.2.1 Protection of Animals - Offences

The base case and options considered under offences were:

**Base Case: People can be prosecuted for committing acts of cruelty against animals under POCTA Act** - In the absence of the draft POCTA Regulations 2019, requirements in relation to animal cruelty and related offences would not be explicitly stated. There would be no ability to use infringement penalties as an alternative to prosecution.

**Option 1: Defined offences listed and education campaigns on the use of wildlife-unsafe fruit netting** - This option retains the offences in the POCTA Regulations 2008 and provides for an education campaign for wildlife-unsafe netting.

**Option 2: Broader range of offences to prevent recurrent animal welfare issues** - This option retains the offences in the POCTA Regulations 2008 and adds new offences in relation to:

- Transport of farm animals.
- Pain relief for mulesing.
- Animals in cars and on metal trays on hot days.
- Tethering of animals.
- Sheep with overgrown wool.
- Rodeo related offences.
- Prescribed specifications for use and sale of fruit netting.
- Restriction of use of Oxy-LPG devices to empty rabbit warrens.

**Option 3: Ban the use of Oxy-LPG devices** - this option retains all the features of Option 2 with the exception of the treatment of Oxy-LPG devices, which would be banned in this option.

Table 1 below provides a summary of the MCA scoring for options 1 to 3, indicating that Option 2 is the highest scoring and is therefore the preferred option.

Table 1: Multi-criteria Analysis scoring summary: Protection of animals – offences

Criteria	Weight	Option 1: Defined offences listed and education campaigns on the use of wildlife-unsafe fruit netting	Option 2: Broader range of offences to prevent recurrent animal welfare issues	Option 3: Ban the use of Oxy-LPG devices
Animal welfare	50%	5	8	9
Regulatory burden	25%	-1	-3	-5
Economic, social and environmental impact	25%	1	5	3
Weighted score		2.5	4.5	4

The impacts of the preferred option include (a more detailed outline of the preferred option and the related impacts can be found in Section 7.1):

- **Animal welfare**
  - Increase in the amount of defined offences in the draft POCTA Regulations 2019 will result in better treatment of animals from an increased risk of people being fined for non-compliance (which is possible with infringement offences included in the draft POCTA Regulations 2019).
  - Ban on wildlife-unsafe fruit netting will reduce the likelihood of animals becoming trapped in netting.
  - Requirements to take measures to clear warrens before the use of Oxy-LPG devices greatly reduces the risk of animals becoming injured from misuse or malfunctions of the devices.
  - Prohibiting the mulesing of sheep without pain relief will reduce pain and suffering for sheep that are mulesed.
- **Regulatory burden**
  - Consumers may face higher up-front costs to purchase wildlife-safe fruit netting, however the greater quality and effectiveness of this netting means that the overall impact is negligible.
  - Slight increase in time and cost of mulesing sheep due to requirement to provide pain relief, however it is believed that around 80% of Victorian sheep farmers already undertake mulesing using pain relief. The total regulatory burden is estimated at \$2,460,667 per annum.
  - Increased burden from the requirement to clear warrens before the use of Oxy-LPG devices as additional pest control measures are required before use.

- **Economic/social/environmental impact**

- Reduced costs of rescue and care of animals and costs to the health system when animals become trapped in wildlife-unsafe netting, reduced risk of distress for people discovering the injured or dead animals and increased resource efficiency with wildlife-safe netting being more durable
- Some negative impacts on retailers who sell wildlife-unsafe netting and increased costs for users of wildlife-unsafe netting.

### 1.5.2.2 Protection of Animals - Electronic devices

The base case and options considered under electronic devices were:

**Base Case: Use of electronic devices permitted subject to general conditions in Section 9 of the POCTA Act** - With no draft POCTA Regulations 2019 in place, use of all electronic devices on animals would be permitted unless this use could be shown to cause or be likely to cause harm and suffering to animals, which would be regarded as an offence under Section 9 of the POCTA Act.

**Option 1: Regulating and allowing use of electronic devices under certain conditions** - This option retains the conditions on the use of electronic devices in the POCTA Regulations 2008 with additions including the use of electric prodders on pigs in limited circumstances, use of foot shock apparatus in research and the use of devices that are designed to provide a therapeutic effect.

**Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars** - Under this option, conditions around the use of electronic devices would remain the same as in Option 1 except for the regulation of electronic collars. There would be stricter provisions (with exemptions from these conditions for military and police dogs) for the use of remote-training and anti-bark collars on dogs under this option, being:

- Remote-training collars could only be used for the training of a dog by a veterinary practitioner or qualified dog trainer.
- Anti-bark collars could only be used through the permission of a veterinary practitioner where there has been a complaint made to local government (in addition to the current conditions outlined in Option 1).

**Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars** - This option retains all the features of Option 2 but would prohibit public use (i.e. military and police dogs would be exempt) of remote-training and anti-bark collars and require the use of boundary markers and auditory, or vibratory warning tones in the use of containment collars.

Table 2 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 3 is the highest scoring and is therefore the preferred option.

Table 2: Multi-criteria Analysis scoring summary: Protection of animals – electronic devices

Criteria	Weight	Option 1: Regulating and allowing use of electronic devices under certain conditions	Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars	Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars
Animal welfare	50%	5	7	9
Regulatory burden	25%	-4	-6	-7
Economic, social and environmental impact	25%	0	2	1
Weighted score		1.5	2.5	3

The impacts of the preferred option include (a more detailed outline of the preferred option and the related impacts can be found in Section 7.1):

- **Animal welfare**
  - While the use of electronic devices can increase the risk of animal harm and suffering, outlining conditions on the use of electronic devices in the draft POCTA Regulations 2019 reduces these risks.
  - Ban on use of remote-training and anti-bark collars will eliminate the risk of animals experiencing pain and/or stress (even if the intended behaviour change is for the animal’s benefit), and implications of misuse are eliminated.
  - The draft POCTA Regulations 2019 will provide further clarification on the use of some electronic devices, which can help users to ensure appropriate use.
- **Regulatory burden**
  - Increased burden from animal owners having to use alternative methods to remote-training and anti-bark collars, as these methods are often labour-intensive and require increased effort from owners.
- **Economic/social/environmental impact**
  - Significant (but not major) impact of reduction in sales of remote-training and anti-bark collars.
  - Potential social benefits from use of alternative animal training techniques, such as increased understanding of pet behaviour and increased satisfaction from use of positive reward-based training mechanisms.

### 1.5.2.3 Traps

The base case and options considered for traps were:

**Base Case: No traps of any kind are permitted in Victoria** – Under the Base Case the use and sale of any traps that capture animals would not be permitted in Victoria. The POCTA Act states that traps can only be sold and used if they are of a kind prescribed by regulations and used in accordance with those regulations (in Section 15 and Section 15AB).

**Option 1: Use of traps under certain conditions** – This option retains the conditions on the use of traps in the POCTA Regulations 2008.

**Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations** – Under this option, conditions around the use of traps would remain the same as in Option 1 but would add strict conditions around the use of glue traps (under a permit system for pest controllers working in commercial food manufacturing premises) and phase out the Ministerial approval system for leghold trap-checking time variations.

**Option 3: Glue traps prohibited for sale and use on animals, and phase out of Minister approval system for leghold trap-checking time variations** – This option retains all the features of Option 2 but would prohibit the use of glue traps for the purposes of trapping an animal (i.e. glue traps may only be used for trapping insects).

Table 3 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 3 is the highest scoring and is therefore the preferred option.

Table 3: Multi-criteria Analysis scoring summary: Traps

Criteria	Weight	Option 1: Use of traps under certain conditions	Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations	Option 3: Glue traps prohibited for sale, and use on animals, and phase out of Minister approval system for leghold trap-checking time variations
Animal welfare	50%	-6	-4	-2
Regulatory burden	25%	5	2	1
Economic, social and environmental impact	25%	9	9	8
Weighted score		0.5	0.75	1.25

The impacts of the preferred option include (a more detailed outline of the preferred option and the related impacts can be found in Section 7.1):

- **Animal welfare**
  - While the use of traps can increase the risk of animal harm and suffering, outlining conditions on the use of traps in the draft POCTA Regulations 2019 reduces these risks.
  - Risk of prolonged animal suffering in leghold traps is reduced as all of these traps must be checked every 24 hours.
  - Ban on glue traps eliminates the risk of animal harm and suffering from being trapped.
- **Regulatory burden**
  - Reduced overall regulatory burden compared to the Base Case as use of traps is allowed as specified in the draft POCTA Regulations 2019, but conditions on use somewhat mitigate this.
  - Burden for the Victorian Wild Dog Program of checking leghold traps every 24 hours of up to \$3.1 million per year. Five-year phase-out timeframe and adoption of remote trap-checking technology will reduce this burden considerably but is unlikely to eliminate it.
- **Economic/social/environmental impact**
  - Allowing the use of traps will result in economic benefits from increased sales in retail and wholesale sectors.
  - Social and environmental benefits from being able to better manage pest species, such as reduced threat of food contamination and reduced risk of impact from pest species on native wildlife and vegetation.
  - Reduction in economic cost to the agricultural sector where wild dog control was not possible without the Victorian Wild Dog Program (compared to the Base Case where traps are not permitted to be used), and economic benefit of reduction in livestock numbers killed or maimed by wild dogs.

#### 1.5.2.4 Rodeos and rodeo schools

The base case and options considered for rodeos and rodeo schools were:

**Base Case: Administration-applied permit and application system (as allowed under the POCTA Act)** – The POCTA Act stipulates that it is an offence to operate a rodeo without an individual holding a licence or permit. Each licence and permit holder is subject to any conditions that the Department Head imposes on the licence or permit, or those prescribed in the draft POCTA Regulations 2019. However, these conditions are not outlined in the POCTA Act. Without the draft POCTA Regulations 2019 in place, conditions for the holding of rodeo events could still be introduced administratively by regulatory authorities under the provisions in the POCTA Act, and a code of practice could also be instated.

**Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations** – This option retains the conditions on rodeos and rodeo schools in the POCTA Regulations 2008 and enables applications for permits/licences to be made by approved rodeo organisations. The Man from Snowy River Bush Festival Committee would be able to apply for a permit to hold the Brumby-catch event at its festival.

**Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations** - Under this option, conditions on rodeos and rodeo schools would remain the same as in Option 1 with additions, including:

- Introducing a requirement to create an Animal Welfare Plan, where licence and permit holders would demonstrate how they would meet their obligations under the regulations.
- Clearly specifying the responsibilities for animal welfare across a range of roles involved in rodeos such as the Licenced Permit Holder, the Appointed Veterinary Practitioner and the Person-In-Charge.
- The use of appropriately experienced veterinary practitioners would be required at rodeo events.
- Additional flexibility in the rodeo start-time to accommodate severe weather events.
- Clarifications on conditions around the repeat use of animals.
- Prohibiting the use of fireworks while animals are in the arena or chute.
- Prohibition on motor vehicle displays from occurring in the arena while animals are present in the arena.

Table 4 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 2 is the highest scoring and is therefore the preferred option.

**Table 4: Multi-criteria Analysis scoring summary: Rodeos and rodeo schools**

Criteria	Weight	Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations	Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations
Animal welfare	50%	0	2
Regulatory burden	25%	1	-1
Economic, social and environmental impact	25%	0	1
Weighted score		0.25	1

The impacts of the preferred option include (a more detailed outline of the preferred option and the related impacts can be found in Section 7.1):

- **Animal welfare**
  - Likely to be a positive impact on animal welfare with inclusion of conditions in draft POCTA Regulations 2019.
- **Regulatory burden**
  - Since many conditions would be applied administratively and other conditions would be met even if not a requirement in the Base Case, the overall impact on regulatory burden is expected to be minor.
- **Economic/social/environmental impact**
  - There may be some level of social benefit from greater clarity around roles and responsibilities with the Animal Welfare Plans being a requirement and there may be additional peace of mind for rodeo operators.

#### 1.5.2.5 Scientific procedures

The base case and options considered for scientific procedures were:

**Base Case: Administration-applied permit and application system and compliance with codes of practice** - In the scenario where the draft POCTA Regulations 2019 did not exist, conditions applied to each individual scientific procedures licence (as opposed to conditions for all licences being set out in draft POCTA Regulations 2019) would provide the principle means of control on how animals are able to be used in scientific procedures. Licence holders could be required to comply with various codes of practice, depending on the specific area of focus but only through specific conditions on each licence.

**Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice** - This option retains the conditions surrounding the use of animals in scientific procedures in the POCTA Regulations 2008. In addition, the Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures would be amended (redundant references would be removed, the decision-making around the sale and use of animals from pounds would be left to the discretion of the pound owner and the research organisation and specific mention would be made of cats and dogs, rather than generic "animal" (as they are the only species managed by pounds)).

**Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate Animal Ethics Committee (AEC) training and amend the Pound Animals Code of Practice** - Under this option, conditions surrounding the use of animals in scientific procedures would remain the same as in Option 1 but record keeping requirements would be reduced (monthly records of details of procedures would no longer be required) and new AEC members would be required to undertake mandatory training.

**Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice** - This option retains all the features of Option 2 but would revoke the Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures. This would restrict the use of pound animals in scientific procedures to circumstances where:

- The objective of the procedure is to promote the welfare of animals that are housed in pounds or shelters.

- The objective of the procedure is to train students in a nationally endorsed competency unit and the procedures would occur as part of routine management or veterinary clinical management of the animal and the animals are not subjected to anything additional to routine management or veterinary clinical management of the animal.
- The teacher is competent to carry out the procedure.

Table 5 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 3 is the highest scoring and is therefore the preferred option.

**Table 5: Multi-criteria Analysis scoring summary: Scientific procedures**

Criteria	Weight	Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice	Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and amend the Pound Animals Code of Practice	Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice
Animal welfare	50%	0	3	3
Regulatory burden	25%	1	-2	-1
Economic, social and environmental impact	25%	0	3	3
Weighted score		0.25	1.75	2

The impacts of the preferred option include (a more detailed outline of the preferred option and the related impacts can be found in Section 7.1):

- **Animal welfare**
  - Overall positive impact on animal welfare, with mandatory training requirements for new AEC members expected to reduce the risk of causing unnecessary harm and suffering to animals.
- **Regulatory burden**
  - Overall burden will be higher than in the Base Case, but not by a significant amount.
  - Time and cost of producing monthly records will be eliminated.
  - Increased burden for new AEC members having to complete mandatory training. The overall regulatory burden of mandatory training in Victoria is estimated to be \$1,488 - \$3,721 per year.

- **Economic/social/environmental impact**
  - Positive social impact for licence holders knowing that new AEC members have received training and are aware of how to minimise risks to animal welfare.

## 1.6 Fees

Fees are proposed for approvals, permits and licences which relate to therapeutic electronic devices, traps, rodeos and scientific procedures. Requiring approvals, permits and licences for the above activities has been deemed necessary to safeguard animal welfare and support the objectives of the POCTA Act and the draft POCTA Regulations 2019.

Fees will be implemented to achieve the preferred option of partial cost recovery by targeting the specific instances which deliver additional social value. This means that fees for most organisations and individuals will be set at the full cost recovery level. Support for activities which deliver additional social value will be achieved by setting fees at nil for the subset of organisations which generate these benefits.

There is therefore no change to fee levels proposed in most cases. In a small number of cases (relating to electronic devices, traps and rodeos), new fees are being introduced or increased to achieve full cost recovery in these areas.

## 1.7 Competition impacts

As part of the RIS process an examination of the impact of the proposal on competition is required.

The draft POCTA Regulations 2019 are not anticipated to have a material impact on competition. The primary impact on competition of the draft POCTA Regulations 2019 is the requirement for licencing for rodeos and rodeo schools and scientific procedures.

Under these licences, the licence holders must abide by any conditions that are prescribed or that the Department Head imposes on the licence.

Licensing was present in the POCTA Regulations 2008 and no substantial competition issues have been raised to date. The draft POCTA Regulations 2019 do not significantly change licence fees or conditions and are therefore not anticipated to significantly impact competition.

The competition assessment concluded that there may be minor impacts to businesses as the draft POCTA Regulations 2019 impact on the range of products that individuals and businesses can use, and this may impact on the range of products a business sells. These include the type of fruit netting, remote-training or anti-bark collars and electronic devices. While these are genuine impacts, the assessment did not consider that these restrictions would have a material impact on competition.

In all other areas, the assessment concluded that impacts on competition were either absent or unlikely (see Chapter 7 for the full analysis).

Overall, the impact on competition from the draft POCTA Regulations 2019 are expected not to be material. The Department of Jobs, Precincts and Regions (DJPR) believes that the restrictions are necessary to achieve the objectives of the draft POCTA Regulations 2019, and that the benefits of these restrictions outweigh the costs.

## 1.8 Small business impacts

The *Victorian Guide to Regulation* states that consideration should be given to the impact that the preferred option could have on small businesses. The ABS defines a small business as having less than 20 employees.<sup>7</sup>

The draft POCTA Regulations 2019 are expected to have some impacts on small businesses, such as:

- Discount stores selling fruit netting of a type which would be banned under the draft POCTA Regulations 2019 - these impacts are likely to be minor as feedback indicates the ease of substitution to alternative products and the minimal profit accounted for by the products which would be banned.
- Contractors providing mulesing services to farms - contractors themselves are likely to pass on additional costs to the minority of producers who do not already use pain relief. For those businesses who are impacted, the evidence suggests that these increased costs are likely to be offset through improved recovery times and reduced weight loss in sheep.
- The one business in Victoria which currently sells Oxy-LPG devices (and has invested significantly in their development) may be impacted if the requirement to clear warrens before use reduces demand for these products. This impact may be somewhat mitigated by the diversity of products and services offered by this business.
- Pet shops, animal product suppliers and stock and station agents in Victoria who may sell electronic devices. The ban on the sale and use of remote-training and anti-bark collars is likely to have the greatest impact, although this is mitigated to an extent given that use of these devices would still be somewhat limited in the Base Case (through codes of practice and general animal welfare standards). The diversity of products offered by these businesses also mitigates the impact of restrictions/banning a very small subset of products. Businesses seeking approval to use electronic devices for therapeutic purposes will have to pay a fee.
- Businesses selling traps (positive impact as traps are conditionally enabled by the draft POCTA Regulations 2019 and not enabled under the Base Case). Businesses using traps enabled by the draft POCTA Regulations 2019 will benefit from this flexibility, but this will also result in a requirement for some of these businesses to pay a fee for trapping approvals.
- Rodeo organisers and schools. In this case the costs imposed by the draft POCTA Regulations 2019 are low and affect a small number of businesses. The addition of new conditions in the draft POCTA Regulations 2019 may provide rodeo organisers and stock contractors with improved efficiencies across their operations and therefore are likely to be beneficial to small businesses. However, permit/licence application fees will impact these businesses.
- A variety of organisations which undertake scientific procedures. This includes universities, hospitals, government departments of agriculture and the environment, research institutions, and private companies. These institutions are generally medium to larger-sized organisations, with 22 per cent of the 241 licensed organisations (or approximately 53 organisations) employing ten or fewer staff. The draft POCTA Regulations 2019 therefore will only impact on a relatively small proportion of smaller scientific establishments. The fees associated with licences to undertake these scientific procedures will likewise be

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<sup>7</sup> Small Business in Australia, ABS, <https://www.abs.gov.au/ausstats/abs@.nsf/mf/1321.0>

experienced by some small businesses (although some small not-for-profit organisations will not experience this impact if they meet the requirements to be exempt from fees).

## 1.9 Implementation

The majority of the regulations are substantively the same as the current requirements and the regulatory approach will not change significantly. As a result, activities associated with implementation will remain largely the same as the business as usual approach under the current regulatory environment. That being said, a variety of activities will be undertaken to assist with implementation of the draft POCTA Regulations 2019:

- AWV will develop a series of resources to educate the community and organisations about the requirements of the draft POCTA Regulations 2019 and assist them with complying with these.
- AWV will conduct a communications campaign to advise the community, relevant industries, impacted businesses and relevant stakeholder organisations of the changes.
- Transition periods will apply in relation to the mulesing of sheep and the provision for the Minister to approve a longer trap-check time-interval for leghold traps for the Victorian Wild Dog Program. These would assist individuals and organisations change their behaviour and activities to align with the new requirements

## 1.10 Evaluation strategy

The primary indicators of impact are the number and type of animal welfare reports received. AWV works with relevant enforcement organisations on an ongoing basis to monitor reports received. In addition to this, various mechanisms will be used to evaluate the effectiveness of the draft POCTA Regulations 2019 including:

- The review of annual reports required under some trapping approvals.
- Auditing of rodeos and rodeo schools and the review of Animal Welfare plans prepared by these organisations.
- Random checks of welfare at saleyards and rodeos.
- Auditing of scientific procedures licence holders and specified animals breeding licence holders.

The main gap in information and data resulting from a reliance on the number and type of animal welfare reports received is understanding issues which occur and are not reported.

## 1.11 Consultation strategy

The development of the draft POCTA Regulations 2019 has been informed by consultation with a broad range of stakeholders, including industry, representative bodies, animal welfare organisations and government. This took the form of:

- Workshops were held with stakeholders to identify the areas of major concern with the POCTA Regulations 2008 and to understand the impacts of the options considered.
- A survey of local councils was undertaken by AWV to understand the key areas of concern with the POCTA Regulations 2008.
- A survey of scientific procedures licence holders was also undertaken (in 2019) by AWV to further understand issues that were identified through earlier consultation

The outcomes of the workshops and the survey results were used to identify what aspects of the POCTA Regulations 2008 should be changed. This informed the options development for this RIS. Once the options were developed, a number of organisations were consulted in order to gather data and information on the impacts of the proposed options.

## 2. Regulation of animal welfare in Victoria

Throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries Victorian Governments were active in regulating animal cruelty. The earliest regulation of animal welfare in the State occurred in 1865, when the Victorian Parliament enacted the Police Offences Statute. Over the past 50 years, efforts to protect the welfare of animals in the State have intensified as knowledge of the sentience of animals has improved (defined as the ability of animals to experience feelings and emotions such as pleasure, comfort, fear and pain), and understanding of animal welfare has evolved.

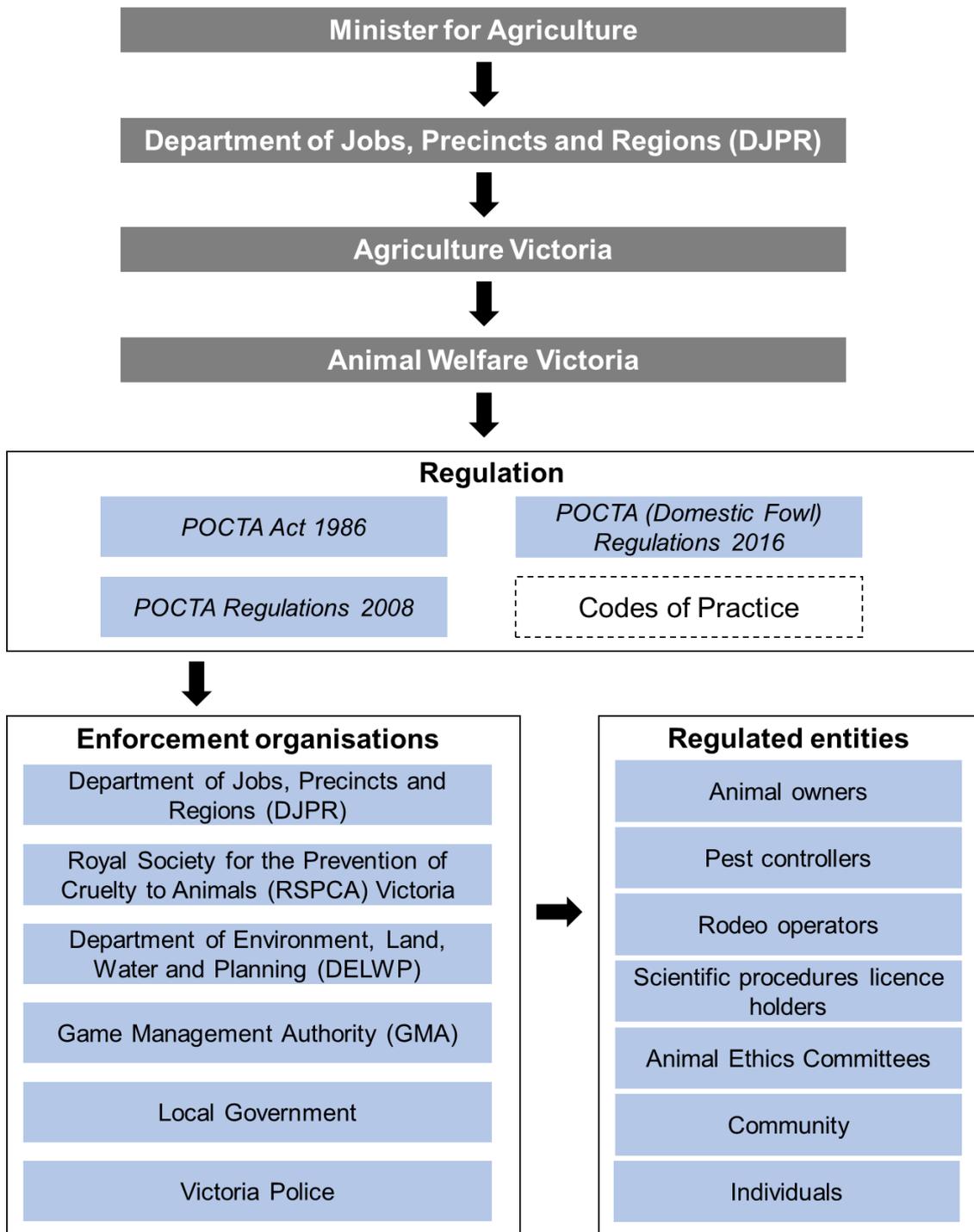
Throughout the mid- to late-20<sup>th</sup> century animal welfare gained increasing prominence, culminating in the POCTA Act. The POCTA Act substantially built on precedents set in the *Protection of Animals Act 1966*, Victoria's first specific legislation to address animal cruelty. The POCTA Act has been amended multiple times since, in response to a continually improving understanding of animal sentience and welfare as well as increased market and community expectations for how animals are treated. The POCTA Regulations 1986 were introduced to support the POCTA Act. Updates to the POCTA Regulations and the POCTA Act have since continued to uphold the principle of protecting animals from unnecessary harm.

There are multiple elements that make up the regulatory framework for animal welfare in Victoria:

- The POCTA Act.
- The Principal Regulations (POCTA Regulations 2008).
- The Prevention of Cruelty to Animals (Domestic Fowl) Regulations 2016.
- Codes of practice for animal welfare made under the POCTA Act.

These elements are summarised in Figure 2 and discussed in further detail subsequently.

Figure 2: Animal welfare regulatory framework in Victoria



Source: EY analysis

The Minister for Agriculture (the Minister) is responsible for animal welfare, including POCTA legislation and associated regulations and codes of practice. The Minister established Animal Welfare Victoria (AWV) in 2018 as a dedicated public sector group to bring together aspects of domestic animal and animal welfare research, policy, education and compliance.<sup>8</sup>

<sup>8</sup> Animal Welfare Action Plan, Department of Economic Development, Jobs, Transport and Resources (DEDJTR) (2017)

Enforcement officers, from a range of organisations, ensure that the objectives of the legislation are upheld and that regulated entities (including businesses and individuals) abide by the legislation.

## 2.1 The POCTA Act

The overarching animal welfare legislation in Victoria is the *Prevention of Cruelty to Animals Act 1986*, with amendments most recently made in December 2015. The stated purpose of the POCTA Act is to:

- Prevent cruelty to animals.
- Encourage the considerate treatment of animals.
- Improve the level of community awareness about the prevention of cruelty to animals.<sup>9</sup>

The POCTA Act aims to promote behaviours aligned to values which are accepted by the community. It recommends restrictions of behaviour and penalties to encourage compliance with the stated aims. In general, the POCTA Act operates to:

- Define cruelty with respect to animals and make it an offence for any person to commit an act of cruelty. Broadly, the POCTA Act defines cruelty as causing, or likely to cause, unreasonable pain or suffering to an animal.<sup>10</sup>
- Regulate the conduct of rodeos and rodeo schools.
- Authorise persons as inspectors under the POCTA Act and describe enforcement powers.
- Regulate the carrying out of scientific procedures on animals and the breeding for sale or delivery to scientific establishments of specified animals.

To achieve the stated aims, animal cruelty can be investigated by inspectors authorised under the POCTA Act from the following organisations:

- Department of Jobs, Precincts and Regions (DJPR).
- Royal Society for the Prevention of Cruelty to Animals (Victoria) (RSPCA Victoria).
- Department of Environment, Land, Water and Planning (DELWP).
- Local Government.
- Victoria Police.<sup>11</sup>

The Game Management Authority (GMA) is also authorised to investigate animal cruelty.

The POCTA Act establishes the broad regulatory framework for the prevention of cruelty to animals, and consequently most costs and benefits in relation to the regulation of animal welfare in Victoria are attributable to the POCTA Act (rather than the POCTA Regulations 2008). The POCTA Act provides important definitions which inform the enforcement of it, the POCTA Regulations 2008 and the codes of practice.

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<sup>9</sup> *POCTA Act 1986*

<sup>10</sup> *POCTA Act 1986*

<sup>11</sup> Reporting animal cruelty, Agriculture Victoria (2017), <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/reporting-animal-cruelty>

## 2.2 POCTA Regulations 2008

Regulations to prevent the cruelty to animals were first introduced as the *Prevention of Cruelty to Animals Regulations 1986*. They are designed to prescribe specific and enforceable requirements in support of elements in the POCTA Act. These were updated in 1997 and 2008, following the sunset of the original and subsequent POCTA Regulations. Minor amendments were made in 2018 to allow the use of electronic collars for livestock in Victoria as part of a scientific program and to clarify the period for which records need to be maintained by sellers, hirers or suppliers of electronic collars.

The POCTA Regulations 2008 are the principal regulations for animal welfare in Victoria and apply to the treatment of all animals. There are also the Prevention of Cruelty to Animals (Domestic Fowl) Regulations, the latest version of which came into effect in 2016. The primary objective of these is to provide for the conditions under which domestic fowl are housed.<sup>12</sup> This RIS applies to the draft POCTA Regulations 2019 only.

Like the POCTA Act, the draft POCTA Regulations 2019 are important for providing working definitions which inform the enforceability of the legislation. In addition to providing definitions of key terms, the draft POCTA Regulations 2019 provide a guide for practical penalties for otherwise undefined sections of the POCTA Act. The draft POCTA Regulations 2019 will assist in the management of animal welfare and the achievement of public policy purposes by:

- Banning certain activities which are deemed to be unacceptable to the community or unacceptable for animal welfare outcomes.
- Allowing certain activities under licencing or permits. This approach controls who uses, or does things, and how they are done/used. The approach also provides an understanding (through record-keeping) of the individuals/organisations involved and provides an incentive to comply through a risk of having the licence/permit removed.
- Setting conditions as to who uses devices, or undertakes activities, and how they are used or undertaken.
- Setting deterrents for non-compliance via penalties through the courts or via infringement penalties.
- Prescribing monitoring and audit activities.
- Providing clarity and transparency around certain actions or activities (for example, defining what actions or activities are acceptable).

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<sup>12</sup> POCTA (Domestic Fowl) Regulations 2016

The draft POCTA Regulations 2019 are comprised of six parts:

- Part 1 – Preliminary: outlines the objectives, scope and definitions.
- Part 2 – Protection of animals: provides for regulations in relation to the protection of animals, many of which underpin offences in the POCTA Act. This includes regulations in relation to transport, farm animal husbandry, fruit netting and electronic devices.
- Part 3 – Traps: provides for regulations relating to setting, use and sale of traps.
- Part 4 – Rodeos and rodeo schools: sets out the requirements for rodeos and rodeo schools including licences/permits, responsibilities of licensees and permit holders and offences.
- Part 5 – Scientific procedures: provides for regulations which underpin Part 3 of the POCTA Act in relation to use of animals in research.
- Part 6 – Miscellaneous provides for fees, orders, infringements and transitional provisions.

The objectives of the draft POCTA Regulations 2019 are detailed in Chapter 4, while the specific elements of the draft POCTA Regulations 2019 are discussed in further detail in Chapter 5.

## 2.3 Codes of practice

The POCTA Act enables animal welfare codes of practice to be made, which set out the minimum standards and practices for species and animal related activities. Many of the POCTA codes are advisory, but some are mandatory. Compliance with a code can be used as a defence against prosecution under the POCTA Act, while mandatory codes are also legally enforceable.

There are two codes of practice that are mandatory through provisions included in either the POCTA Act or the POCTA Regulations 2008, being the Code of Practice for Training of Dogs and Cats to Wear Electronic Collars and the Code of Practice for Debarking of Dogs. In addition, the Australian Code for the Care and Use of Animals for Scientific Purposes, the Code of Practice for the Housing and Care of Laboratory Mice, Rats, Guinea Pigs and Rabbits and Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures become mandatory under licence conditions. There is also the Code of Practice for the Breeding of Animals with Heritable Defects that Cause Disease, which is mandatory but only for the diseases listed in the Schedule of the POCTA Act that relate to dogs and cats. These codes are described in Table 6. The voluntary codes of practice are wide-ranging, with codes relating to specific animals (such as dogs, cats and horses) and activities conducted in relation to animals (such as hunting and tethering).

Table 6: Codes of practice under the POCTA Act

Code of Practice	Description	Activities Regulated
Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures. <sup>13</sup>	The Code regulates the conditions under which pound animals can be used for scientific procedures. The Code defines the responsibilities of municipalities and scientific establishments in conducting experiments.	The Code defines: <ul style="list-style-type: none"> <li>• Characteristics of pound animals who are eligible for participation.</li> <li>• Animal registry requirements.</li> <li>• Permissions of scientific establishments with regard to transfer and care.</li> </ul>

<sup>13</sup> Code of practice for the use of animals from municipal pounds in scientific procedures, Agriculture Victoria, <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-use-of-animals-from-municipal-pounds-in-scientific-procedures>

Code of Practice	Description	Activities Regulated
Australian Code for the Care and Use of Animals for Scientific Purposes. <sup>14</sup>	The Code is intended to promote the ethical, humane and responsible care and use of animals in scientific procedures.	The Code states that the use of animals must: <ul style="list-style-type: none"> <li>• Have scientific or educational merit.</li> <li>• Aim to benefit humans, animals or the environment.</li> <li>• Minimise the number of animals used.</li> <li>• Cause the lowest possible impact to the animals.</li> </ul>
Code of Practice for the Housing and Care of Laboratory Mice, Rats, Guinea Pigs and Rabbits. <sup>15</sup>	The Code describes the minimum standards for housing laboratory mice, rats, guinea pigs and rabbits.	The Code defines minimum standards for: <ul style="list-style-type: none"> <li>• Nutrition.</li> <li>• Hygiene.</li> <li>• Climate.</li> <li>• Enclosures.</li> </ul>
Code of Practice for Training of Dogs and Cats to Wear Electronic Collars. <sup>16</sup>	The Code specifies the minimum standards required when training a dog or cat to the use of an electronic collar.	The Code covers: <ul style="list-style-type: none"> <li>• Training with Electronic Collars.</li> <li>• Definitions of Appropriate Use.</li> <li>• Effects of use.</li> </ul>
Code of Practice for Debarking of Dogs. <sup>17</sup>	The Code outlines the circumstances in which a dog may be debarked.	The Code defines: <ul style="list-style-type: none"> <li>• Meaning of debarking.</li> <li>• Circumstance in which a dog may be debarked.</li> <li>• Responsibilities of owners and registered veterinary practitioners when debarking in being considered.</li> <li>• The recommended method for debarking.</li> </ul>
Code of Practice for the Breeding of Animals with Heritable Defects that Cause Disease <sup>18</sup>	The Code specifies the grounds on which animals can be bred if there is a risk of offspring acquiring heritable defects that cause disease.	The Code details: <ul style="list-style-type: none"> <li>• The heritable diseases considered in the legislation.</li> <li>• Permitted breeding practices.</li> <li>• Heritable defect breeding standards.</li> <li>• Approved breeding programs.</li> <li>• Approved organisations to conduct the breeding.</li> </ul>

<sup>14</sup> Australian code for the care and use of animals for scientific purposes, National Health and Medical Research Council, <https://www.nhmrc.gov.au/about-us/publications/australian-code-care-and-use-animals-scientific-purposes>

<sup>15</sup> Code of Practice for the Housing and Care of Laboratory Mice, Rats, Guinea Pigs and Rabbits, Agriculture Victoria, <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-housing-and-care-of-laboratory-mice-rats-guinea-pigs-and-rabbits>

<sup>16</sup> Code of Practice for Training of Dogs and Cats to Wear Electronic Collars, Agriculture Victoria, <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-training-dogs-and-cats-to-wear-electronic-collars>

<sup>17</sup> Code of Practice for Debarking of Dogs, Agriculture Victoria, <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-debarking-of-dogs>

<sup>18</sup> Code of Practice for the Breeding of Animals with Heritable Defects that Cause Disease, Agriculture Victoria, <http://agriculture.vic.gov.au/pets/domestic-animal-businesses/breeding-and-rearing-businesses/code-of-practice-for-the-breeding-of-animals-with-heritable-defects-that-cause-disease>

## 2.4 Regulation of animal welfare going forward

### 2.4.1 Victorian Government commitment to enhancing animal welfare

In 2017, the Victorian Government committed to delivering more support for animal welfare, including “working to deliver more effective and efficient animal welfare laws” which “recognise the sentience of animals, reflecting strong evidence... showing animals fear and feel pain.”<sup>19</sup>

The Victorian Government released its Animal Welfare Action Plan in 2017, with the purpose of ensuring that Victoria continues to improve animal welfare and is well respected globally for animal welfare practices.<sup>20</sup> The key areas for action outlined in the plan include:

1. A policy and legal framework that safeguards and improves animal welfare in Victoria.
2. Collaboration that improves animal welfare.
3. Education that improves knowledge, skills and compliance.
4. Compliance and enforcement that is efficient and effective.<sup>21</sup>

These priorities are consistent with national and international standards relating to animal welfare. The World Organisation for Animal Health (OIE) defines animal welfare as the physical and mental state of an animal in relation to the conditions in which it lives and dies, and states that an animal experiences good welfare if it is healthy, comfortable, well nourished, safe, is not suffering from unpleasant states such as pain, fear and distress, and is able to express behaviours that are important for its physical and mental state.<sup>22</sup> The OIE states

The OIE’s guiding principles for animal welfare are:

- That there is a critical relationship between animal health and animal welfare.
- That the internationally recognised 'five freedoms' (freedom from hunger, thirst and malnutrition; freedom from fear and distress; freedom from physical and thermal discomfort; freedom from pain, injury and disease; and freedom to express normal patterns of behaviour) provide valuable guidance in animal welfare. These are outlined in Table 7.
- That the internationally recognised 'three Rs' (reduction in numbers of animals, refinement of experimental methods and replacement of animals with non-animal techniques) provide valuable guidance for the use of animals in science.
- That the scientific assessment of animal welfare involves diverse elements which need to be considered together, and that selecting and weighing these elements often involves value-based assumptions which should be made as explicit as possible.
- That the use of animals in agriculture, education and research, and for companionship, recreation and entertainment, makes a major contribution to the wellbeing of people.
- That the use of animals carries with it an ethical responsibility to ensure the welfare of such animals to the greatest extent practicable.

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<sup>19</sup> Andrews Labor Government Delivers More Support For Animal Welfare, Minister for Agriculture (2017) <https://www.premier.vic.gov.au/wp-content/uploads/2017/10/171019-Andrews-Labor-Government-Delivers-More-Support-For-Animal-Welfare.pdf>

<sup>20</sup> Animal Welfare Action Plan, DEDJTR (2017)

<sup>21</sup> Animal Welfare Action Plan, DEDJTR (2017)

<sup>22</sup> Terrestrial Animal Health Code, World Organisation for Animal Health (2019) [http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre\\_aw\\_introduction.htm](http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_introduction.htm)

- That improvements in farm animal welfare can often improve productivity and food safety, and hence lead to economic benefits.
- That equivalent outcomes based on performance criteria, rather than identical systems based on design criteria, be the basis for comparison of animal welfare standards and recommendations.<sup>23</sup>

Table 7: Five freedoms for promoting animal welfare<sup>24</sup>

Freedoms	Provisions
Freedom from hunger, thirst and malnutrition.	By providing ready access to fresh water and a diet to maintain full health and vigour.
Freedom from fear and distress.	By providing an appropriate environment including shelter and a comfortable resting area.
Freedom from physical and thermal discomfort.	By prevention or rapid diagnosis and treatment.
Freedom from pain, injury and disease.	By ensuring conditions and treatment which avoid mental suffering.
Freedom to express normal patterns of behaviour.	By providing sufficient space, proper facilities and company of the animal's own kind.

Source: Mellor (2015)

A Five Domains Model has also been developed that recognises a number of key elements relevant to animal welfare. It has several similarities with the OIE's 'five freedoms' for animals. The model aims to provide an assessment tool to determine the positive or negative affective states of an animal in relation to welfare. The domains are:

- Nutrition - access to food and water.
- Environment - the living conditions of an animal.
- Health - presence of disease and injury and general body condition.
- Behaviour - an animal's appearance, demeanour, activity (or inactivity) and vocalisation (or silence).
- Mental state - the affective experiences of the animal such as breathlessness, thirst, hunger, pain, nausea, dizziness, debility, weakness and sickness.<sup>25</sup>

The first three domains are defined as 'internal states' that the animal feels, while behaviour is the display of welfare-significant 'external circumstances'.<sup>26</sup> Once these states and external circumstances have been identified, the 'associated affective experiences' - known as the mental state of the animal - can be analysed.<sup>27</sup>

<sup>23</sup> Terrestrial Animal Health Code, Article 7.1.2, World Organisation for Animal Health (2019), [http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre\\_aw\\_introduction.htm](http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_introduction.htm)

<sup>24</sup> Updating Animal Welfare Thinking: Moving beyond the "Five Freedoms" towards "A Life Worth Living", M. J. Mellor (2015), *Animals*, 6(21), p. 2

<sup>25</sup> Operational Details of the Five Domains Model and Its Key Applications to the Assessment and Management of Animal Welfare, D. J. Mellor, (2010), *Animals*, 7(60)

<sup>26</sup> Operational Details of the Five Domains Model and Its Key Applications to the Assessment and Management of Animal Welfare, D. J. Mellor, (2010), *Animals*, 7(60)

<sup>27</sup> Operational Details of the Five Domains Model and Its Key Applications to the Assessment and Management of Animal Welfare, D. J. Mellor, (2010), *Animals*, 7(60)

## 2.4.2 Making of POCTA Regulations

The majority of the regulations in the POCTA Regulations 2008 are being remade (see Chapter 5 for a detailed description of the draft POCTA Regulations 2019) and in many cases there are only minor wording changes. However, there are some areas of regulation that are new or where changes are proposed to existing requirements. These changes are intended to improve animal welfare, address implementation issues or assist with more effective regulation. This RIS focuses on areas of the draft POCTA Regulations 2019 that are expected to have the most economic, social or environmental impact on Victoria (in a government, business and community sense) and on animal welfare. This incorporates both positive and negative impacts across these elements. These have been defined as 'major areas of change' and are outlined in section 3.4.

The making of the draft POCTA Regulations 2019 has been an extensive process and began in July 2018. After an initial review of the sunseting POCTA Regulations 2008, preliminary consultations were held with key stakeholders to gain an understanding of changes to be considered in the draft POCTA Regulations 2019. Following the appointment of a consultant to assist in developing the RIS, additional consultation took place that led to the drafting of the draft POCTA Regulations 2019 and the finalisation of the RIS for public consultation.

Public consultation will now take place, where all members of the community will be given the opportunity to review the RIS and make comments on the draft POCTA Regulations 2019. Following this phase, the RIS and the POCTA Regulations 2019 will be finalised for decision by the Minister and making by the Governor in Council, with the POCTA Regulations 2019 then tabled in Parliament.

Members of the public will have a total of 28 days to comment on this RIS.

## 2.4.3 POCTA Act review process

In addition to the development of the draft POCTA Regulations 2019, the Victorian Government has committed to modernising Victoria's animal welfare laws to support better harm prevention, improved education, a more effective regulatory response and effective penalties. As outlined in the State's Animal Welfare Action Plan, the POCTA Act will be reviewed, with particular consideration of:

- The POCTA Act's relationship with other legislation.
- The POCTA Act's strengths and weaknesses.
- Current enforcement tools.
- Comparisons with international animal welfare laws.<sup>28</sup>

Under a new modernised animal welfare legislative framework, new regulations will need to be developed. As a result, the current review and development of the draft POCTA Regulations 2019 has focused on existing areas of regulation and ensuring that Victoria maintains effective regulations to underpin the POCTA Act in the interim.

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<sup>28</sup> Animal Welfare Action Plan, DEDJTR (2017)

### 3. The need for animal welfare regulation

Victoria requires a robust and measured policy and legal framework to ensure that the treatment of animals is humane and in line with community expectations, values and beliefs. This chapter discusses the need for animal welfare regulation by exploring the importance of animal welfare regulation in Victoria, the evolving nature of animal welfare knowledge, the need for draft POCTA Regulations 2019 and the major areas of change to be addressed in the draft POCTA Regulations 2019.

#### 3.1 The importance of animal welfare regulation in Victoria

Animals play an integral part in Victorians' homes, businesses, and sport and recreational activities, as well as supporting economic activity through employment and trade. Victoria has one of the highest pet ownership rates in the world. In 2016, over 60% of Victorian families owned a pet and an estimated 4.3 million pets were owned across the State.<sup>29</sup> In addition to domesticated species, Victoria has 948 native animal species - many of which are unique to the State.<sup>30</sup>

Animal welfare is universally recognised as an area that needs to be safeguarded because animals are sentient and unable to represent their own interests.<sup>31</sup> In Victoria this is primarily achieved through the POCTA Act and subordinate legislation (the POCTA Regulations 2008).

Victorians place a high value on protecting the welfare of animals. There are generally accepted expectations of how humans interact with animals - both as animal owners and those who come into contact with animals. In 2016, 98% of surveyed Victorians agreed that protecting the welfare of animals is important, and 75% believed that protection for the welfare of animals could be improved.<sup>32</sup> Similarly, 95% of Australians view farm animal welfare to be a concern.<sup>33</sup>

Research demonstrates links between human and animal welfare. For example, there is evidence to suggest that there can be a significant emotional toll on humans who witness suffering and dying animals. This has been described as a type of post-traumatic stress disorder in some cases, with symptoms for humans including drug and alcohol abuse, emotional detachment, concentration loss, sleep disturbance and depression.<sup>34</sup>

However, the regulation of animal welfare is complex, with a variety of implications across the community, environment and for industry. The complexity of sustaining positive animal welfare outcomes is shown by how attitudes towards animals differ depending on context. There is general agreement and support within industry and the community to maintain and encourage the welfare of animals. However, attitudes towards animals can vary depending on whether an animal is domestic, agricultural, used for scientific purposes, wild or considered to be a pest. This can result in some animals being treated to differing standards based on the use or species. This classification isn't clearly defined by type of animal. For example, a rabbit can be a domestic pet, a farmed animal, used for scientific research and a wild animal, considered to be a pest. The treatment of rabbits can depend on the context.

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<sup>29</sup> Victorian Emergency Animal Welfare Plan, DEDJTR (2017) and Pet Ownership in Australia, Animal Medicines Australia (2016), as cited in Animal Welfare Profile of Victoria, AWV (2016)

<sup>30</sup> Native plants and animals, Parks Victoria, <https://parkweb.vic.gov.au/park-management/environment/native-plants-and-animals>

<sup>31</sup> Regulating animal welfare to promote and protect improved animal welfare outcomes under the Australia Animal Welfare Strategy, Bloom (2008)

<sup>32</sup> Animal Welfare Action Plan, DEDJTR (2017)

<sup>33</sup> Commodity or Sentient Being? Australia's Shifting Mindset on Farm Animal Welfare, Futureye (2018)

<sup>34</sup> A Slaughterhouse Nightmare: Psychological Harm Suffered by Slaughterhouse Employees and the Possibility of Redress through Legal Reform, J. Dillard (2008), as cited in Slaughtering for a living: A hermeneutic phenomenological perspective on the well-being of slaughterhouse employees, K. Victor and A. Barnard (2016), International Journal of Qualitative Studies on Health and Well-being, 11(1).

## 3.2 Evolving nature of animal welfare knowledge

Community expectations on the treatment of animals have continually developed alongside the growing scientific understanding of animal welfare. Science-based knowledge of animal welfare has made significant progress since the POCTA Regulations 2008 were made in 2008. People have a greater understanding of animals' needs and the impacts of affective states such as hunger, pain and fear, often by measuring the strength of animals' preferences, motivations and aversions.

Humans are now better able to assess the physiological, behavioural and immunological changes and effects that animals show in response to various challenges.<sup>35</sup> Studies of brain systems in different mammals have found that the presence of neural circuits, artificial arousal and key brain activation patterns all suggest that animals are highly likely to have emotional feelings.<sup>36</sup>

The relationship between sentience and animal welfare is now well defined and accepted. The 180 members countries of the OIE (of which Australia is party to) accepted a statement recognising animal sentience through the adoption of the OIE Global Animal Welfare Strategy 2017.<sup>37</sup> This understanding has flowed through to the broader community, with a recent survey suggesting that over 90% of people believe that cattle, sheep, pigs and chickens are all sentient or are somewhat sentient.<sup>38</sup>

In the past decades, scientific research into two key conceptual frameworks relating to animal welfare have taken place:

- Biological functioning - an animal's welfare is directly related to its physical wellbeing (for example, how the animals grows; if it is in good health; if it reproduces successfully; and if it is relatively stress free).
- Affective state - an animal's welfare is directly related to its experiences during interactions with other animals, people and the environment.<sup>39</sup>

These frameworks have been treated independently in the past, but animal welfare scientists are now recognising that the two go hand-in-hand. There is now a wide acceptance that an animal's welfare is directly related to what it experiences subjectively (or its positive and negative experiences).<sup>40</sup>

As an extension of this point, research has recently progressed to demonstrate the relationship between affective neuroscience and animal behaviour science - in other words, negative affective experiences can be identified through effects other than just pain (which has, in the past, been the only negative affect to be universally acknowledged by experts).<sup>41</sup> These negative experiences can be noticeable to people around the animal (such as anxiety, fear or anger), but they can also be generated within the body and are not as obvious (such as breathlessness, exhaustion and sickness).<sup>42</sup>

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<sup>35</sup> Terrestrial Animal Health Code, Article 7.1.3, World Organisation for Animal Health (2019), [http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre\\_aw\\_introduction.htm](http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_introduction.htm)

<sup>36</sup> Affective consciousness: Core emotional feelings in animals and humans, J. Panksepp (2005), *Consciousness and Cognition*, 14(1), 30-80. p. 46

<sup>37</sup> <http://www.oie.int/en/for-the-media/press-releases/detail/article/adoption-of-the-first-oie-global-strategy-on-animal-welfare/>

<sup>38</sup> Commodity or Sentient Being? Australia's Shifting Mindset on Farm Animal Welfare, Futureeye (2018)

<sup>39</sup> Forensic Use of the Five Domains Model for Assessing Suffering in Cases of Animal Cruelty, R. A. Ledger and D. J. Mellor (2018) *Animals*, 8(101), p. 3

<sup>40</sup> Forensic Use of the Five Domains Model for Assessing Suffering in Cases of Animal Cruelty, R. A. Ledger and D. J. Mellor (2018) *Animals*, 8(101)

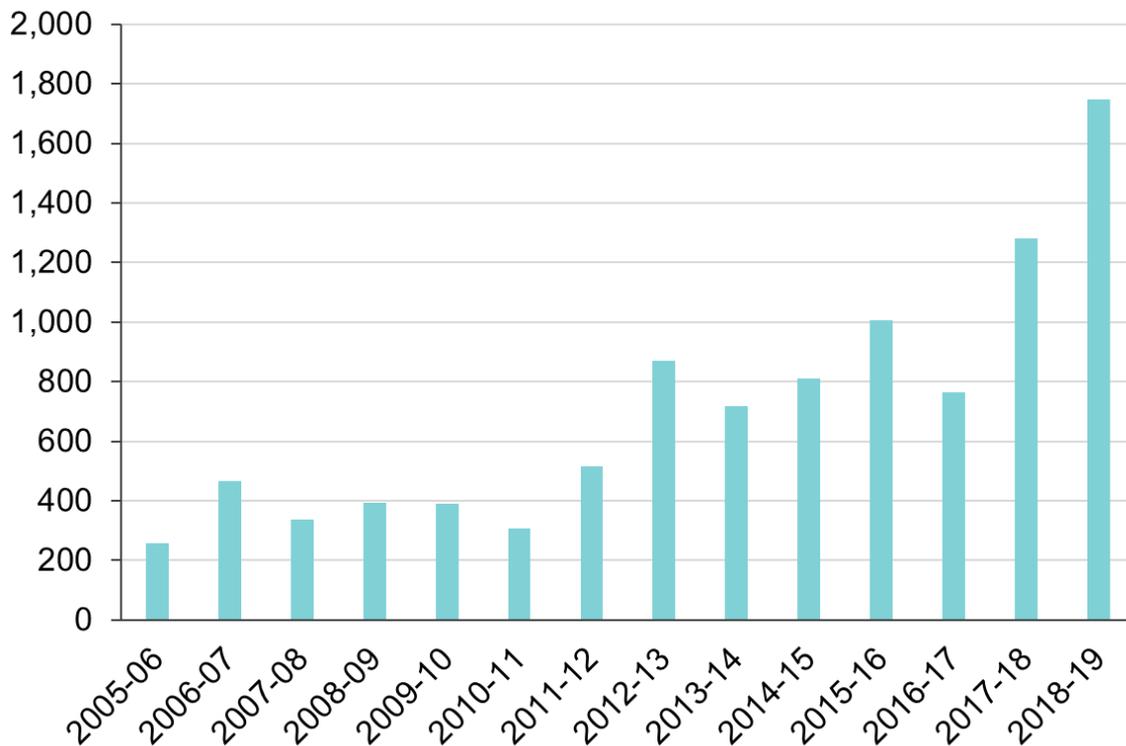
<sup>41</sup> Forensic Use of the Five Domains Model for Assessing Suffering in Cases of Animal Cruelty, R. A. Ledger and D. J. Mellor (2018) *Animals*, 8(101)

<sup>42</sup> Forensic Use of the Five Domains Model for Assessing Suffering in Cases of Animal Cruelty, R. A. Ledger and D. J. Mellor (2018) *Animals*, 8(101)

In line with this greater understanding of the relationship between negative affective experiences and animal welfare, community views on the treatment of animals are changing. Concerns about animal welfare have increased and there are greater expectations about how laws should safeguard animal welfare, how humans interact with animals and how and when the laws are enforced.

Reports about poor animal welfare outcomes remain high in Victoria. There has been an increasing trend in the number of animal welfare reports made to the DJPR over the last 14 years, with the highest number of reports received in 2018-19.

Figure 3: Animal welfare reports to the Department of Jobs, Precincts and Regions



Source: Department of Jobs, Precincts and Regions internal data, 2019

### 3.3 The need for the draft POCTA Regulations 2019

The POCTA Act is crucial to upholding high animal welfare standards by aiming to prevent cruelty to animals. It enacts the standards expected by the community to protect the welfare of animals, as animals are unable to protect their own welfare. The draft POCTA Regulations 2019 are the principal regulations for animal welfare in Victoria and apply to the treatment of all animals.

The draft POCTA Regulations 2019 have the primary objective of upholding and furthering the purpose of the POCTA Act. The draft POCTA Regulations 2019 seek to achieve this objective by:

- Providing for procedures conducted on animals, devices used on animals, implements and methods of capture of animals, transport of animals and other related matters.
- Prescribing conditions for rodeo licenses, rodeo permits and rodeo school permits.
- Making provisions as to persons operating, participating in or otherwise involved in rodeos and rodeo schools.
- Prescribing conditions and standards of scientific procedures and breeding.
- Prescribing forms, fees and other matters authorised by the POCTA Act.

Generally, the draft POCTA Regulations 2019 prescribe details, processes and procedures to give operational effect to the POCTA Act and are intended to be complementary to the POCTA Act. As identified in Chapter 2, the draft POCTA Regulations 2019 assist in the management of animal welfare and the achievement of public policy purposes by:

- Banning certain activities which are deemed to be unacceptable to the community or unacceptable for animal welfare outcomes.
- Allowing certain activities under licencing or permits. This approach controls who uses, or does things, and how they are done/used. The approach also provides an understanding (through record-keeping) of the individuals/organisations involved and provides an incentive to comply through a risk of having the licence/permit removed.
- Setting conditions as to who uses, or does things, and how they are done/used.
- Setting deterrents for non-compliance via penalties through the courts or via infringement penalties.
- Prescribing monitoring and audit activities.
- Providing clarity and transparency around certain actions or activities (for example, defining what actions or activities are acceptable).

The draft POCTA Regulations 2019 set out the requirements for a broad range of activities, with the intention of ensuring that animals are treated in accordance with community expectations in relation to animal welfare. To do this they cover a range of areas and activities, acknowledging the value the community places on animal welfare and responding to developments in the understanding of it.

Regulation is needed to set the minimum standard of animal welfare and ensure it is maintained alongside community expectations. Since the POCTA Regulations 2008, the relationship between humans and animals has evolved. New equipment and devices have been introduced that impact the welfare of animals. In some cases, there is no prescriptions or rules on the use of this equipment in the current legislation. The development of the draft POCTA Regulations 2019 provides an opportunity to improve and better safeguard animal welfare, ensure that regulations are effective in achieving their purpose, remove unnecessary burden and address issues with implementation and enforcement.

A requirement of a RIS relating to sunseting regulations is to consider the regulations and any benefits or impacts against the scenario of no regulations existing or any alternative options that may have been identified. In Victoria, if the draft POCTA Regulations 2019 did not exist then there would likely be impacts on animal welfare and on some activities that may be required to achieve other public policy outcomes. In some cases, however, there may be little to no change given that the POCTA Act and codes of practice would remain in place. Codes set the minimum accepted practice, and prosecution would still be possible under the mandatory codes if people did not abide by them or where non-compliance with an aspect of the code resulted in a breach of the POCTA Act. Chapter 5 discusses this in further detail.

It is unlikely that there would be significant short-term change to animal welfare in the absence of POCTA Regulations, given the current community attitudes and a strong awareness of 'social license to operate' amongst industry participants. However, it may be reasonable to assume that some people would revert to practices that are not currently permitted or accepted if the regulations were not replaced. Over time it is expected that without the draft POCTA Regulations 2019, animal welfare in Victoria could decline.

## 3.4 Major areas of change

The scope of this regulatory review has been focused on maintaining current and effective regulations while the broader POCTA Act review process is conducted. Through the review of the POCTA Regulations 2008 and extensive consultation with stakeholders, a number of areas have been identified where additions or changes to the current regulations would be beneficial. It is within these areas that it is expected the most change (in a government, business and community sense as well as for animal welfare) will occur under the draft POCTA Regulations 2019. These changes are therefore the focus of the impact analysis in this RIS and are discussed in turn below. It is noted that the specific regulatory changes related to these and how they fit within the draft POCTA Regulations 2019 are articulated in Chapter 5.

### 3.4.1 Additional offences

The POCTA Act provides for high end offences and penalties for serious instances of abuse and/or neglect against animals. Regulations provide a tool to address less serious instances of animal welfare offending, particularly when the offence is suitable to be addressed through an infringeable offence. The draft POCTA Regulations 2019 will make some requirements in relation to the care of, and conduct towards, animals, directly enforceable through specific offences that can be enforced through prosecution or an infringement penalty.

Regulatory offences are more directly enforceable than the cruelty offences in the POCTA Act which require unreasonable pain or suffering (or the likelihood of unreasonable pain and suffering) to be proven. Inclusion of specific offences in the draft POCTA Regulations 2019 allows for better enforcement of low-level offending, provides better clarity for those regulated, strengthens enforcement and enables more appropriate penalties for low to medium offending.

More effective compliance options for lower level animal welfare issues, where there is ability to directly enforce through specific offences and infringements, can assist in changing behaviour and improving compliance. Outlining additional offences in regulation means that minor offences could be penalised through an infringement notice (as opposed to being prosecuted through a Court of Law when found guilty of violating Section 9 of the POCTA Act). This would help to drive behavioural change that will prevent cruelty from occurring before animal's experience pain and suffering. Further, action can be taken prior to any suffering occurring when these actions or activities are observed (rather than needing proof of having caused, or been likely to cause pain, or suffering under the POCTA Act).

New offences are intended to be introduced into the draft POCTA Regulations 2019 to improve the management of common activities that can have poor animal welfare outcomes or to align the draft POCTA Regulations 2019 with existing standards that already exist in the Australian Animal Welfare Standards and Guidelines (see section 5.1). In these areas, offences would enable more direct compliance action without requiring full prosecution under the cruelty offences in the POCTA Act.

New offences enable POCTA Inspectors to directly enforce the draft POCTA Regulations 2019 and gives them the ability to issue infringements or take prosecutions under the relevant regulation. Some will also be included as infringement offences which do not result in a criminal conviction or record - the financial penalty is used as the deterrent for low level offending. Where appropriate an offence may still be prosecuted through the courts.

New offences are proposed in the following areas:

- Leaving animals unattended in cars on hot days.
- Carrying animals on metal trays of motor vehicles on hot days.
- Transport of farm animals in passenger vehicles.
- Transport of farm animals when not weight-bearing on all limbs.
- Duration for which farm animals can be transported without access to water.
- Tethering of animals.
- Sheep with overgrown wool.
- Pain relief for mulesing of sheep.
- Sale and use of fruit netting.
- Use of Oxy-LPG devices that destroy burrows in a similar manner.

### 3.4.2 Use of fruit netting in household gardens

Netting is a common piece of equipment used in household gardens to protect fruiting plants from animals who may eat the fruit. Some netting, used to protect fruiting trees and plants, can result in animals becoming trapped and entangled in the netting, leading to injury or death. If netting has a large mesh-size (generally larger than five millimetres), animals such as birds, endangered flying foxes and possums can become tangled, with consequent struggling leading to deep cuts and strangulation which can result in death.<sup>43</sup> Birds will often peck at flying-foxes when they are trapped, which can cause fear and distress, and many of the bats that are caught are mothers with young meaning that two generations can suffer from injury and death.<sup>44</sup>

Other characteristics of netting can also be significant. For example, flying-foxes on the move at night cannot always see netting that is dark in colour.<sup>45</sup> In addition, thin nylon netting can be pulled out of shape by animals which results in them becoming entangled, and this can also be a problem if the netting is not kept taut.<sup>46</sup>

Over the past five years, an average of 127 cases of grey-headed flying foxes being caught in household garden fruit netting each year have been reported to Wildlife Victoria.<sup>47</sup> It has been estimated by stakeholders that up to one third of animals entangled in netting die from blood loss, shock or dehydration or require euthanasia due to injuries sustained while entangled, while another third require extended medical care and rehabilitation in wildlife shelters.

There are also important human health and welfare issues that can result where animals, particularly bats, have become entangled in fruit netting. These include risk of Lyssavirus and injury. In addition, there is often an emotional, time and financial impact on rescuers.

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<sup>43</sup> Netting fact sheet, Agriculture Victoria, [http://agriculture.vic.gov.au/\\_data/assets/pdf\\_file/0004/430276/AWV-Factsheet-Netting-final.pdf](http://agriculture.vic.gov.au/_data/assets/pdf_file/0004/430276/AWV-Factsheet-Netting-final.pdf)

<sup>44</sup> Threats to bats fact sheet, Bat Conservation & Rescue Qld Inc., <http://bats.org.au/about-bats/threats.php#netting>

<sup>45</sup> Threats to bats fact sheet, Bat Conservation & Rescue Qld Inc., <http://bats.org.au/about-bats/threats.php#netting>

<sup>46</sup> Netting fruit trees fact sheet, Queensland Department of Environment and Science, [https://environment.des.qld.gov.au/wildlife/livingwith/flyingfoxes/netting\\_fruit\\_trees.html](https://environment.des.qld.gov.au/wildlife/livingwith/flyingfoxes/netting_fruit_trees.html)

<sup>47</sup> Wildlife Victoria data provided to AWV (2018)

There are currently no provisions in legislation outlining requirements for the household use of fruit netting.

### 3.4.3 Oxy-LPG pest-control technology

Oxy-LPG pest-control technology can be used to collapse the burrows of rats, rabbits and other pests who may damage gardens or crops. A controlled mixture of propane and oxygen is injected into the burrows and tunnels, and the built-in ignition system then ignites the mixture. This creates an underground shockwave and compression that destroys burrows and may result in injury or death to the pests.

When the blast pressure from these devices is adequate, animals should die quickly from the severe injuries sustained. However, if the blast is not sufficient, animals may survive and experience pain and suffering.

There are currently no provisions in legislation surrounding the use of Oxy-LPG pest-control technology. With no conditions of use, anyone can buy and use the technology. Users can currently operate this technology regardless of the effectiveness to render animals unconscious or dead. This means that there is a chance that the animals in the burrows may not die humanely, with a risk that they will remain conscious and experience pain and suffering. Animal welfare concerns related to use would need to be prosecuted through a Court of Law under the POCTA Act.

### 3.4.4 Use of electronic devices including electronic collars

The draft POCTA Regulations 2019 limit the use of electronic devices, which are devices that impart an electric shock to an animal. Devices are permitted only where the use is justifiable, there are no suitable alternatives, and the potential welfare impacts of the device can be appropriately mitigated or managed. The draft POCTA Regulations 2019 are intended to prevent the use of electronic devices that have unacceptable welfare outcomes and/or for which there are no justifiable welfare reasons for use.

Issues have been raised by stakeholders about the ability to use other electronic devices. In particular, stakeholders have requested the use of therapeutic electronic devices for animals and foot shock apparatus. These devices are currently prohibited.

#### 3.4.4.1 Electronic collars

Electronic collars are collars that can impart an electric shock to an animal. In Victoria, use of the collars is currently limited to dogs and cats, and, more recently, use on livestock has been allowed for research purposes. While these collars may be effective in training animals, changing behaviour or containing animals, there are concerns regarding the impacts of these collars on animal welfare and the ability to effectively mitigate these impacts through regulation.

The electric stimulus caused by the collar can lead to pain and distress for the animal, which can be exacerbated by the strength and duration of the shock.<sup>48</sup> Animals can also associate the application of the stimulus with events other than the intended one, which can potentially lead to aggressive behaviour in the future.<sup>49</sup>

Containment, anti-bark and remote-training collars use positive punishment, or negative reinforcement, to train dogs, manage unwanted behaviours or contain animals to specific areas.

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<sup>48</sup> A review of recent evidence in relation to the welfare implications for cats and dogs from the use of electronic collars, R. Lysons (2015)

<sup>49</sup> The use of shock collars and their impact on the welfare of dogs: A review of the current literature, Blackwell, E. J. and R. A. Casey (2006); Electronic shock collars - are they worth the risks? R. H. Polsky (1994); Electronic training devices: a behavioural perspective, *Companion Animal Behaviour Therapy Study Group (2003)*; as cited in The use of electronic collars for training domestic dogs: estimated prevalence, reasons and risk factors for use, and owner perceived success as compared to other training methods, E. J. Blackwell, C. Bolster, G. Richards, B.A. Loftus and R.A. Casey (2012), *BMC Veterinary Research*, 8(93).

Often the behaviours that owners are seeking to manage are the result of undiagnosed fear or anxiety, and for the animal these are merely their coping behaviours. A consequence of punishing animals for those coping behaviours risks increasing anxiety, fear, and long-term stress. The actions of the user can also lead to greater stress for the animal. Further, while anti-barking collars can be a convenient and relatively cheap option and may reduce inappropriate barking, they do not resolve the cause of the barking.

Recent research has concluded that using aversive training methods (e.g. positive punishment and negative reinforcement) can jeopardize both the physical and mental health of dogs.<sup>50</sup> Studies have observed links between a dog's current behaviour and its owner's reported training history as well as the owner's present behaviour.<sup>51</sup> Studies have shown that dogs trained using a negative reinforcement-based method demonstrated lowered body postures and signals of stress, whereas dogs trained using a positive reinforcement-based method showed increased attentiveness toward their owner.<sup>52</sup> Further, the research suggests that although positive punishment can be effective, there is no evidence that it is more effective than positive reinforcement-based training.<sup>53</sup>

In relation to the use of remote-training collars, a lack of knowledge from owners on when to exert the stimulus is a problem, as owners can be unsure on when to use the equipment and unable to properly read the animal's response.<sup>54</sup> As well as general misuse of the equipment (through the number or magnitude of shocks), it is believed that poorly timed use of the device can cause anxiety for the animal, as the unpredictable application of a shock can lead to severe and persistent signs of stress.<sup>55</sup> When using remote-training collars the reinforcement needs to be delivered immediately, consistently and correctly. This is a challenge for owners/trainers to get right every time.

Understanding the underlying causes of animal behaviour and therefore appropriate training techniques for each animal is critical to minimise negative animal welfare impacts. The mental state of an animal, and its ability to understand stimuli are key factors in determining whether the use of an electronic collar may be appropriate. However, there are divergent views within the industry around accepted training methods and no overarching industry body or universally accepted training courses which could act to mediate these divergent views and provide a consistent set of standards to be met (except for formal veterinary specialist training). This makes it very difficult to effectively regulate the use of these collars in a way that would ensure only competent and experienced trainers can use them or to identify when use of these collars might be justified on animal welfare grounds.

Stakeholder consultation has indicated that the POCTA Regulations 2008 regarding the sale and use of electronic collars are not being followed. A survey completed in 2019 by individuals from Victorian local councils<sup>56</sup> identified that:

- Businesses sell anti-bark and containment collars without complying with POCTA Regulation 24 (which includes the requirement to maintain a record of the purchaser or hirer for seven years and advising the purchaser or hirer of the relevant conditions of use as stated in the POCTA Regulations 2008).

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<sup>50</sup> The effects of using aversive training methods in dogs - A review, *Journal of Veterinary Behaviour*, G. Ziv (2017)

<sup>51</sup> Training methods and owner-dog interactions: Links with dog behaviour and learning ability, *Applied Animal Behaviour Science*, N. Rooney and S. Cowan (2011)

<sup>52</sup> Effects of 2 training methods on stress-related behaviors of the dog (*Canis familiaris*) and on the dog-owner relationship, S. Deldalle and F. Gaunet (2013), *Journal of Veterinary Behaviour*

<sup>53</sup> The effects of using aversive training methods in dogs - A review, *Journal of Veterinary Behaviour*, G. Ziv (2017)

<sup>54</sup> A review of recent evidence in relation to the welfare implications for cats and dogs from the use of electronic collars, R. Lysons (2015)

<sup>55</sup> A review of recent evidence in relation to the welfare implications for cats and dogs from the use of electronic collars, R. Lysons (2015)

<sup>56</sup> Survey completed by Animal Welfare Victoria

- Animal owners are not aware of the requirements of use for the collars, such as:
  - Owners must have consulted with a veterinary practitioner to examine the health and temperament of the animal and the veterinary practitioner must believe that the animal is suitable to have an authorised collar used on it.
  - The animal must be over six months of age.
  - The collar must not be left on the animal for more than 12 hours in any 24-hour period.
  - The use must be in accordance with any instructions for the use of the collar provided by the manufacturer.
  - The animal must be introduced to the use of the collar in accordance with a training program that complies with the Code of Practice for Training Dogs and Cats to Wear Electronic Collars.
  - The power of the collar must not exceed the specified levels.

The use of electronic collars is considered by many to be unacceptable. Many dog training organisations in Victoria do not allow the use of these collars by members as they believe there are other, more welfare friendly, alternatives to achieve the same outcomes. The equipment has been banned in several countries around the world (including Denmark, Norway, Sweden, Austria, Switzerland, Slovenia, Germany, Quebec and Wales).

In the survey, 26% of POCTA-related reports received by councils in the last 12 months have related to electronic devices that deliver an electric shock to animals.

### 3.4.5 Use of leghold traps

There are two categories of leghold traps permitted in Victoria: small leghold traps that are used to trap rabbits, and large leghold traps that are used to trap foxes or wild dogs. The traps are jawed spring-operated equipment that are designed to capture an animal by the foot or leg.

Leghold traps can cause 'major injuries' to captured animals in many instances, with additional affects including an increase in body temperature and heart rate.<sup>57</sup> Studies have found that these traps can lead to broken bones, dislocations, stress (including from pain and a lack of food and water), fear and anxiety and a loss of contact with dependent young.<sup>58</sup> Long periods of confinement in leghold traps are a concern, as this is associated with greater exertion, struggling and injury.<sup>59</sup>

In addition, the capture of non-target animals has been raised as a major concern. Non-target animals that can be caught in the traps vary depending on the size and location of the trap. As well as the impacts to welfare described above, non-target animals can be vulnerable to attack from other animals when captured in traps.<sup>60</sup>

While leghold traps cause harm and suffering to animals, they play a role in managing pest animal species in Victoria, such as wild dogs, which can kill or maim many sheep in one attack. Not only do

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<sup>57</sup> Mammal trapping: a review of animal welfare standards of killing and restraining traps, G. Iossa, C. D. Soulsbury and S. Harris (2007), *Animal Welfare* 2008, 16, 335-352.

<sup>58</sup> Welfare outcomes of leg-hold trap use in Victoria, Nocturnal Wildlife Research (2008), [http://agriculture.vic.gov.au/\\_data/assets/pdf\\_file/0019/261712/REVIEW-WELFARE-OUTCOMES-OF-LEG-HOLD-TRAP-USE-IN-VICTORIA.pdf](http://agriculture.vic.gov.au/_data/assets/pdf_file/0019/261712/REVIEW-WELFARE-OUTCOMES-OF-LEG-HOLD-TRAP-USE-IN-VICTORIA.pdf)

<sup>59</sup> Welfare outcomes of leg-hold trap use in Victoria, Nocturnal Wildlife Research (2008), [http://agriculture.vic.gov.au/\\_data/assets/pdf\\_file/0019/261712/REVIEW-WELFARE-OUTCOMES-OF-LEG-HOLD-TRAP-USE-IN-VICTORIA.pdf](http://agriculture.vic.gov.au/_data/assets/pdf_file/0019/261712/REVIEW-WELFARE-OUTCOMES-OF-LEG-HOLD-TRAP-USE-IN-VICTORIA.pdf)

<sup>60</sup> Trapping of feral cats using padded-jaw traps, S. Sharp (2018) (prepared for PestSmart)

wild dogs pose a serious threat to the welfare of farm animals, but the loss of these animals can have a significant impact on the agricultural industry. The opportunity cost of this impact to livestock production in Victoria, including time and labour, has been estimated to be \$13.2 million per year.<sup>61</sup>

The POCTA Regulations 2008 outline the requirements for the setting, use of and prescribed features of small and large leghold traps, species they can be used on and places where they must not be set, used or possessed.<sup>62</sup> These were designed to minimise the animal welfare impacts of leghold traps and risk of capture of off target species.

In the current regulatory environment animals must not be left alive in a leghold trap for more than 24 hours. The only available exception to this requirement is for wild dogs, where the Minister may give approval to extend this period. Currently the only exemption that has been granted is for the Victorian Wild Dog Program, enabling it to leave animals captured in large leghold traps set for wild dogs for up to 72 hours. This has been raised as a concern by some stakeholders, as the potential for animals to suffer increases as the checking time is extended. Other stakeholders support this exemption as it enables more trapping of wild dogs to protect livestock.

### 3.4.6 Use of glue traps

Glue traps are restraining traps (designed to restrain, not kill an animal) used for rodent pest control. They are defined as traps that use glue, adhesive material or any similar viscid substance to capture an animal.<sup>63</sup>

Glue traps are considered by some to be inhumane because trapped animals experience a high degree of fear and physical injury, and when they are released they cannot resume normal behaviour.<sup>64</sup> Evidence has found that a rodent can become fully entangled in the glue, with results including limbs becoming stuck, the animal's mouth becoming glued shut, torn skin, broken limbs, repeated defaecation and urination, eye damage and forceful hair removal or fur being torn away.<sup>65,66,67</sup> Further, some rodents also bite through their own limbs to escape.<sup>68</sup>

In the current regulatory environment stakeholders have raised concerns about the continued use of glue traps in any circumstances and that glue traps are being sold and used illegally in external locations. This can result in the capture of wildlife and non-target species. The POCTA Regulations 2008 aimed to limit the sale and use of glue traps to commercial pest controllers.

Under the current regulatory provisions, it can be difficult to ensure compliance in relation to the use and sale of glue traps. Users are required to be commercial pest controllers and have gained approval from the Minister for the use of the trap. However, enforcing the sale of glue traps only to approved commercial pest controllers is difficult as there is no limitation on where they can be sold. There are concerns that glue traps are currently available for sale to the general public, and that 'insect glue traps' are being sold that are capable of catching animals.

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<sup>61</sup> Social Benefit Cost Analysis: Wild Dog Management in Victoria, C. Lightfoot (2010), as cited in Victorian Wild Dog Program Submission, DELWP (2019)

<sup>62</sup> POCTA Regulations 2008

<sup>63</sup> POCTA Regulations 2008

<sup>64</sup> Evaluation of the humaneness of rodent capture using glue traps, N. Fenwick (2013) (prepared for the Canadian Association of Humane Trapping), <http://www.caht.ca/evaluation-of-the-humaneness-of-rodent-capture-using-glue-traps/>

<sup>65</sup> A laboratory text method for evaluating the efficacy of glueboards for trapping house mice, S.C. Frantz and C. M. Padula (1983), Vertebrate Pest Control and management Materials: Fourth Symposium, 209-225

<sup>66</sup> Relative efficacy of glue and other traps for commensal rodent management, R. S. Tripathi, M. Mathur, A.P. Jain and N. Patel (1993), Annals of Arid Zone, 33, 143-145

<sup>67</sup> The Humaneness of Rodent Pest Control, G. Mason and K. Littin (2003), Animal Welfare 2003, 12: 1-37

<sup>68</sup> The Humaneness of Rodent Pest Control, G. Mason and K. Littin (2003), Animal Welfare 2003, 12: 1-37

### 3.4.7 Other trap related issues

Stakeholders have raised concerns in relation to the fate of trapped, uninjured animals, including wildlife. As a result, the draft POCTA Regulations 2019 will prescribe conditions to manage the fate of these animals. The POCTA Regulations 2008 did not clearly identify the approach to be adopted for non-target species unintentionally caught in traps, especially in the ten unincorporated areas within Victoria. These unincorporated areas are regions of land that are not governed by a local municipal corporation.

Concerns have also been raised about how unincorporated areas can describe procedures to be adopted when trapped uninjured non-target species are caught. To address this concern, the draft POCTA Regulations 2019 will provide processes by which these procedures can be described.

### 3.4.8 Rodeos and rodeo schools

A rodeo is an exhibition that involves a series of riding and roping contests with cattle and horses. In Victoria, a person can only operate a rodeo if they hold a licence or permit, and these holders must ensure that all animals are managed and treated appropriately before, during and after the events.

Issues that have been identified in relation to rodeos and rodeo schools include:

- An Approved Rodeo Organisation cannot currently apply for a rodeo licence or permit (currently only a person who is accredited by an Approved Rodeo Organisation can apply).
- Having multiple applicants for a rodeo permit can create uncertainty around responsibility for the welfare and management of all animals brought to a rodeo.
- There is a lack of clarity on the accountability of licence and permit holders at rodeos, as well as the roles of the Licence or Permit Holder, the Appointed Veterinary Practitioner and the Person-in-Charge, can create confusion around responsibilities for animal welfare.
- There is a need to address operational efficiency improvements, such as:
  - The lack of provision to verify the experience of the nominated veterinary practitioner with cattle and horses, meaning that there is a risk that the professional may not have relevant experience of the rodeo animals.
  - The notification requirements for changes to personnel after submission of rodeo applications is quite burdensome on DJPR and licence/permit holders.
  - The lack of provision to vary the start time or date of rodeos, meaning that the operation of a rodeo during, or close to, severe weather events (such as extreme heat or excessive rain) can exacerbate the stress and anxiety that these animals experience.<sup>69</sup>
- Clarification is required on conditions and offences, including:
  - The repeated use of animals at rodeos beyond three occasions, which can increase the risk of physical injury and psychological stress for animals.<sup>70</sup>
  - The timing of fireworks at rodeos, with fireworks known to cause stress and anxiety for domestic animals that can lead to escaping, vocalisation and destructive

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<sup>69</sup> RSPCA South Australia, <https://www.rspcasa.org.au/rspca-warns-rodeos-extreme-heat-cancelled/>

<sup>70</sup> This issue was raised by a council during a recent survey run by AWV

behaviour. Studies have concluded that horses are prone to becoming anxious and may injure themselves if they try to escape an enclosed area.<sup>71</sup>

- The use of motor vehicle displays at rodeos, as noise and vehicle movement associated with the displays can increase the risk of distress for the animals.<sup>72</sup>

### 3.4.9 Scientific procedures

Scientific procedures with the use of animals can only be carried out by licence holders. One of the conditions of obtaining a licence is to nominate an Animal Ethics Committee (AEC), who approves the procedure or (program of procedures). The AEC acts as an internal regulatory body to assess, approve and monitor the organisation's use of animals in research and teaching. There are currently 214 Scientific Procedures Licence Holders registered across Victoria, with 90 AECs currently registered (incorporating 1,233 individuals).<sup>73</sup>

The use of animals in research and teaching may require compromise to animal welfare. Whether it is through means such as disease models, surgical injuries or induced psychological abnormality, these procedures can cause pain and anxiety to animals.<sup>74</sup> The AEC is required to weigh up the likely impact of procedures on animals against the proposed benefits of the research or teaching.

In the current environment, many organisations have difficulties with providing education to the AECs on their legal responsibilities, as required by the Australian Code (possibly due to a lack of internal expertise or resources). This can lead to invalid decision-making, leading to potential issues with publication of research results and unnecessary repetition of research. It also poses a risk to licence holders' reputations for compliance with animal welfare standards.

The POCTA Regulations 2008 require an AEC to consider the proposed benefits of the research or testing and the likely impacts to animal welfare. AECs are required to make an independent decision, based on their own judgment and within the authority granted by the Australian Code, as to whether the proposed use is ethically justified. More comprehensive training is expected to improve animal welfare, as better trained AEC members would be more aware of the extent of their responsibilities with respect to approving and monitoring all activities involving animals.

### 3.4.10 Use of animals from municipal pounds in research and teaching

The use of animals in scientific procedures can have impacts on the animal's overall welfare. A particular issue in relation to animals sourced from municipal pounds is that their prior experiences are often unknown and therefore it is difficult to measure the cumulative impact of poor animal welfare experiences for that animal.

Concerns have been raised that the Pound Animals Code of Practice - which scientific procedures licence holders must comply with - is outdated. The Code was last reviewed in 1988, and evidence would suggest that the use of pound animals for scientific research does not align with community and industry expectations. This is highlighted by the fact that licence holders no longer source animals from pounds for scientific procedures, with the welfare of these animals considered to outweigh the benefits of their use for research.

During stakeholder consultations, the burden associated with record keeping requirements relating to the use of animals from municipal pounds in research and teaching was identified as a common issue.

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<sup>71</sup> The Management of Horses during Fireworks in New Zealand, G. Gronqvist (2016), *Animals*, 6(3)

<sup>72</sup> From stakeholder consultations

<sup>73</sup> AWV data

<sup>74</sup> Welfare of Animals Used in Scientific Testing and Research fact sheet, UK Universities Federation for Animal Welfare, <https://www.ufaw.org.uk/why-ufaws-work-is-important/welfare-of-animals-used-in-scientific-testing-and-research>

## 4. Objectives of the draft POCTA Regulations 2019

The purpose of the POCTA Act is to:

- Prevent cruelty to animals.
- Encourage the considerate treatment of animals.
- Improve the level of community awareness about the prevention of cruelty to animals.

The draft POCTA Regulations 2019 have the primary objective of upholding and furthering the purpose of the POCTA Act. Therefore, the key objectives of the draft POCTA Regulations 2019 are the same as the purpose of the POCTA Act, as well as the:

- Promotion of community accepted values and behaviours towards animals.
- Recovery of some of the costs of regulating animal welfare.

These objectives need to be balanced against:

- Circumstances where activities that may negatively impact on animal welfare are required for other public policy purposes.
- Activities which have some risk to animal welfare but are accepted by the community, where those risks can be managed or mitigated by the draft POCTA Regulations 2019.

These considerations lead to the need to permit certain activities or devices that have some animal welfare impacts to achieve other identified outcomes such as preservation of the environment and other animal species (though pest control) and the maintenance of food safety. In these circumstances the aim is to permit necessary activities but minimise any animal welfare impacts.

In general, the primary objectives of the draft POCTA Regulations 2019 of enhancing animal welfare in Victoria are balanced against the regulatory burden on animal owners, businesses, government and the broader community and the economic, social (e.g. human health, cultural/recreational importance) and/or environmental impacts to ensure the regulatory approach is appropriate and not overly burdensome or impactful on stakeholders or the environment.

## 5. Options identification

This section describes the Base Case (being the circumstances which would prevail in the absence of the draft POCTA Regulations 2019) and the range of options to address the issues articulated. The impacts of each of these options have then been assessed in the following chapter.

The options articulated in this chapter have been grouped according to the parts of draft POCTA Regulations 2019 to which they relate. It is noted that the areas covered by Part 2 and Part 3 of the draft POCTA Regulations 2019 have been grouped to assess the impacts according to the main areas addressed in these Parts (being offences, electronic devices and traps). This means that a number of specific issues may be discussed in a single option – for example issues regarding fruit netting, mulesing of sheep and the use of Oxy-LPG devices are grouped together as they would all be defined under ‘offences’ in the draft POCTA Regulations 2019. Part 1 and Part 6 of the draft POCTA Regulations 2019 are general provisions and therefore have not been considered in this chapter.

### 5.1 Non-regulatory options

The objectives set out in the previous section focus on the need to support the POCTA Act in delivering effective protection of animal welfare. Non-regulatory options could be employed with the same ultimate goal, such as:

- Education campaigns to inform individuals and businesses of good practice.
- Increased use of court action to test potential breaches of Section 9 of the POCTA Act.
- Fiscal mechanisms such as taxes/levies, subsidies, or other financial measures which provide economic incentives towards products or practices which support animal welfare.
- Industry adoption of voluntary codes of practice.

These options have all been concluded to be either ineffective (education campaigns), inefficient (i.e. overly costly) or less well aligned with the POCTA Act (fiscal measures). Codes of practice can provide useful information and frameworks for industry to work within but leave residual risks to animal welfare when voluntary (and therefore unenforceable).

In contrast, the POCTA Regulations 2008 (including compulsory codes of practice) have proven to be an effective method for achieving the stated objectives and the draft POCTA Regulations 2019 are likely to be able to protect animal welfare without causing a significant regulatory burden or resulting in significantly negative economic, social or environmental impacts.

All options analysed further (apart from the Base Case) are therefore either entirely or predominantly regulatory.

### 5.2 Protection of Animals – Offences

The following outlines the Base Case and the differing options considered for offences within the draft POCTA Regulations 2019. The options in this section seek to address the concerns identified in relation to offences, fruit netting and Oxy-LPG devices.

#### 5.2.1 Base Case: People can be prosecuted for committing acts of cruelty against animals under POCTA Act

In the absence of the draft POCTA Regulations 2019, requirements in relation to animal cruelty and related offences would not be explicitly stated. Specific offences would not be outlined but

prosecution could occur where the action (or lack of) could be proven to have caused or been likely to cause pain or suffering under the POCTA Act. There would be no ability to use infringement penalties as an alternative to prosecution.

As such, people who commit offences in relation to animal cruelty could be prosecuted under Section 9 of the POCTA Act if sufficient evidence was collated and presented in a Court of Law. This usually only occurs for serious incidents. This would mean that, in practice, people would not be reprimanded for less serious incidents of animal cruelty, which would compromise the protection of animals.

## **5.2.2 Option 1: Defined offences listed and education campaigns on the use of wildlife-unsafe fruit netting**

Under this option, offence provisions remain as they are in the POCTA Regulations 2008, and the option to impose an infringement penalty for these offences would continue. This option would see the draft POCTA Regulations 2019 include five specific regulations that state offences with relation to general requirements, being:

- Transportation of animals - a person must not place or transport an animal in a boot of a sedan motor vehicle.
- Possession of fighting implements - a person must not possess or use a dog fighting implement or cock fighting implement (unless displayed in a museum or possessed by a POCTA inspector to exercise their role under the POCTA Act or draft POCTA Regulations 2019), and a person must not possess an animal with the intention of causing that animal to fight.
- Mouthpieces - a person must not use a mouthpiece on a horse if the mouthpiece is twisted at the point where the device is in contact with the bar of the horse's mouth.
- Pronged collars - a person must not use a pronged collar on any animal.
- Prescribed kinds of traps - a person may only sell and use traps that meet the requirements of the necessary regulations (this has been considered in Section 5.4 of this RIS).

Education campaigns would continue to be used to reduce the use of wildlife-unsafe fruit netting in backyards rather than regulation.

## **5.2.3 Option 2: Broader range of offences to prevent recurrent animal welfare issues (preferred option)**

Under this option, all the conditions and provisions outlined in Option 1 would apply (including education campaigns to reduce the use of wildlife-unsafe fruit netting), with further offences added into the draft POCTA Regulations 2019. These additional offences would include:

### **Leaving animals unattended in cars**

An offence would be added into the draft POCTA Regulations 2019 for leaving animals unattended inside a motor vehicle for more than 10 minutes on hot days (when outside temperatures are at or above 28°C).

### **Carrying animals on metal trays of motor vehicles**

An offence would be included in the draft POCTA Regulations 2019 that would make it an offence to place an animal on the metal tray of a motor vehicle when outside temperatures are at or above

28°C, unless a layer of insulating material is placed on the metal tray that would protect the animal from contact with the metal tray.

### **Transport of farm animals in passenger vehicles**

This regulation would outline how farm animals can be transported in passenger vehicles. It would specify that a person must not transport farm animals in a passenger vehicle unless:

- It is transported in a cage or the cargo section (but not a sedan boot), and
- The cage or cargo section is of a height that allows the farm animal to stand upright without any part of the animal coming into contact with the roof, the ceiling or cover of the cage or cargo section of the motor vehicle, and
- There is a barrier that prevents the farm animal from moving from the cargo section into the seating area of the vehicle.

### **Transport of farm animals when not weight-bearing on all limbs**

Under this option, it would be an offence to transport any farm animals, excluding poultry, if they cannot stand and bear weight on all four limbs, unless:

- The farm animal is accompanied by a veterinary certificate that states that the farm animal is fit for transport, or
- The farm animal is accompanied by a veterinary certificate that specifies conditions that must be complied with to manage the animal welfare risks associated with the transport and the person in charge complies with all relevant conditions.

The person in charge of, the farm animal may, for the purpose of treatment, transport the farm animal:

- Within the property on which the farm animal resides, or
- To another property (not being slaughter premises), part or all of which is less than 20 kilometres from the boundary of the property on which the farm animal resides.

### **Duration for which farm animals can be transported without access to water**

A provision would be added into the draft POCTA Regulations 2019 stating that it would be an offence to fail to adhere to the 'maximum permitted time off water' requirements for each livestock species specified in in Australian Animal Welfare Standards and Guidelines for the Land Transport of Livestock. The provision would also apply to the stated number of hours for 'maximum time off water' for different classes of the various species stated.

The majority of animals included in the Australian Animal Welfare Standards and Guidelines for the Land Transport of Livestock have a maximum time off water of between 24 and 48 hours. Animals included in the guidelines are:

- Alpacas.
- Buffalo.
- Camels.
- Cattle.
- Deer.
- Emus and ostriches.
- Goats.
- Horses.
- Pigs.
- Poultry.
- Sheep.

### **Tethering of animals**

To ensure that tethered animals are provided with the appropriate conditions, regulations will be added to state that animals on a fixed or running tether (of a species permitted to be tethered) must:

- Have access to water at all times.
- Be able to exercise daily off the tether.
- Be able to lie down and rise again without restriction.
- Be tethered by a collar or halter which is attached to the tether by a swivel.
- Be checked at least twice daily.
- For herbivores, be able to graze or browse freely.

In addition, tethered animals that are on their property of residence or roadside bordering a place of residence must have access to, and be able to access, a physical shelter at all times except:

- Animals tethered for less than two hours per day and under the supervision of a person.
- Where the animal is a bovine or equid, in which case, at a minimum, shelter must be provided by a tree.

### **Sheep with overgrown wool**

A provision would be added into the draft POCTA Regulations 2019 making it a regulatory offence if a person allows the fleece of a sheep to grow to a length greater than twice the average annual growth for the breed of sheep or more than 250mm (whichever is the shorter).

### **Pain relief for mulesing**

Under this option, a provision would be added into the draft POCTA Regulations 2019 making it an offence to mulese a sheep unless pain relief has been administered. This pain relief would have to be a product registered for use on sheep by the Australian Pesticides and Veterinary Medicines Authority. It is proposed that a 12-month transition period would apply to this provision.

## **Sale and use of fruit netting**

Under this option, it would be an offence to use or offer for sale fruit netting for the purposes of covering household fruit trees, vegetable gardens and other fruiting plants unless it has the following features:

- A mesh-size of 5mm or less at full stretch.
- Is white in colour.
- A strand diameter of no less than 500 microns.

## **Use of Oxy-LPG devices that destroy burrows in a similar manner**

A provision would be added into the draft POCTA Regulations 2019 stating that an Oxy-LPG device must not be set or used unless all reasonable efforts have been made to empty the warren of live rabbits using other methods. It would be an offence to use these devices (or equipment that destroys burrows in the same manner) unless the burrows have been cleared of all animals (as far as is possible).

### **5.2.4 Option 3: Ban the use of Oxy-LPG devices**

This option is the same regulatory scenario for Option 2 with the exception of the regulations surrounding the use of Oxy-LPG devices. Under this option, it would be an offence for anyone to use these devices.

## **5.3 Protection of Animals - Electronic devices**

The following outlines the Base Case and the differing options considered for electronic devices within the draft POCTA Regulations 2019.

### **5.3.1 Base Case: Use of electronic devices permitted subject to general conditions in Section 9 of the POCTA Act**

With no draft POCTA Regulations 2019 in place, use of all electronic devices on animals would be permitted unless this use could be shown to cause or be likely to cause harm and suffering to animals, which would be regarded as an offence under Section 9 of the POCTA Act.

While the POCTA Act does not prescribe the use of electronic devices, Section 6 states that a person can rely upon compliance with a code of practice as a defence to an offence under the POCTA Act. Electronic devices are mentioned in a number of codes of practice and therefore use of such devices in line with these codes of practice would be considered a defence against potential offences. For example, the Code of Practice for Training Dogs and Cats to Wear Electronic Collars would provide electronic collar users with this defence, but users would have to comply with the conditions outlined in the code.

This code outlines the conditions of use of electronic collars including:

- Electronic collars can be used on dogs for remote-training, anti-barking or containment purposes and on cats for containment purposes only and the animals cannot be below six months of age.
- The physical and psychological health of the animal must be assessed by a veterinary practitioner before an electronic collar can be used.

- Collars must be used in accordance with the code, and the collars must be used only by a veterinary practitioner, competent trainer or qualified dog trainer or a person acting under the supervision and written instruction of one of these experts.
- Collars must be used in accordance with any instructions for use provided by the manufacturer.
- Use of remote-training or anti-bark collars requires an ongoing review by a veterinary practitioner, qualified dog trainer or competent trainer within six months of first beginning use and then every 12 months after that review.
- Collars must not be left on an animal for more than 12 hours in any 24-hour period.
- For containment collars an audible warning signal must be activated so the dog is able to avoid the stimulation.
- For containment collars a visual barrier or physical reference must be used during training for containment systems or if the boundary wire is moved until the animal has learnt the new boundary.

The Code also outlines additional requirements regarding the use of electronic collars including the consideration of alternative options, supervision of training, how to effectively use the collars and additional training requirements for specific collar types.

### **5.3.2 Option 1: Regulating and allowing use of electronic devices under certain conditions**

Under this option, the use of electronic devices would be prescribed under the draft POCTA Regulations 2019. This means that devices would be limited to only those permitted by the draft POCTA Regulations 2019 and under certain conditions, as articulated below. It is noted that the conditions of use of electronic devices under this option are similar to the POCTA Regulations 2008, with additions including the use of electric prodders on pigs in limited circumstances, use of foot shock apparatus in research and the use of devices that are designed to provide a therapeutic effect.

#### **Placement or use of certain electronic devices**

A person must not use or place a device on any animal that is capable of, or is designed to, impart an electric current or shock to the animal, unless they meet the conditions outlined below for specific kinds of electronic devices.

The Minister may approve the use of electronic devices that provide a therapeutic effect on an animal, place conditions on the use of permitted electronic devices or place conditions on who is able to use permitted electronic devices.

#### **Electric fences**

A person may use an electric fence if the electric current travels through a wire, the electric fence is installed so that an animal is able to move away and avoid contact with the wire that is carrying the electric current and if the fence is installed so that the shock of the current cannot kill or harm the animal.

#### **Electric bird deterrents**

A person may use an electric bird deterrent device if the electric current for the device travels through a wire, the device is installed so that a bird can move away and avoid contact with the wire

carrying the electric current and the electric charge that is imparted to the bird is not sufficient to harm or kill the bird.

### **Electric prodders**

A person may use an electric prodder on:

- Cattle, goats or sheep (without restriction other than for cattle at a rodeo).
- Buffalo, camel or deer (if other permitted means of moving these three species have failed).
- Pigs where a person is loading, transporting or unloading pigs and where other permitted means of moving the animal have failed, the individual pig weighs 60 kilograms or more in live weight and there is reasonable risk to the safety of the driver or the pigs.
- Regulated or controlled pest animals if the use of the prodder on those animals has been approved by a veterinary practitioner.
- Cattle at a rodeo if the device is:
  - Placed only on the hip or shoulder of the animal.
  - Used outside of the rodeo arena or training arena of a rodeo school.
  - Used on cattle in the chute only if the animal is down in the chute and is in a position to rise or the animal is standing and has refused to leave the chute.

In addition, a person must comply with the following conditions:

- The prodder must not be used on any animal less than three months of age.
- The prodder must not be used on the face, genitals, perineum or udder of any animal.
- The prodder must not be used in a situation where the animal is unable to move away from the application of the prodder.
- The prodder must not be used excessively on an animal.

### **Electronic stunning devices**

A person who uses an electronic stunning device must do so in accordance with a licence issued under the *Meat Industry Act 1993*.

### **Electronic ejaculators**

A person may use an electronic ejaculator on:

- Cattle, buffalo or sheep if the use is approved by a veterinary practitioner.
- Any other animal kept under the *Zoological Parks and Gardens Act 1995* if the animal is anaesthetised and the use is by a veterinary practitioner.
- Any other animal if the electronic ejaculator is used by a veterinary practitioner or under the direct supervision of a veterinary practitioner.

## **Electronic collars**

Under this option, regulations would impose conditions on the use, sale, hire or supply of electronic collars, being:

- A person must not sell, hire or supply an electronic collar other than one manufactured for use on cats, dogs or livestock.
- A person must not sell, hire or supply an electronic collar for use on a cat, dog or livestock unless the person maintains a record of the prescribed details of the purchaser, hirer or recipient for a period of seven years.
- A person must not sell, hire or supply an electronic collar unless they advise the purchaser, hirer or recipient of the relevant conditions of use for that specific type of collar.
- A person must not use an electronic collar on an animal unless its use is permitted as described in the regulations.
- A person also must not provide any false or misleading information in relation to the details or evidence that is to be recorded by the person selling, hiring or supplying the electronic collar.

In addition, electronic collars used or sold would be required to meet any additional conditions approved by the Minister (additional to those listed in the code of practice) relating to the design and technical specifications of the collar.

## **Electrofishing**

A person must not electrofish<sup>75</sup> unless it is part of a research project approved under a licence granted under Part 3 of the POCTA Act.

## **Electric foot shock apparatus**

A person must not use an electronic foot shock apparatus on an animal unless:

- The use is part of a scientific procedure or program of scientific procedures; and
- There are no valid alternative stimuli; and
- The use has been approved as part of a scientific procedure or program of scientific procedures approved under a licence granted under Part 3 of the POCTA Act.

## **Electrocution traps**

A trap that uses electrocution as a means to kill an animal must only be used for rodents and comply with regulations relating to the setting and use of rodent kill traps.

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<sup>75</sup> Electrofish means to use a device that imparts an electric current into water to stun or kill a fish before it is caught.

### **5.3.3 Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars**

Under this option, conditions around the use of electronic devices would remain the same as in Option 1 except for the regulation of electronic collars. There would be stricter provisions for the use of remote-training and anti-bark collars on dogs under this option, being:

- Remote-training collars could only be used for the training of a dog by a veterinary practitioner or qualified dog trainer.
- Anti-bark collars could only be used through the permission of a veterinary practitioner where there has been a complaint made to local government (in addition to the current conditions outlined in Option 1).

Exemptions could be granted for remote-training and anti-bark collars to be used on military or police dogs.

In complying with conditions surrounding the use of containment collars for dogs and cats, users must erect a visual cue such as a fence, posts or flags that indicate where the boundary for the containment system is located. The containment collar must also send an auditory or vibratory warning to the animal as it approaches the boundary so that there is a sensory warning in advance of the delivery of the shock.

### **5.3.4 Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars (preferred option)**

Conditions around the setting and use of electronic devices would remain the same as under Option 2 except for remote-training and anti-bark collars.

Under this Option, regulation would state that a person must not use, sell, hire or supply a remote-training or anti-bark collar. Use for police or military dogs would be permitted as outlined in Option 2.

Conditions around the use of containment collars would remain as specified in Option 2.

## **5.4 Traps**

The following outlines the Base Case and the differing options considered for traps within the draft POCTA Regulations 2019.

### **5.4.1 Base Case: No traps of any kind are permitted in Victoria**

Under the Base Case the use and sale of any traps that capture animals would not be permitted in Victoria. The POCTA Act states that traps can only be sold and used if they are of a kind prescribed by regulations and used in accordance with those regulations (in Section 15 and Section 15AB). This would apply to a range of traps used for pest control purposes, such as leghold traps, confinement traps, nets, non-kill snares, kill traps, rodent kill traps and glue traps. This range of traps reflects the range of pests in need of controlling, from larger animals such as wild dogs to smaller pests such rodents.

In the absence of the draft POCTA Regulations 2019, the community would be required to comply with the POCTA Act. Sections 15 and 15AB of the POCTA Act set out the penalties for the sale or use of traps if not prescribed by regulations. The maximum penalty is 240 penalty units or

imprisonment for an individual, or 1,200 penalty units for a body corporate. In addition, Section 9 of the POCTA Act outlines offences relating to cruelty, and these may also apply if people were to use traps in a manner that caused or was likely to cause unreasonable pain or suffering.

## 5.4.2 Option 1: Use of traps under certain conditions

Under this option, the use of traps would be prescribed under the draft POCTA Regulations 2019. This means that traps would be able to be used under certain conditions, as articulated below. The conditions outlined for the use of traps under this option are similar to the POCTA Regulations 2008.

### Leghold traps

Under this option, the conditions of setting or using small and large leghold traps would be:

- Traps must only be set or used for the purposes of trapping rabbits (small leghold traps) or foxes or wild dogs (large leghold traps).
- Traps must have the prescribed features such as smooth and padded jaws, meet the jaw size category specified for each species, include a spring and two swivels in the anchor chain and have adjustable pan tension.
- Small leghold traps must not be set or used on Crown land, in an urban area except with the approval of the Minister, nor on any land unless the trap setter has the consent of the owner or occupier of the land. Use in an urban area would require the approval of the Minister. An applicant applying for approval would have to provide the information required in the application and pay the prescribed application fee. Applicants granted approval would have to abide by any conditions imposed by the Minister on that approval.
- Large leghold traps must not be set or used in any area unless that area has been declared by the Minister to be an approved area, and a person must have the consent of the owner or occupier of the land or the manager of the land (for Crown land). Use in an urban area would require the approval of the Minister. An applicant applying for approval would have to provide the information required in the application and pay the prescribed application fee. Applicants granted approval would have to abide by any conditions imposed by the Minister on that approval.
- A trapped animal must not be left alive in the trap for more than 24 hours, or as otherwise approved by the Minister for large leghold traps for wild dogs (with a requirement to report annually when an approval is granted by the Minister).
- A trapped animal that is a declared pest animal must be humanely destroyed as soon as is reasonably possible unless the person who owns it is authorised to own it under the *Catchment and Land Protection Act 1994* and the animal can be returned to the owner.
- If an animal that is not required to be humanely destroyed is captured in the trap and is alive at the time that the trap is checked, the animal must be released as soon as is reasonably possible or provided with veterinary treatment if it is injured (or humanely destroyed if severely injured).
- If an animal released from a trap is uninjured and is a dog or cat in a local government area then it must be taken to the local council as soon as is reasonably possible, or if the animal is a species normally kept in captivity and is not wildlife or a dog or cat then it must be taken to an animal shelter or other appropriate animal care facility as soon as is reasonably possible.

- If an animal released from a trap is uninjured and is a dog or cat or species normally kept in captivity in an unincorporated area, it must be managed either in accordance with a process approved by the Minister or under an agreement with a local council or animal shelter to accept and care for captured domestic animals and, for dogs and cats, to be managed by the council or animal shelter in accordance with the *Domestic Animals Act 1994*.
- If an animal released from a trap is uninjured and is wildlife it must be released at the point of capture, or if it is a wild animal of a species not normally kept domestically but which is not wildlife then it must be either released at the point of capture or humanely destroyed.
- The trap must be set or used to minimise any harm caused to a trapped animal and the risk of catching non-target species.

### Confinement traps

The conditions of the setting and use of confinement traps would be:

- The traps must not be designed in a way that may cause unreasonable harm or suffering to the trapped animal or unreasonable risk of injury to the trapped animal.
- The traps must not grip or strike any part of the body of the trapped animal.
- The trap must not contain hooks, protruding parts or other design features that may injure the trapped animal.
- Traps must not be used on any land except with the consent of the owner or occupier of the land or the manager of the land for Crown land.
- The trapped animal must not be left alive in the trap for more than 24 hours, unless the trap is in the form of a fenced enclosure or yard in a non-urban area and sufficient and appropriate food, water and shelter is available to the trapped animal, in which case the trapped animal must not be left trapped for more than 48 hours.
- A trapped animal that is a declared pest animal or noxious aquatic species must be humanely destroyed as soon as is reasonably possible unless the person who owns it is authorised to own it under the *Catchment and Land Protection Act 1994* and the animal can be returned to the owner.
- If an animal that is not required to be humanely destroyed is captured in the trap and is alive at the time that the trap is checked, the animal must be released as soon as is reasonably possible or provided with veterinary treatment if it is injured (or humanely destroyed if severely injured).
- If an animal released from a trap is uninjured and is a dog or cat in a local government area then it must be taken to the local council as soon as is reasonably possible, or if the animal is a species normally kept in captivity and is not wildlife or a dog or cat then it must be taken to an animal shelter or other appropriate animal care facility as soon as is reasonably possible.
- If an animal released from a trap is uninjured and is a dog or cat or species normally kept in captivity in an unincorporated area, it must be managed either in accordance with a process approved by the Minister or under an agreement with a local council or animal shelter to accept and care for captured domestic animals and, for dogs and cats, to be managed by the council or animal shelter in accordance with the *Domestic Animals Act 1994*.

- If an animal released from a trap is uninjured and is wildlife it must be released at the point of capture, or if it is a wild animal of a species not normally kept domestically but which is not wildlife then it must be either released at the point of capture or humanely destroyed.
- The trap must be set or used to minimise any harm caused to a trapped animal and the risk of catching non-target species.

### Net traps

The conditions of the setting and use of net traps would be:

- The traps may entangle animals but must be constructed of materials designed to minimise any injury to the animals and the trap must not be made of monofilament netting.
- Traps must not be used on any land except with the consent of the owner or occupier of the land or the manager of the land for Crown land.
- Traps that are designed to be triggered by an animal must be checked at least every four hours, and traps that are designed to be triggered by a person or set across the paths of animals (such as a bird or bat) must not be used unless the trap is constantly monitored.
- Once an animal is observed to be trapped or entangled, it must be removed as soon as is reasonably possible.
- A person removing animals from a net trap must be experienced in handling that target species or under the supervision of a person experienced in handling the target species.
- A trapped animal that is a declared pest animal or noxious aquatic species must be humanely destroyed as soon as is reasonably possible unless the person who owns it is authorised to own it under the *Catchment and Land Protection Act 1994* and the animal can be returned to the owner.
- If an animal that is not required to be humanely destroyed is captured in the trap and is alive at the time that the trap is checked, the animal must be released as soon as is reasonably possible or provided with veterinary treatment if it is injured (or humanely destroyed if severely injured).
- If an animal released from a trap is uninjured and is a dog or cat in a local government area then it must be taken to the local council as soon as is reasonably possible, or if the animal is a species normally kept in captivity and is not wildlife or a dog or cat then it must be taken to an animal shelter or other appropriate animal care facility as soon as is reasonably possible.
- If an animal released from a trap is uninjured and is a dog or cat or species normally kept in captivity in an unincorporated area, it must be managed either in accordance with a process approved by the Minister or under an agreement with a local council or animal shelter to accept and care for captured domestic animals and, for dogs and cats, to be managed by the council or animal shelter in accordance with the *Domestic Animals Act 1994*.
- If an animal released from a trap is uninjured and is wildlife it must be released at the point of capture, or if it is a wild animal of a species not normally kept domestically but which is not wildlife then it must be either released at the point of capture or humanely destroyed.
- The trap must be set or used to minimise any harm caused to a trapped animal and the risk of catching non-target species.

## Non-kill snares

The conditions of the setting and use of non-kill snares would be:

- A non-kill snare must only be set or used in accordance with the approval of the Minister. A person applying for approval would have to provide the information required in the application and pay the prescribed application fee. A person granted approval would have to abide by any conditions imposed by the Minister on that approval.
- A captured animal must not be left alive in the non-kill snare for more than eight hours.
- A captured animal that is a declared pest animal must be humanely destroyed as soon as is reasonably possible unless the person who owns it is authorised to own it under the *Catchment and Land Protection Act 1994* and the animal can be returned to the owner.
- If the captured animal is not required to be humanely destroyed and is not an animal for which the non-kill snare has been set or used and is alive at the time that the non-kill snare is checked, the animal must be released from the non-kill snare as soon as is reasonably possible or provided with veterinary treatment as soon as is reasonably possible if injured or humanely destroyed if severely injured.
- If the captured animal released from the non-kill snare is uninjured and is a dog or a cat in a local government area then it must be taken to the local council as soon as is reasonably possible, or if the animal is a species normally kept in captivity and is not wildlife or a dog or cat then it must be taken to an animal shelter or other appropriate animal care facility as soon as is reasonably possible.
- If an animal released from a non-kill snare is uninjured and is a dog or cat or species normally kept in captivity in an unincorporated area, it must be managed either in accordance with a process approved by the Minister or under an agreement with a local council or animal shelter to accept and care for captured domestic animals and, for dogs and cats, to be managed by the council or animal shelter in accordance with the *Domestic Animals Act 1994*.
- If an animal released from a non-kill snare is uninjured and is wildlife it must be released at the point of capture, or if it is a wild animal of a species not normally kept domestically but which is not wildlife then it must be either released at the point of capture or humanely destroyed.
- The non-kill snare must be set or used to minimise any harm caused to a trapped animal and the risk of catching non-target species.

## Rodent kill traps

The conditions of the setting and use of rodent kill traps would be:

- Traps must only be set for the purposes of trapping rodents.
- If the trap is jawed, the jaws must not be toothed, serrated or sharp-pointed in a way that can pierce or tear the skin of the animal.
- Traps must humanely destroy the animal and must not have spikes that could cause injury to a trapped animal before its death.
- Traps must not be designed or used to drown an animal.

- Traps must not be used on any land except with the consent of the owner or occupier of the land or the manager of the land for Crown land.
- Traps must be set or used so as to minimise the risk of catching non-target species.

### **Kill traps**

The conditions of the setting and use of kill traps would be:

- Traps must only be set for the purposes of trapping animals that are established pest animals or any other species approved by the Minister, unless the trap is approved by an AEC for research approved under a scientific procedures licence or if it is a rodent kill trap used in accordance with the regulations for that trap. A person applying for approval would have to provide the information required in the application and pay the prescribed application fee. A person granted approval would have to abide by any conditions imposed by the Minister on that approval.
- Traps must humanely destroy the animal and must not have spikes or serrations which could cause injury to a trapped animal before its death.
- Traps must not be used on any land except with the consent of the owner or occupier of the land or the manager of the land for Crown land.
- Traps, other than a rodent kill trap (which complies with the regulations for that trap), must not be set or used unless the use has been approved by the Minister. A person applying for approval would have to provide the information required in the application and pay the prescribed application fee. A person granted approval would have to abide by any conditions imposed by the Minister on that approval.

### **Glue traps**

The conditions of sale and use of glue traps would be:

- Glue traps can only be used by commercial pest controllers in commercial food manufacturing premises.
- Traps must only be set for the purpose of trapping rodents.
- Glue traps must be used in accordance with the conditions set by the Minister.
- Glue traps can only be purchased by commercial pest controllers and only from wholesalers.

### **Lethal trap devices**

The draft POCTA Regulations 2019 would state that a lethal trap device must not be set or used with a trap unless the lethal agent used in the device has been approved by the Minister. A person applying for approval would have to provide the information required in the application and pay the prescribed application fee.

## **5.4.3 Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations**

Under this option, conditions around the setting and use of traps would be the same as in Option 1 except for leghold traps and glue traps.

## Leghold traps

All conditions around the setting and use of leghold traps would remain the same as Option 1, however the provision for the Minister to approve a longer trap-check time-interval for leghold traps for wild dogs would be phased out by 31 December 2024. As part of receiving approval (up to 31 December 2024), trap users would be required to complete an annual report on the operation of the varied trap-check time-interval.

## Glue traps

This option entails a general ban on the use and sale of glue traps, only allowing their use under a permit system.

Users of glue traps would be limited to commercial pest controllers who have received a permit to purchase the traps. Permits would only be issued in exceptional circumstances, for use in commercial food manufacturing premises, where there was no viable alternative control to glue traps and the use of the traps was in the best interests of the public. Commercial pest controllers would be required to complete annual reporting on the use of glue traps.

The draft POCTA Regulations 2019 would specify what is considered to be a glue trap (anything capable of catching an animal unless it is for insect use, and which has a 'cage' or has other design features to prevent animals becoming stuck or contacting the adhesive section of the insect trap).

### **5.4.4 Option 3: Glue traps prohibited for sale and use on animals, and phase out of Minister approval system for leghold trap-checking time variations (preferred option)**

Under this option, conditions around the setting and use of traps would be the same as in Option 2 except for glue traps. The approval process for varying trap-check time-intervals for leghold traps for the Victorian Wild Dog Program would be phased out after five years, as in Option 2.

## Glue traps

Under this option, a person must not sell or use glue traps for the purposes of trapping an animal. A glue trap could only be sold or used if the trap has the purpose of capturing insects and the trap either has a barrier or other design features which prevent an animal from coming into contact with the adhesive surface.

## **5.5 Rodeos and rodeo schools**

The following outlines the Base Case and the differing options considered for rodeos and rodeo schools within the draft POCTA Regulations 2019.

### **5.5.1 Base Case: Administration-applied permit and application system (as allowed under the POCTA Act)**

The POCTA Act stipulates that it is an offence to operate a rodeo without an individual holding a licence or permit. Each licence and permit holder is subject to any conditions that the Department Head imposes on the licence or permit, or those prescribed in the draft POCTA Regulations 2019. However, these conditions are not outlined in the POCTA Act.

Without the draft POCTA Regulations 2019 in place, conditions for the holding of rodeo events could still be introduced administratively by regulatory authorities under the provisions in the POCTA Act, and a code of practice could also be instated.

These conditions are likely to relate to:

- The provision of necessities for animals involved.
- Facilities at the rodeo (such as chutes and fencing).
- Notifications of rodeo events.
- The presence of a veterinary practitioner.
- The physical condition of animals.
- Handling and treatment of animals.

This would result in a similar regulatory situation to one where the conditions are stated in the draft POCTA Regulations 2019 but with less clarity for licence and permit holders, inspectors and the public as conditions would be individual to each licence or permit. Offenders may face either higher penalties (if successfully prosecuted) or not be penalised at all (if not prosecuted) as infringements could not be issued. It would also mean that activities that are prohibited under the POCTA Regulations 2008, such as calf roping, would be allowed, unless specifically prevented in conditions in individual licences.

### **5.5.2 Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations**

This option is similar to the current POCTA Regulations 2008 apart from the change to introduce applications for approved rodeo organisations. Rodeos could only be operated by licence and permit holders. Licence and permit holders would have to comply with a range of prescribed conditions (similar to those outlined in the Base Case). These would be articulated in the draft POCTA Regulations 2019 making it clearer for industry about what their responsibilities entail. With the draft POCTA Regulations 2019 in place, penalties would be appropriate to the particular type of offence and infringement notices would be able to be applied. Conditions imposed would include:

- The particulars for an application for a rodeo licence or an individual rodeo or rodeo school permit.
- The conditions for operation of rodeos under a rodeo licence, rodeo permit and rodeo school permit and approval of rodeo organisations.
- Notification requirements.
- Requirements for veterinary practitioners, their duties and implementation of their instructions.
- Facilities at the rodeo (such as chutes and fencing).
- Types of animals that can be used, minimum weights, ages, restrictions on repeat use, inspection and condition of animals.
- The treatment of animals including transport, destruction of seriously injured animals, penning, use of equipment and necessities provided.
- The use of fireworks (which are prohibited during a rodeo event).

This situation is similar to the current scenario with the POCTA Regulations 2008 in place.

### **5.5.3 Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations (preferred option)**

In addition to the conditions outlined under Option 1, under this option licence and permit holders would have to comply with additional conditions but there would also be changes that may reduce burden/improve efficiency for licence/permit holders. These are outlined below.

#### **Licensing/permit issues**

Approved rodeo organisations (as opposed to just accredited members) could apply to be licence or permit holders, subject to complying with all other conditions. In addition, The Man from Snowy River Bush Festival Committee would be able to apply for a permit to hold the Brumby-catch event at its festival (subject to complying with all other conditions).<sup>76</sup>

#### **Responsibilities at rodeo events**

The accountability for licence and permit holders and other people in charge at rodeos would be strengthened and clarified. This will be done by:

- Introducing a requirement to create an Animal Welfare Plan, where licence and permit holders would demonstrate how they would meet their obligations under the draft POCTA Regulations 2019.
- Clearly specifying the requirements and responsibilities for animal welfare across a range of roles involved in rodeos such as the Licenced Permit Holder, the Appointed Veterinary Practitioner and the Person-In-Charge.

#### **Operational efficiency improvements**

The use of appropriately experienced veterinary practitioners would be required at rodeo events. Criteria would be created to allow the practitioner to declare their experience with livestock and horses.

Provision would be made in the draft POCTA Regulations 2019 to allow flexibility of the rodeo start-time to accommodate severe weather events. In addition, an offence would be added in relation to breaching a rodeo licence/permit condition that is prescribed in the draft POCTA Regulations 2019, to facilitate effective enforcement of the prescribed conditions.

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<sup>76</sup> The Man from Snowy River Bush Festival Committee is not currently an accredited rodeo operator nor can they meet the requirements to be accredited with an approved rodeo organisation, and so cannot apply for a permit. Brumby catch is not a standard rodeo event.

## Conditions and offences

The conditions around the following areas would be clarified:

- The repeated use of animals at rodeo events - any animal used for bucking, or cattle used for timed events, in a rodeo or rodeo school event operated under the licence or permit would not be allowed on more than 3 occasions on any one day and the same steer must not be used for both steer wrestling and roping events at a rodeo or rodeo school conducted under the licence or permit.
- The use of fireworks at rodeo events - A person must not use fireworks or flares while any animals are in the arena or chutes as part of a rodeo.
- Prevention of motor-vehicle displays from occurring in the arena while animals are present in the area.

## 5.6 Scientific procedures

The following outlines the Base Case and the differing options considered relating to scientific procedures within the draft POCTA Regulations 2019.

### 5.6.1 Base Case: Administration-applied permit and application system and compliance with codes of practice

In the scenario where the draft POCTA Regulations 2019 did not exist, conditions applied to each individual scientific procedures licence (as opposed to conditions for all licences being set out in draft POCTA Regulations 2019) would provide the principle means of control on how animals are able to be used in scientific procedures. Licence holders could be required to comply with various codes of practice, depending on the specific area of focus but only through specific conditions on each licence.

As different conditions could be applied on each licence separately, a simplifying assumption has been made that licence conditions which would be applied by the Department Head in the Base Case are the same as those applied under the POCTA Regulations 2008 with respect to the safeguarding of animal welfare, for example through compliance with codes of practice.

Section 9 of the POCTA Act would apply, meaning that it would be an offence to perform certain procedures on animals (regardless of compliance with codes of practice). In addition, Division 2 under Part 3 (Sections 26-28) of the POCTA Act outlines offences relating to:

- Scientific procedures carried out at scientific premises.
- Scientific procedures carried out outside scientific premises.
- Breeding of specified animals for use in scientific procedures.

In the POCTA Act, there are three different types of licences relating to scientific procedures:

- Scientific procedures premises licences - authorises scientific procedures carried out at scientific premises.
- Scientific procedures field work licences - authorises scientific procedures carried out outside of scientific premises.
- Specified animals breeding licences - authorises the breeding of specified animals and related practices necessary for their sale for use in scientific procedures.

Under these licences, the licence holders must abide by any conditions that are prescribed or that the Department Head imposes on the licence. In the POCTA Regulations 2008, a number of licence conditions are defined, which would have to be separately applied to each licence by the Department Head in the Base Case. These conditions relate to:

- Compliance with codes of practice.
- Nomination and membership of Animal Ethics Committees (AECs).
- Functions of AECs.
- Obtaining specification of premises in licence.
- Obligations as to persons acting under the licence.
- Sources of animals used under the licence.
- Animal care and welfare.
- Prohibition on the use of non-human hominids (i.e. gorillas, chimpanzees, bonobos and orangutans).
- Record keeping.
- Change of nominated person.

The Code of Practice for the Housing and Care of Laboratory Mice, Rats, Guinea Pigs and Rabbits (Laboratory Animals Code of Practice) establishes the minimum standards for the housing and care of these animals. It includes specific principles, minimum standards and recommendations for a number of different areas that can affect an animal's welfare:

- Nutrition.
- Animal enclosures.
- Climate control.
- Behaviour and environmental enrichment.
- Maintenance and hygiene.
- Handling and basic procedures.
- Health monitoring.
- Transportation.
- Euthanasia.
- Monitoring and records.

The Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures (Pound Animals Code of Practice) is made under the POCTA Act but is only made mandatory by the POCTA Regulations 2008. This means that licence holders would not be required to comply with this code, unless this is specifically defined as a licence condition by the Department Head. However, licence/permit holders may choose to do so as compliance with the code may provide a defence against prosecution under the POCTA Act. This code states responsibilities for scientific establishments and municipalities in relation to:

- Holding stray or unwanted animals at a pound prior to release to the scientific establishment.
- Assessing animals to be sourced from pounds by scientific establishments.
- Housing pound animals at scientific establishments and using them in scientific procedures.

Licence holders would not be required to comply with the Australian Code for the Care and Use of Animals for Scientific Purposes (Australian Code) in the absence of the draft POCTA Regulations 2019, unless this was specifically defined as a licence condition by the Department Head.

In the absence of the draft POCTA Regulations 2019 there would be no requirement for licence/permit holders to prepare annual reports or guidance on the setting of a fee which may be imposed for the purpose of preparing a compliance report.

### **5.6.2 Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice**

Under this option, the draft POCTA Regulations 2019 would state the conditions surrounding the use of animals in scientific procedures, which would remain the same as in the POCTA Regulations 2008. In addition, the Code of Practice for the Use of Animals from Municipal Pounds in Scientific Procedures would be amended (redundant references would be removed, the decision-making around the sale and use of animals from pounds would be left to the discretion of the pound owner and the research organisation and specific mention would be made of cats and dogs, rather than generic “animal” (as they are the only species managed by pounds)).

The option would mean the following would be detailed in the draft POCTA Regulations 2019 for scientific procedures premises licences, scientific procedures field work licences and specified animals breeding licences:

- The prescribed particulars for an application for the issue or renewal of a licence.
- The conditions of licences and minimum standards for the specified activity.
- Specifications for the information to be contained in the annual return to the Department Head.

The conditions on each of these licences would be the same as those outlined in the Base Case plus the changes outlined below.

#### **Education standards for AEC members**

Licence holders would need to comply with the Australian Code for the Care and Use of Animals for Scientific Procedures under this option, as this would be specified in the draft POCTA Regulations 2019.

The Code states that scientific institutions must ensure compliance through an AEC. An AEC acts as an internal regulatory body to assess, approve and monitor the organisation’s use of animals in research and teaching. They are required to consider the proposed benefits of the scientific research or teaching and the likely impact to the animals used. They must make an independent decision, based on their own judgement and within the authority granted to them by the Australian Code, as to whether the proposed use is ethically justified.

Under the Australian Code, organisations are also required to provide AEC members with access to appropriate education programs that allow them to fulfil their functions, however this is not currently readily enforced.

#### **Pound Animals Code of Practice**

The Code of Practice for the Use of Animals from Municipal Pounds would be amended under this option to provide greater clarity around the circumstances in which pound-sourced animals can be legitimately used for scientific procedures.

### **5.6.3 Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and amend the Pound Animals Code of Practice**

The regulatory provisions and conditions for scientific procedures would be the same as Option 1 under this option, however the record keeping requirements would be removed and there would be mandated training requirements for new AEC members.

#### **Record keeping requirements**

Under this option, the requirements for all licence holders to keep monthly records of details of procedures would be removed.

#### **Mandate AEC training**

The draft POCTA Regulations 2019 would include a provision stating that newly appointed AEC members would be required to complete training. This would supplement the requirements under Option 1 of organisations to provide 'access' to education programs and training.

This would be a one-off training requirement, which newly appointed AEC members would have to complete prior to, or within six months of being appointed.

### **5.6.4 Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice (preferred option)**

The regulatory provisions and conditions for scientific procedures would be the same as Option 2 under this option, however licence holders would be required to comply with greater restrictions on the use of pound animals in scientific research.

#### **Use of pound animals**

A person must not procure an animal from, or use an animal obtained from, an animal pound or shelter for scientific procedures unless:

- The objective of the procedure is to promote the welfare of animals that are housed in pounds or shelters.
- The objective of the procedure is to train students in a nationally endorsed competency unit and the procedures would occur as part of routine management or veterinary clinical management of the animal and the animals are not subjected to anything additional to routine management or veterinary clinical management of the animal.
- The teacher is competent to carry out the procedure.

Under this option, the Pound Animals Code of Practice would be revoked.

## 6. Options assessment

This section assesses the impacts of the options identified in Section 5 for each issue area. Through this analysis, the preferred regulatory option for each Part of the draft POCTA Regulations 2019 has been identified.

### 6.1 Approach to impact assessment

For each issue area, options identified in Section 5 have been assessed using a multi-criteria analysis (MCA) to determine the preferred option. A MCA involves:

- specifying assessment criteria
- assigning a 'weighting' to each criterion
- assigning scores for each option, for each criterion
- calculating a weighted score for each option, for each criterion.

The assessment criteria and weightings were developed to be consistent with the policy objectives identified in Section 4 of this RIS. The three criteria are:

1. Animal welfare
2. Regulatory burden
3. Economic, social and/or environmental impact.

These criteria are described in more detail in Table 8.

The method for the impact assessment that has been employed is multi-criteria analysis (MCA). This analytical tool was chosen as a way of capturing the full range of costs and benefits of the options and not being restricted to only those which could be quantified. Quantification of costs and benefits was undertaken where appropriate and possible, the results of which are described in the MCA to guide the scoring of options. Quantification was attempted for regulatory burden and economic impacts but not for animal welfare and social and environmental impacts. A range of approaches were used to identify data sources to enable quantification, including:

- Desktop research of official sources (e.g. ABS data, government department statistics, academic research).
- Desktop research of commercial information (e.g. the advertised costs of relevant products).
- A program of stakeholder consultations. Businesses, industry groups, not-for-profit organisations and government departments were consulted for potential data or estimates of cost and time implied by regulatory requirements.

While these activities resulted in quantitative measures in some areas, data availability and/or the inability to develop robust assumptions led to the conclusion that quantification in the remaining areas would have implied false precision in the analysis. Examples of these challenges include:

- Stakeholders' ability to estimate the time required to undertake tasks which they have not done before (and when they are uncertain about the level of support/guidance available).

- Uncertainty about market responses to changing requirements around products (e.g. estimating the effect on quantity, price, profit etc. for a business which substitutes from selling wildlife-unsafe fruit nets to selling wildlife-safe nets).
- Inability to obtain raw data in these areas, such as the number of electronic collars or glue traps sold in Victoria.

Costs and benefits in these areas have been considered by applying a qualitative analysis where quantification was not possible.

The analysis considers the impacts of each regulatory option through both quantitative and qualitative means in order to develop a score for each option. These scores are then compared to identify the preferred regulatory option.

For the criteria where data exists, quantitative estimates of certain costs, benefits and the scale of other impacts have been made to enhance the rationale for scoring within the MCA. Where sufficient data was not available, the evaluation has been undertaken using a qualitative approach which provides a comparative analysis between the options regarding the achievement of the policy objectives. Qualitative benefit (animal welfare) and cost/benefit (economic, social and/or environmental impact) criteria are applied to the MCA, as shown in Table 8.

The primary objective of the draft POCTA Regulations 2019 is to improve and safeguard animal welfare. As a result, priority has been given to these outcomes and this criterion has been assigned a weighting of 50%. Whilst improving and safeguarding animal welfare is a priority, achieving this can also place regulatory burden on stakeholders. Also, the draft POCTA Regulations 2019 may have other indirect economic, social and/or environmental impacts. To ensure the regulatory approach is appropriate and not overly burdensome and that impacts on stakeholders or the environment have been taken into account, equal priorities have been given to these outcomes. These two criteria are therefore assigned a weighting of 25% each.

Table 8: Assessment criteria

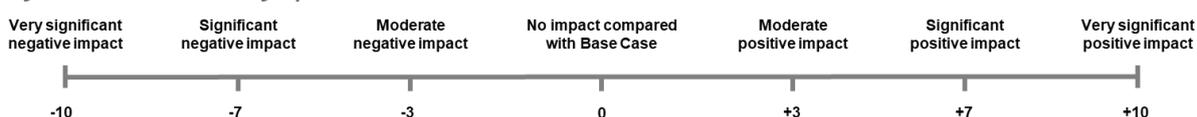
Criterion	Description	Weighting
Animal welfare	<p>The impact of an option on animal welfare. This specifically refers to the ability of the option to meet the objectives of the POCTA Act and draft POCTA Regulations 2019 including the ability to:</p> <ul style="list-style-type: none"> <li>• prevent cruelty to animals</li> <li>• encourage the considerate treatment of animals</li> <li>• improve community awareness about the prevention of cruelty</li> <li>• promote community accepted values and behaviours towards animals</li> </ul> <p>Given that the precise impact of changes in behaviours or activities on animal welfare is unknown this criterion has been assessed qualitatively based on likely change in animal welfare outcomes.</p>	50%
Regulatory burden	<p>Compliance or direct costs borne by individuals, industry or the community associated with complying with the option. These are comprised of:</p> <ul style="list-style-type: none"> <li>• Administrative costs - costs incurred by regulated entities primarily to demonstrate compliance with the regulation (usually record keeping and reporting costs).</li> <li>• Substantive compliance costs - costs incurred to deliver the regulated outcomes being sought (usually purchase and maintenance costs).</li> </ul> <p>This criterion also includes the burden on the Government in the form of costs associated with maintaining the regulatory regime. This includes costs incurred to enforce the regulations and administration costs (e.g. processing licence applications etc.).</p> <p>Quantitative estimates of costs have been included where possible. These estimates will be used to inform the qualitative assessment which will be used to identify scores for each option.</p>	25%
Economic, social and/or environmental impact	<p>The indirect impacts of the option on individuals, industry, the community and government. This refers to the economic, social (e.g. human health, cultural/recreational importance) and/or environmental impacts that an option has through its application or as a result of adherence to its requirements.</p> <p>The availability of information and data has impacted on the ability to assess these quantitatively. Qualitative analysis has been enhanced with quantitative measures where possible.</p> <p>It is noted that given there are not significant costs and benefits in relation to this criterion for rodeos and rodeo schools or scientific procedures and therefore costs and benefits have not been assessed separately (rather the assessment has been done on an overall basis only).</p>	25%

In the analysis, the costs and benefits associated with each criterion have been assessed separately and assigned scores independently before being aggregated for an overall score for the criterion.<sup>77</sup>

The options are scored against each of the criteria on a scale of -10 to +10 with the Base Case reflecting a score of '0'. Figure 4 indicates how this scale is applied in the qualitative analysis, with -10 indicating that the analysis suggests the option is likely to have a very significantly negative impact compared with the Base Case in the relevant criterion and +10 indicating that the option will have a very significantly positive impact compared with the Base Case.

For each option, scores for the three criteria and weightings in Table 8 are used to calculate a weighted score. For each issue, the option with the highest weighted score is the preferred option.

Figure 4: MCA scoring system



## 6.2 Protection of animals - Offences

This section outlines the impacts of the regulatory options proposed for the 'protection of animals - offences' section of the draft POCTA Regulations 2019. The impact of each option is assessed against the defined criteria, relative to the Base Case to provide a means of ranking all options against each other.

Regulatory burden and economic outcomes under all options are likely to be the same as in the Base Case for a wide range of offences which would be specified in regulation. In most cases, the offences specified would be considered to represent cruelty with the potential for action to be taken under the POCTA Act. However, the draft POCTA Regulations 2019 aim to prevent cruelty occurring by providing infringements as a tool to take early action and change behaviour before an animal has clearly experienced "pain and suffering" (which would be required for prosecution under the POCTA Act). The draft POCTA Regulations 2019 also aim to improve administrative processes/efficiency by avoiding time consuming and costly court action.

There are exceptions, where the draft POCTA Regulations 2019 would add offences to address behaviour or actions which are deemed to have negative animal welfare impacts but which are considered unlikely to be prosecuted successfully under the POCTA Act in the Base Case. The main areas of change are fruit netting, the use of Oxy-LPG devices and the practice of mulesing without pain relief. The impact analysis is therefore primarily focused on identifying the differences in animal welfare, regulatory burden and economic, social and/or environmental impact within these areas.

### 6.2.1 Animal welfare criterion - analysis of Options 1 to 3

Animal welfare is the primary concern in the development of the draft POCTA Regulations 2019 and this criterion is therefore allocated the highest weight. Many of the benefits, and some impacts associated with introducing the draft POCTA Regulations 2019 are likely to be captured under this criterion.

<sup>77</sup> Cost and benefit scores for each criterion have been aggregated rather than a weighted average being calculated. For example, if for a particular criterion, an option had a cost score of 0 and a benefit score of 10 then the overall score for the criterion would be 10 rather than 5. This aggregation approach has been taken to simplify presentation of results while maintaining a system in which costs and benefits are weighted evenly. Both approaches give the same preferred option and ordering of options.

### **6.2.1.1 Option 1: Defined offences listed and education campaigns on the use of wildlife-unsafe fruit netting**

This option provides a list of offences which are defined in the draft POCTA Regulations 2019 such that infringements can be used as an enforcement method. In this option, the defined offences are the same as those in POCTA Regulations 2008 and impacts compared with the Base Case are those already being experienced in the status quo scenario.

#### **Positive impacts**

Animal welfare is likely to be improved compared with the Base Case. The POCTA Act provides for high end offences and penalties for serious instances of abuse and/or neglect against animals while the regulations provide a method of addressing more common and, at times, less serious instances of animal welfare offending, particularly when the offence is suitable to be addressed through an infringeable offence.

Regulatory offences are more directly enforceable than the cruelty offences in the POCTA Act which require unreasonable pain or suffering (or the likelihood of unreasonable pain and suffering) to be proven. Inclusion of specific offences regulation allows better enforcement of low-level offending, provides better clarity for those regulated, facilitates easier to enforcement and enables more appropriate penalties for low to medium offending.

More effective compliance options for lower level animal welfare issues, where there is an ability to directly enforce through specific offences and infringements, would assist in changing behaviour and improving compliance. Outlining additional offences in regulation means that minor offences could be penalised through an infringement notice (as opposed to being prosecuted through a Court of Law when found guilty of violating Section 9 of the POCTA Act). This would drive behavioural change that may prevent cruelty from occurring before animals' experience pain and suffering. Further, action can be taken prior to any suffering occurring when these actions or activities are observed, rather than needing proof of having caused or been likely to cause pain or suffering under the POCTA Act.

In addition, an education campaign regarding the use of wildlife-unsafe fruit netting is likely to have a minor positive impact on animal welfare. This improvement would come from the education campaign changing behaviour such that a proportion of users of fruit netting substitute away from wildlife-unsafe netting towards wildlife-safe netting. However, the extent of improvement from the education campaign is not likely to be significant as Government has implemented similar approaches previously with limited effectiveness.

The above analysis indicates this option is likely to have a moderate to significant positive impact on animal welfare and is given a **score of 5**.

#### **Negative impacts**

There are no negative impacts relative to the Base Case.

#### **Overall assessment**

The above analysis indicates this option is likely to have a moderate to significant positive impact on animal welfare. With no negative impacts it is given a **score of 5** for this criterion.

### **6.2.1.2 Option 2: Broader range of offences to prevent recurrent animal welfare issues**

#### **Positive impacts**

In this option, the draft POCTA Regulations 2019 would require fruit netting for household use to be wildlife-safe, which will avoid most of the negative animal welfare outcomes associated with wildlife-unsafe netting. Current animal welfare concerns with wildlife-unsafe netting relate to unintended trapping of animals in netting, leading to prolonged anxiety, serious injury, and death.

With respect to the Grey Headed Flying Fox specifically (a vulnerable species), the extent of these negative animal welfare impacts under the current regime is indicated by:

- 422 incidents per year (based on 211 reported incidents and an estimate of 50% going unreported).
- 61% survival rate for these incidents.
- Over 200 rescues performed each year.

This option also changes conditions around the use of Oxy-LPG devices. The draft POCTA Regulations 2019 would introduce a requirement for warrens to be cleared of all animals before the use of an Oxy-LPG device to collapse the warren. This is likely to deliver animal welfare improvements as the current use of these devices carries a risk of animals suffering intense internal and external injuries instead of immediate death as intended. This risk is caused by difficulty in ensuring the appropriate use of Oxy-LPG devices, either through lack of expertise or miscalculations/lack of accurate information which leads to insufficient pressure from the blast caused by the device. However, it is noted that stakeholders indicate that this risk can be mitigated with correct use according to guidelines which are covered in training provided with every device sold. Insufficient blast pressures can also occur due to factors outside of an operator's control, related to the extent or composition of the warren.

Mulesing of sheep without pain relief will also be prohibited by regulation in this option. While estimates suggest the use of pain relief while mulesing is common (approximately 80% of mulesed sheep receive pain relief)<sup>78</sup>, the welfare of sheep who would otherwise face mulesing without pain relief will be improved. These sheep will avoid facing high levels of pain and difficulty lying down, which are associated with mulesing in the absence of pain relief. Evidence also indicates that sheep recover more quickly and lose less weight when pain relief is used.<sup>79</sup>

In addition to the changes above, a number of other regulatory offences would be added in this option, including regulations related to:

- Leaving animals unattended in cars in hot weather.
- Carrying animals on metal trays of motor vehicles in hot weather.
- Transport of farm animals in passenger vehicles.
- Transport of farm animals when not weight bearing on all limbs.
- Duration with which farm animals can be transported without access to water.
- Tethering of animals.
- Sheep with overgrown wool.

Adding regulatory offences in these areas is considered likely to lead to an improvement in animal welfare resulting from behavioural change in these areas. As outlined in the assessment of Option 1, the inclusion of offences enables more effective compliance options for lower level animal welfare issues. The ability to directly enforce through specific offences and infringements is likely to change behaviour and improve animal welfare in these areas. Under this option, offences relating to a greater number of actions and activities would improve welfare in a larger number of

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<sup>78</sup> <https://www.wool.com/globalassets/start/on-farm-research-and-development/sheep-health-welfare-and-productivity/sheep-health/breech-flystrike/r-and-d-update/2017-merino-husbandry-practices-survey-bsloane.pdf>

<sup>79</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0034528817311232?via%3Dihub>

areas and therefore animal welfare will be enhanced relative to the Base Case and Option 1. The number of animals benefitting from these changes is also likely to be large, indicating a significant overall impact.

Collectively, the introduction of regulations which prevent the use of wildlife-unsafe netting, require the clearing of warrens before using Oxy-LPG devices, and ban the practice of mulesing without pain relief is likely to result in improved animal welfare outcomes compared with the Base Case and Option 1.

This option is likely to provide a significant to very significant improvement in animal welfare and is given a **score of 8** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

The above analysis indicates this option is likely to have significant to very significant positive impact on animal welfare. With no negative impacts it is given a **score of 8** for this criterion.

## **6.2.1.3 Option 3: Ban the use of Oxy-LPG devices**

### **Positive impacts**

This option delivers the greatest improvement in animal welfare of all options. This option is the same as Option 2 with the addition of a ban on the use of Oxy-LPG devices. The prohibition of Oxy-LPG devices means that the risk of animals becoming injured due to incorrect use or factors beyond the operator's control, or inadvertent failure to properly clear a warren is significantly reduced, delivering an improvement in animal welfare compared with Option 2. As outlined above, stakeholders noted that conditions of sale which require training in appropriate use of the device should limit this occurring. Therefore, under Option 2, the requirement to clear warrens coupled with appropriate use of the device may mitigate the risk to animal welfare to a large extent. However, the risk of inadequate blast pressure caused by factors beyond the operator's control, related to the extent or composition of a warren, remains if the warren is not properly cleared. Option 3 delivers improvements in animal welfare by removing this risk.

All other conditions are the same as in Option 2.

This option has the most positive impact on animal welfare with a marginal improvement over Option 2. It is therefore given a **score of 9** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

The above analysis indicates this option is likely to have a significant to very significant positive impact on animal welfare. With no negative impacts it is given a **score of 9** for this criterion.

## **6.2.2 Regulatory burden criterion - analysis of Options 1 to 3**

The main costs of introducing regulation relate to the regulatory burden imposed on individuals, businesses and government. These costs are captured under this criterion. Each regulation has been examined for the likely costs (or burden of complying with the regulation) imposed on parties impacted by the draft POCTA Regulations 2019.

As with the analysis of animal welfare, regulations for fruit netting, Oxy-LPG devices and pain relief for mulesing have been identified as being the most readily quantifiable/assessable as they present the most significant new administration and compliance costs.

### 6.2.2.1 Option 1: Defined offences listed, and education campaigns on the use of wildlife-unsafe fruit netting

#### Positive impacts

There are no positive impacts relative to the Base Case.

#### Negative impacts

The regulatory compliance burden is unlikely to be different from in the Base Case as defined offences are considered to be prohibited in the Base Case and there is no significant burden imposed by education campaigns. However, greater compliance associated with infringements may mean that individuals and businesses face costs they otherwise would not have. These are the costs that compliant individuals and businesses would face in the Base Case. The additional compliance by those that would otherwise not have complied with the regulations will lead to higher costs for those people or businesses. As a result, in practice there may be additional regulatory burden, resulting from higher levels of compliance.

In this option there is a cost to Government of running education campaigns.

There is also a cost related to enforcement under this option. However, it may be less costly to Government to achieve the same level of enforcement as in the Base Case. This is because enforcement in the Base Case requires prosecution, while in this option Government can use infringements for the defined offences (which are a less costly enforcement method). The extent (or existence) of any saving is uncertain and would depend on factors such as the effectiveness in regulations achieving behaviour change and the number of potential infringements relative to the potential number of prosecutions in the Base Case. This uncertainty means that savings on enforcement have not been assumed in scoring this option.

The marginal increase in regulatory burden resulting from enhanced compliance and the cost to government in running education campaigns means this option is given a **score of -1**.

#### Overall assessment

The marginal increase in cost to government in running education campaigns, combined with the lack of positive impact, means this option is given a **score of -1** for this criterion.

### 6.2.2.2 Option 2: Broader range of offences to prevent recurrent animal welfare issues

#### Positive impacts

There are no positive impacts in relation to this criterion relative to the Base Case.

#### Negative impacts

This option is likely to introduce a regulatory burden on individuals and businesses, through the additional requirements related to the use of fruit netting, clearing burrows prior to using Oxy-LPG devices, and requiring the use of pain relief when mulesing sheep. The estimated regulatory burden in each of these areas is described below.

The addition of new offences will increase the cost of government enforcement as previously permitted activities would now be prohibited and this prohibition will need enforcement. However, in some cases government may face lower costs compared with prosecution under the POCTA Act (e.g. for offences which have been added but are already covered by codes of practice or otherwise likely to be enforceable under the POCTA Act).

## Fruit netting

Restrictions on permitted types of fruit netting for household use will introduce a regulatory burden compared with the Base Case if these requirements increase the cost or decrease the effectiveness (i.e. utility gained by users) of fruit netting, or both.

Analysis of these factors indicates that any additional costs to users of switching from wildlife-unsafe to wildlife-safe netting are likely to be very minor once the relative quality of the different products is considered (and may even be negative). Information from stakeholders indicates that a wildlife-unsafe net is likely to last one season at most while wildlife-safe netting is likely to last three seasons at least. While the cost of wildlife-unsafe netting is cheaper up-front the cost per use for wildlife-unsafe netting is likely to be greater than that for wildlife-safe netting, based on:

- Cost of wildlife-unsafe netting likely to last one season: \$10.99.<sup>80</sup>
- Cost of wildlife-safe netting likely to last 3 seasons: \$28.98.<sup>81</sup>

Overall, restrictions on permitted types of fruit netting will limit the products available to purchasers and may result in purchasers facing a higher up-front cost. However, the remaining wildlife-safe products are more effective (last longer and give greater coverage of fruit by having smaller apertures) and are likely to be cheaper once quality differences are accounted for.

## Clearing burrows prior to Oxy-LPG device use

The requirement to clear burrows before using an Oxy-LPG device will impose a regulatory burden. Pest controllers will have to bear the additional cost of using alternative methods to clear the burrow while still using the Oxy-LPG device to collapse the burrow. In some cases, these methods (such as baiting, fumigation etc.) may already have been employed as part of a broader pest control strategy. However, even where these methods have been used, the requirement to ensure a burrow is clear will impose additional time and effort on individuals and businesses which intend to use these devices (noting that use is less frequent than other methods and tends to be limited to situations in which other methods are unsuitable).

Measuring (i.e. quantifying) these costs with accuracy is challenging as the extent of alternative methods required and the time imposed of checking burrows is highly context specific. The actions outlined above which would be required under this option introduce a level of regulatory burden which is not present in either the Base Case or Option 1, however, the overall impact is unlikely to be significant (as noted above, use is typically only when other methods are unsuitable).

## Pain relief while mulesing

Requiring the use of pain relief while mulesing sheep will have a regulatory burden to the extent that farmers who do not already administer pain relief will face the additional cost of doing so.

Feedback from stakeholders indicates that around 80% of Victorian Farmers Federation members already apply pain relief during mulesing. This means that the additional burden of introducing regulations to make this a requirement is likely to be quite low, as most farmers will not need to change their methods at all.

The additional regulatory burden is represented by the cost of applying pain relief to the remaining cohort of lambs that would not otherwise have received it. Analysis of the cost of Tri Solfen<sup>82</sup> used in line with product guidelines indicates:

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<sup>80</sup> 4x10M Commercial Fruit Tree Plant Knitted Anti Bird Netting Pest Net Mesh – accessed on ebay 02/07/2019

<sup>81</sup> [https://www.bunnings.com.au/diamond-econetting-4m-x-10m-x-5mm-white-anti-bird-net\\_p3041127](https://www.bunnings.com.au/diamond-econetting-4m-x-10m-x-5mm-white-anti-bird-net_p3041127) - accessed 02/07/2019

<sup>82</sup> Tri-Solfen is a topical anaesthetic and antiseptic applied by spraying. Stakeholders indicated this product to be an appropriate benchmark.

- The cost of pain relief is \$1.69 per lamb.<sup>83</sup>
- There were 7,280,080 lambs marked in Victoria in 2017/18.<sup>84</sup>
- Assuming 80% of these lambs would have received pain relief without a regulatory requirement, 1,456,016 lambs would receive pain relief who would otherwise not have.
- The total regulatory burden is estimated at \$2,460,667 per annum.

In addition to this cost, there will also be a marginal increase in time taken per lamb, for the pain relief to be administered.

With little to no burden related to fruit netting, some burden related to Oxy-LPG devices and some burden related to mulesing, this option is assessed as having a moderately negative impact and **scores -3** for this criterion.

### Overall assessment

With no positive impact and a moderately negative impact this option **scores -3** for this criterion.

#### 6.2.2.3 Option 3: Ban the use of Oxy-LPG devices

This option introduces the same level of regulatory burden as Option 2 with respect to the use of wildlife-safe fruit netting and the requirement to use pain relief while mulesing. The cost of enforcement faced by Government is likely to be the same as for Option 2.

### Positive impacts

There are no positive impacts in relation to this criterion relative to the Base Case.

### Negative impacts

With respect to the ban on use of Oxy-LPG devices, there is likely to be an increased regulatory burden as alternative methods would be required to achieve all pest control outcomes, i.e. alternative methods will be required to destroy rabbits and to collapse the burrow to limit the potential for pests to return quickly. Stakeholders have indicated that these devices are predominantly used where other methods are ineffective for collapsing burrows. This means that either a less effective method will be employed, and additional regulatory burden felt, or that the burrow will remain in place and the effectiveness of pest control will be reduced (discussed in the next criterion).

The regulatory burden experienced is likely to be greater than under Option 2, and with a moderate to significant impact this option is given a **score of -5**.

### Overall assessment

The overall burden experienced is likely to be greater than under Option 2, and this option is therefore given a **score of -5** for this criterion, reflecting a moderate to significant impact.

## 6.2.3 Economic/social/environmental impact criterion - analysis of Options 1 to 3

This criterion reflects that there are benefits and costs of the regulatory options which are not captured under the animal welfare or regulatory burden criteria. These benefits and costs may

<sup>83</sup> Product cost from <https://www.qldruralsupplies.com.au/tri-solfen> and product usage guidelines from <https://www.growsolutions.com.au/en/products/products-details.php?id=427> - both accessed on 28/06/2019.

<sup>84</sup> Catalogue Number 7121.0 - Agricultural Commodities, ABS (2017-18), <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/7121.02017-18?OpenDocument>

relate to individuals, businesses, government or society through economic, social, or environmental impacts.

### **6.2.3.1 Option 1: Defined offences listed and education campaigns on the use of wildlife-unsafe fruit netting**

The economic, social and environmental impacts of Option 1 are likely to be similar to those in the Base Case, with conditions very similar in these two options.

#### **Positive impacts**

To the extent that education programs increase the use of wildlife-safe fruit netting, this may have a marginal social and environmental benefit as fewer animals are caught in netting, lessening the impact on the environment and lessening potential distress of people having to witness and deal with animals found injured or dead in netting.

The marginal positive impact compared with the Base Case means that this option is given a **score of 1** in this criterion.

#### **Negative impacts**

There are no negative impacts relative to the Base Case.

#### **Overall assessment**

The marginal positive impact compared with the Base Case, with no negative impacts, means that this option is given a **score of 1** in this criterion.

### **6.2.3.2 Option 2: Broader range of offences to prevent recurrent animal welfare issues**

The addition of new offences is likely to deliver more significant economic, social and environmental benefits than either the Base Case or Option 1 but will also introduce costs which do not arise in these options.

#### **Positive impacts**

Positive impacts from the requirement to use fruit netting which is wildlife-safe include:

- Reduced time and materials costs associated with the rescue and care of animals trapped in wildlife-unsafe netting. These avoided costs are likely to be significant, ranging from around \$350 per event where an animal has already died up to around \$4,000 per event where an animal survives and goes through the full rehabilitation process.<sup>85</sup>
- Reduced costs to the health system where volunteers or homeowners are bitten or scratched by an animal trapped in netting (and therefore require vaccinations and potentially other medical care).
- Reduced risk of distress for people finding animals injured or dead in wildlife-unsafe netting.
- Increased resource efficiency as wildlife-safe netting products are more durable than wildlife-unsafe netting.

Benefits from the requirement to use pain relief while mulesing include:

- Benefits for retailers and manufacturers of pain relief medication from increased demand for these products.

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<sup>85</sup> Analysis by Wildlife Victoria provided to AWV.

- Benefit to the industry relating to social licence and market access. Some wool buyers have suggested that pain relief is required to respond to retailer and consumer demands in relation to animal welfare and the lack of pain relief may jeopardise access to some markets and/or reduce demand for Australian wool.<sup>86</sup>
- Sheep recover more quickly and lose less weight compared with those not provided with pain relief.

Based on these significant positive impacts, this option has been given a **score of 7**.

### Negative impacts

Negative impacts from the requirement to use fruit netting which is wildlife-safe include:

- Impact on retailers who sell existing fruit netting products which are deemed wildlife-unsafe (this may be mitigated by the ability of retailers to stock wildlife-safe products).
- Increased up-front costs for users of existing fruit netting products which are deemed wildlife-unsafe.
- Potential environmental impacts of disposal of wildlife-unsafe netting while users change over to wildlife-safe products.

It is noted that there are unlikely to be significant economic, social or environmental costs from the requirement to clear burrows of animals before the using an Oxy-LPG device in addition to those identified under the regulatory burden criterion.

There are unlikely to be significant costs from the requirement to use pain relief while mulesing in addition to those identified under the regulatory burden criterion.

The negative impacts have been assessed to give this option a **score of -2**.

### Overall assessment

On balance, the additional benefits are considered to outweigh the additional costs and result in a moderately to significantly positive impact overall. This option therefore scores higher than Option 1 on this criterion, with an aggregated **score of 5**.

#### 6.2.3.3 Option 3: Ban the use of Oxy-LPG devices

The economic, social and environmental benefits and costs of this option are the same as in Option 2, with the exception of those related to the use of Oxy-LPG devices.

### Positive impacts

There are unlikely to be any additional economic, social or environmental benefits from banning these devices, compared with Option 2. Based on the significant positive impacts detailed in Option 2 (and applicable to this option), this option has been given a **score of 7**.

### Negative impacts

There are likely to be additional costs of prohibiting the use of Oxy-LPG devices, which include:

- Impacts on the business selling Oxy-LPG devices.

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<sup>86</sup> See <https://www.abc.net.au/news/rural/2017-08-09/italian-buyers-frustrated-by-ongoing-mulesed-wool-problem/8744944>, and <https://www.abc.net.au/news/2018-03-10/wool-buyers-push-for-more-action-against-sheep-mulesing/9526650>

- Costs of being unable to achieve the same outcomes without using Oxy-LPG devices - in many cases, these devices are used on areas close to trees, on slopes or with sensitive land (e.g. indigenous artefacts, burial grounds etc.) as other methods are ineffective or not possible in these instances.

These negative impacts, combined with those identified under Option 2, have been assessed to give this option a **score of -4**.

### Overall assessment

The additional economic costs are estimated to be of sufficient magnitude to score differently from Option 2. This results in a reduced estimate of economic impact, with a moderately positive aggregate **score of 3**.

### 6.2.4 MCA analysis - scoring summary

Table 9 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 2 is the highest scoring and is therefore the preferred option.

Table 9: Multi-criteria Analysis scoring summary: Protection of animals - offences

Criteria	Weight	Option 1: Defined offences listed and education campaigns on the use of wildlife-unsafe fruit netting	Option 2: Broader range of offences to prevent recurrent animal welfare issues	Option 3: Ban the use of Oxy-LPG devices
Animal welfare	50%	5	8	9
Regulatory burden	25%	-1	-3	-5
Economic, social and environmental impact	25%	1	5	3
Weighted score		2.5	4.5	4

## 6.3 Protection of animals - Electronic devices

This section outlines the impacts of the regulatory options proposed for the 'protection of animals - electronic devices' section of the draft POCTA Regulations 2019. The impact of each option is assessed against the defined criteria, relative to the Base Case to provide a means of ranking all options against each other.

There are circumstances where the use of electronic devices may provide benefits that justify negative animal welfare impacts. Where use is reasonable, regulations aim to minimise the potential negative impacts. In other circumstances, use of an electronic device may not be justifiable and therefore regulations will prohibit use.

Use of electronic devices may cause 'pain and suffering' which could potentially lead to prosecution under the POCTA Act. However, the POCTA Act does not specifically regulate the use of electronic devices. This analysis therefore proceeds on the basis that introducing regulations on the use of electronic devices will impose some level of regulatory burden on businesses and individuals. The

analysis will also consider the animal welfare and economic, social and environmental impacts of introducing regulations.

### **6.3.1 Animal welfare criterion - analysis of Options 1 to 3**

#### **6.3.1.1 Option 1: Regulating and allowing use of electronic devices under certain conditions**

##### **Positive impacts**

This option places certain conditions on the use of permitted electronic devices which are intended to protect animal welfare. These conditions place restrictions around the use of electronic devices and therefore could be expected to result in higher levels of animal welfare compared with the Base Case, in which these devices may be used without these conditions (subject to general provisions in the POCTA Act). This option effectively replicates the POCTA Regulations 2008.

The introduction of regulations relating to electronic devices may improve animal welfare in the following ways:

- Electric fences and electric bird deterrents utilise a wire that the animals can move away from with the aim of deterring an animal from an area. They provide animals with an aversive stimulus when they come into contact with the fence (although this sensation is minimal by design). Regulations in this option would ensure that the shock of the electric current does not kill or harm the animal.
- Electric prodders are used to assist with moving livestock but can increase stress levels and cause pain in animals, however this option would restrict the species and age of animals that a prodder can be used on. It also places conditions on use to minimise harm to animals.
- Electronic stunning devices are humane if used correctly but can cause unnecessary animal harm and suffering if used incorrectly or are of incorrect design and specification. However, regulation would ensure that use is limited to responsible persons who have obtained a licence issued under the *Meat Industry Act 1993*.
- Electronic ejaculators are used to reduce animal and human safety concerns but can cause discomfort and muscle soreness to bulls. Regulation would limit use, depending on species, to veterinary practitioners or where use is approved by a veterinary practitioner (who are trained on the proper use of the devices).
- Use of electrofishing and electric foot apparatus have a role in animal research but can cause harm to animals if used incorrectly, but regulation would limit use to licence holders who are conducting scientific procedures.
- Allowing certain devices for therapeutic use (e.g. transcutaneous electrical nerve simulation machines) can improve animal welfare (e.g. by reducing pain).

There may also be other instances of improved animal welfare compared with the Base Case. For example, in some cases, regulation would provide further clarification on the use of certain electronic devices which can help users to ensure appropriate use.

Users of electronic collars would have to comply with the Code of Practice for Training Dogs and Cats to Wear Electronic Collars as in the Base Case. However, in this option there may be further conditions to comply with as approved by the Minister, which is likely to deliver improved animal welfare outcomes.

The combined effect of these changes represents a moderate to significant improvement in animal welfare outcomes and this option is given a **score of 5** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

With no negative impacts relative to the Base Case and a moderate to significant improvement in animal welfare outcomes, this option is given a **score of 5** for this criterion.

#### **6.3.1.2 Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars**

### **Positive impacts**

This option would deliver the same animal welfare outcomes as Option 1 with respect to the use of most electronic devices. However, it would deliver higher levels of animal welfare with respect to the use of electronic collars on dogs, and cats (for containment collars), which is more restricted in this option.

The use of remote-training collars would be limited to veterinary practitioners or qualified dog trainers, while the use of anti-bark collars would require the permission of veterinary practitioners. There is currently no overarching industry body or universally accepted training course to define a suitably qualified dog trainer. As a result, the regulations in this option would require qualified dog trainers to have completed a training course approved by the Minister.

These restrictions would go some way to reduce the risk of the misuse of collars, which is a cause of negative welfare impacts on animals. These additional conditions are likely to improve animal welfare in the following ways:

- For remote-training collars used on dogs:
  - Animals with anxiety or a mental state which makes them unable to interpret the source of the shock correctly may experience distress, pain and additional fear/anxiety without changing their behaviour as desired. In these instances, the dog has no control over whether they experience this distress as a human operator may continue to administer the shock while the dog's behaviour remains unchanged. Trained professionals are more likely to identify such animals as inappropriate candidates for receiving training through the use of electronic collars.
  - Even where the animal may be a suitable candidate for use of an electronic collar, misuse of the device is likely to cause unnecessary distress for the animal. Trained professionals are more likely to use the devices appropriately.
- For anti-bark collars used on dogs:
  - Anti-bark collars may result in the dog ceasing to bark but still experiencing distress as the underlying causes of barking may still be present. In these cases, the dog may be able to avoid the distress associated with the activation of the collar but are still experiencing the anxiety, fear or stress which was the cause of barking. Permission for the use of anti-bark collars by a veterinarian may reduce this risk.
- For containment collars used on dogs and cats:
  - Further regulation around the use of containment collars for dogs and cats (e.g. the requirement to maintain visual cues post training) could mean that animals are able

to increase their understanding of boundaries while minimising the risk of repeated negative stimulus. However, there is still a risk that some animals are unable to recognise these cues and are therefore unable to avoid distress.

These improvements in animal welfare compared with Option 1 mean that this option is given a **score of 7** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

With no negative impacts relative to the Base Case and a moderate to significant improvement in animal welfare outcomes, this option is given a **score of 7** for this criterion.

#### **6.3.1.3 Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars**

### **Positive impacts**

This option would deliver the same animal welfare outcomes as Option 2 with respect to the use of most electronic devices. However, it would deliver higher levels of animal welfare with respect to the use of remote-training and anti-bark collars.

The use of these collars would be prohibited under this option (except for Victorian Police, Australian Federal Police and Australian Defence Force dogs), delivering an improvement in animal welfare. The banning of remote-training and anti-bark collars will improve animal welfare compared with Option 2 (in which use is restricted and strictly regulated) as:

- Prohibiting use eliminates much of the residual risk that electronic collars are used inappropriately and cause unnecessary harm to animals who do not respond to this training method. There remains a low level of risk to animal welfare from non-compliance or from use of alternative training methods which also cause suffering and distress to animals.
- Even animals which appear to respond correctly to the use of an electronic collar are being trained using punishment rather than the alternative methods of positive reinforcement, meaning that the animal experiences suffering and distress which may be unnecessary to achieve the same behaviour change.

These improvements in animal welfare compared with Option 2 mean that this option is given a **score of 9** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

With no negative impacts relative to the Base Case and a significant improvement in animal welfare outcomes, this option is given a **score of 9** for this criterion.

## **6.3.2 Regulatory burden criterion - analysis of Options 1 to 3**

### **6.3.2.1 Option 1: Regulating and allowing use of electronic devices under certain conditions**

### **Positive impacts**

There are no positive impacts in relation to this criterion relative to the Base Case.

## Negative impacts

The regulatory burden in this option is higher than in the Base Case, as conditions on the use of electronic devices would be prescribed. This means that individuals and businesses may only use a device subject to conditions in the draft POCTA Regulations 2019, when use would have been more widely available in the Base Case.

The extent of this burden is likely to be marginal to significant. The draft POCTA Regulations 2019 would aim to reduce the risk of pain and suffering in animals which could have breached Section 9 of the POCTA Act in the Base Case. This would be achieved by providing a stricter assurance on appropriate use and driving behaviour change which is likely to result in individuals and businesses taking more time and care using electronic devices or using alternative methods.

Government will bear a marginal increase in enforcement cost compared with the Base Case as the mandated conditions on the use of electronic devices will need monitoring. However, this is likely to be a relatively minor increase as compliance with the POCTA Act in relation to the effect of these devices in the Base Case also carries a cost. While the level of enforcement may be higher for Government, the presence of regulations may make this task simpler and less costly compared with having to prove pain and suffering to prosecute under the POCTA Act.

There is likely to be moderate to significant increase in regulatory burden compared with the Base Case and the option is therefore given a **score of -4** for this criterion.

## Overall assessment

Overall, there is likely to be moderate to significant increase in regulatory burden compared with the Base Case and, with no positive impacts, this option is given a **score of -4** for this criterion.

### 6.3.2.2 Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars

#### Positive impacts

There are no positive impacts in relation to this criterion relative to the Base Case.

#### Negative impacts

This option introduces a regulatory burden on individuals and businesses compared with Option 1. Specific variations from Option 1 relate to conditions on the use of remote-training collars, anti-bark collars and containment collars. The estimated regulatory burden in each of these areas is described below.

#### Remote-training collars

Restrictions on the use of remote-training collars by veterinary practitioners or qualified dog trainers will introduce an additional cost associated with these consultations.

- Analysis of these consultation cost impacts indicates a cost of around \$40 - \$80 for a 15-minute consultation with a veterinarian.<sup>87</sup>
- Analysis of costs of a private consultation with a qualified dog trainer indicate an approximate cost of \$150 per hour.<sup>88</sup>
- The overall burden faced will depend on the number of consultations sought, which is difficult to determine. This is likely to be lower than the existing use of collars as the

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<sup>87</sup> Australian Veterinary Association

<sup>88</sup> <https://www.positiveresponse.com.au/price-list/>

introduction of regulation is likely to decrease the use of electronic collars (e.g. through better public awareness of their impacts on animal welfare).

In addition to the costs faced by pet owners, dog trainers will be required to undertake a training course approved by the Minister in this option. In some cases, this will create an additional cost to dog trainers if they are deemed to be insufficiently qualified currently. The overall level of this burden will depend on what proportion of dog trainers have already completed training which would be approved by the Minister.<sup>89</sup>

#### **Anti-bark collars**

Requirements to use anti-bark collars in accordance with a veterinary consultation will introduce an additional cost associated with these consultations similar to remote training collars discussed above.

#### **Containment collars**

The additional requirement to provide and maintain visual and either auditory or vibratory cues in place when using containment collars is unlikely to carry a significant regulatory burden. These visual cues are already required during the initial use of containment collars (in accordance with the Code). Therefore, while there may be a marginal increase in burden from maintaining these cues, this is unlikely to be significant.

These additional sources of burden mean this option is given a **score of -6** for this criterion.

#### **Overall assessment**

Overall, there is likely to be an increase in regulatory burden compared with the Base Case and, with no positive impacts, this option is given a **score of -6** for this criterion.

### **6.3.2.3 Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars**

#### **Positive impacts**

There are no positive impacts in relation to this criterion relative to the Base Case.

#### **Negative impacts**

The regulatory burden for this option is higher than in Option 2 as remote-training and anti-bark collars are prohibited, meaning that individuals and businesses will have to use alternative methods to achieve the desired training outcomes. The regulatory burden associated with containment collars is the same as in Option 2.

Positive reinforcement methods (e.g. the use of rewards) are alternatives for training, which individuals and businesses may apply in place of remote-training and anti-bark collars. Evidence indicates that these methods are likely to be as effective in the longer run (as well as delivering the animal welfare benefits discussed above).<sup>90</sup> This evidence base has led to the prohibition on the public use of these collars in other states. However, stakeholders indicate that alternative methods are likely to be more labour intensive and therefore require increased time and effort on behalf of individuals and businesses.

As with other options, increasing the regulatory burden on individuals and businesses comes with an increase in the cost of enforcement for government. However, the cost to government of enforcing a ban on remote-training and anti-bark collars is unlikely to be significantly above that in Option 2 (in which conditions on use impose a cost on government). Costs to government may also

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<sup>89</sup> Data limitations, related to the nature of the industry (e.g. no overarching body or nationally agreed training standards), constrain the ability to provide a specific estimate of how many dog trainers are likely to be impacted.

<sup>90</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0168159111000876>

be reduced in this option as a ban on remote-training and anti-bark collars removes the necessity for government to identify and monitor which individuals meet the qualification requirements.

The marginal increase in regulatory burden compared with Option 2 means that this option is given a **score of -7** for this criterion.

### **Overall assessment**

Overall, there is likely to be an increase in regulatory burden and, with no positive impacts, this option is given a **score of -7** for this criterion.

## **6.3.3 Economic/social/environmental impact criterion - analysis of Options 1 to 3**

This section discusses the relative impacts of the options in relation to the economic/social/environmental criterion. Under this option, there are unlikely to be any environmental impacts in this area, and therefore the discussion focuses on economic and social impacts.

### **6.3.3.1 Option 1: Regulating and allowing use of electronic devices under certain conditions**

#### **Positive impacts**

There may be a minor increase in social benefit compared with the Base Case, as appropriate use of devices will reduce the risk of people facing anxiety, stress, or threats to personal safety associated with the potential consequences of inappropriate use. This may be from the effect of observing an animal in pain or potentially the risk of an animal reacting to inappropriate use by identifying a human as a threat and lashing out violently. Regulation is likely to deliver an improvement as it is a more effective tool for influencing behaviour. Enforcing regulations is easier than prosecution (which is lengthy and costly) and therefore prosecution may occur less frequently and therefore not influence behaviour to the same degree. This means that while the targeted behaviour is similar in this option and the Base Case, regulation is expected to deliver increased compliance.

Based on these minor positive impacts, this option has been given a **score of 1**.

#### **Negative impacts**

This option is likely to result in a minor negative impact on economic conditions. Additional restrictions on the use of electronic devices are likely to result in a relatively small decrease in demand for these devices. This impact is expected to be relatively minor as the draft POCTA Regulations 2019 would still allow use of devices but would aim to ensure appropriate use, design and specifications. These effects are expected to be similar for all relevant categories of device and are predominantly reduced sales of devices for retailers.

The minor negative impacts have been assessed to give this option a **score of -1**.

### **Overall assessment**

As these conditions aim to ensure behaviour which is intended (but not specifically mandated) in the Base Case, the negative and positive impacts are likely to be relatively moderate.

The moderate level of both positive and negative impacts for this option compared with the Base Case means that this option is given an aggregate **score of 0** for this criterion.

### 6.3.3.2 Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars

The same categories of economic and social impact as in Option 1 are likely to be relevant for this option, albeit at a slightly larger magnitude with respect to remote-training collars, anti-bark collars and containment collars.

#### Positive impacts

Positive social impacts may include pet owners gaining an increased understanding of pet behaviour and feeling increased satisfaction from using positive reward-based training mechanisms instead.

In addition, the social benefits of requiring more responsible and appropriate use of these devices are likely to be greater in this option.

An additional economic benefit of this option, compared with Option 1, is the increased demand for the trained professionals whose expertise is required to use remote-training and anti-bark collars and whose level of expertise is likely to have improved due to training requirements (i.e. trainers are more in demand and more productive).<sup>91</sup>

Based on these moderately positive impacts, this option has been given a **score of 4**.

#### Negative impacts

Negative social impacts may occur if the reduced use of these collars is not offset by increased use of other methods (and may even result in some individuals and businesses using alternative methods which also threaten animal welfare, e.g. continuing to use punishment as opposed to reward-based training). Were this to occur, the wider community could experience costs related to nuisance animal behaviour that may otherwise have been controlled using an electronic device (e.g. an increase in noise from barking dogs).

There is potential for a further reduction in demand for these devices, compared with Option 1, given the greater level of control on their use.

These minor negative impacts have been assessed to give this option a **score of -2**.

#### Overall assessment

The additional social and economic impacts in this option represent a marginal increase in net benefit compared with Option 1. This option is therefore given an aggregate **score of 2** for this criterion.

### 6.3.3.3 Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars

Economic and social benefits are the same in this option as in Option 2, with respect to all devices other than remote-training and anti-bark collars.

#### Positive impacts

The social benefits from ceasing use of these collars are likely to be highest in this option. This option will provide the greatest increase in the use of positive reward-based training practices which can provide social benefits for pet owners and trainers, as described above.

Based on these moderately positive impacts, this option has been given a **score of 3**.

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<sup>91</sup> Note that the corresponding increase in cost to users of these services is captured in the regulatory burden criterion.

## Negative impacts

This option will result in the greatest decrease in demand for remote-training and anti-bark collars by prohibiting their public use (demand from the public will essentially be eliminated). Limited demand for these products is likely to remain, coming from Victoria Police, Australian Federal Police and Australian Defence Forces, who will all still be able to use electronic collars. Feedback from stakeholders suggests that current use or recommended use by veterinarians is likely to be very low, as most do not support use of these devices, although there is a stronger demand to have access to them from some dog-trainers. The overall reduction in demand is therefore assessed as having a significant economic impact.

The negative impacts have been assessed to be minor to moderate and give this option a **score of -2**.

## Overall assessment

Overall social and economic impacts are likely to have a lower net benefit than in Option 2 but still be higher than in the Base Case and Option 1. This option is given an aggregate **score of 1** for this criterion.

### 6.3.4 MCA analysis - scoring summary

Table 10 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 3 is the highest scoring and is therefore the preferred option.

Table 10: Multi-criteria Analysis scoring summary: Protection of animals - electronic devices

Criteria	Weight	Option 1: Regulating and allowing use of electronic devices under certain conditions	Option 2: Restricted use of remote-training and anti-bark collars on dogs and further conditions around the use of containment collars	Option 3: Prohibit public use of remote-training and anti-bark collars and further conditions around the use of containment collars
Animal welfare	50%	5	7	9
Regulatory burden	25%	-4	-6	-7
Economic, social and environmental impact	25%	0	2	1
Weighted score		1.5	2.5	3

## 6.4 Traps

This section outlines the impacts of the regulatory options proposed for the Part 3 - 'traps' section of the draft POCTA Regulations 2019. The impact of each option is assessed against the defined criteria, relative to the Base Case to provide a means of ranking all options against each other.

Traps are very likely to cause 'pain and suffering' and their use is prohibited in the Base Case. However, regulations may enable the use of traps under certain circumstances to achieve outcomes

which are balanced against the welfare of animals that are targeted by traps. A key example is the effect on the environment, economy, and welfare of other animals caused by pest species which are managed using traps. Options 1 to 3 provide different conditions and permissions relating to the use of traps and are therefore assessed as to how effective they are in achieving the balance between protecting the welfare of the animals at risk of being trapped and delivering the benefits of using traps to control pests.

## 6.4.1 Animal welfare criterion - analysis of Options 1 to 3

### 6.4.1.1 Option 1: Use of traps under certain conditions

#### Positive impacts

There are likely to be positive impacts for livestock from the more effective control of pest species which is provided by enabling the use of traps. This benefit is associated with the control of pest species. Since control can occur through a variety of methods, only a proportion of this benefit can be attributed to the use of traps. Therefore, these positive impacts are given a **score of 2**.

#### Negative impacts

By enabling the use of traps under certain conditions, Option 1 reduces animal welfare compared with the Base Case (in which the use of traps is prohibited), however the conditions for use prescribed in the regulations minimise and offset the harm that traps cause to animals. Examples of reductions in animal welfare are:

- Leghold traps can cause stress and serious injuries to animals who are caught (both target and non-target species), however the prescribed conditions aim to mitigate these effects by limiting the types, target species, use and required monitoring times of traps.
- Animals captured in confinement traps can suffer distress and are at risk of thirst and starvation, but conditions surrounding the design, use and monitoring of these traps as well as the treatment of captured animals minimises the potential harm to animals and reduces the risk of capturing non-target species.
- Entanglement and injury for an animal captured in a net trap is likely, and distress may eventuate due to capture, hunger or thirst. Regular checking of the traps (every four hours), as prescribed in the regulations, ensures that this risk is minimised.
- Animals captured in non-kill snare traps (such as neck and leghold snares) can suffer from distress when caught and physical injuries. during and, for non-target species, in the days after release (due to damaged cellular structures and necrosis of tissues). However, use of non-kill snare traps that have the specified features and in line with conditions in the regulations minimise these risks.
- There are risks that various types of kill traps (including rodent kill traps) can cause unnecessary pain and suffering to animals before death, however requirements for these traps to not have design features that could injure animals prior to death reduce these risks.
- Animals captured in glue traps can suffer physical pain and psychological distress from being stuck in the glue for extended periods, however limiting use to commercial pest controllers and only in commercial food manufacturing premises ensures that they are used in the correct manner, in limited locations and the risk of capture of non-target species is minimised.

Despite the mitigation provided by conditions of use, enabling the use of traps inevitably results in a significant decrease in animal welfare for animals targeted by (or at risk of) these traps. This option is therefore given a **score of -8** for this criterion.

### **Overall assessment**

Relative to the Base Case enabling the use of traps inevitably results in a moderate to significant decrease in animal welfare. With no positive impacts, this option has been given an aggregate **score of -6** for this criterion.

#### **6.4.1.2 Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations**

Conditions on the use of most traps remain the same as in Option 1, with the exceptions being additional conditions on the use of glue traps and leghold traps. Additional conditions on the use of glue traps and leghold traps are likely to improve animal welfare compared with Option 1.

### **Positive impacts**

There is no change in positive impacts relative to the Option 1. These positive impacts relate to livestock as a result of the more effective control of pest species which is provided by enabling the use of traps.

This positive impact has been **scored as 2**.

It is noted that under this option, increased conditions would be placed on the use of glue traps for animals and leghold traps. These conditions are intended to ensure appropriate use which still allows for effective pest control. However, these reduce the negative impacts experienced (rather than being positive impacts per se) and are therefore considered below.

### **Negative impacts**

The implementation of a permit system for glue traps could reduce the risk of use by the general public as well as inappropriate or uninformed use by pest controllers and result in an expected increase in animal welfare. Restriction of the use of glue traps for animals via a permit system will also further reduce the number of users of glue traps and the number of traps set, which will decrease the number of animals caught in these traps unnecessarily.

Phasing out the approval system for varying leghold trap-check intervals ensures that leghold traps are checked at least every 24 hours after the five-year phase out period available to the Victorian Wild Dog Program. This will further reduce the risk of prolonged animal suffering.

The proposed changes in this option mitigate some of the overall negative animal welfare impacts arising from enabling the use of traps in Option 1 and this option is therefore given a **score of -6** in relation to negative impacts.

### **Overall assessment**

While this option delivers improved animal welfare outcomes compared with Option 1, it still enables the use of traps and therefore scores lower than the Base Case. This option results in a moderately negative impact on animal welfare and is given an aggregate **score of -4** for this criterion.

#### **6.4.1.3 Option 3: Glue traps prohibited for sale and use on animals, and phase out of Minister approval system for leghold trap-checking time variations**

This option will deliver the same animal welfare outcomes as Option 2 in all areas apart from glue traps for animals, which would be prohibited in this option.

## Positive impacts

There is no change to positive impacts relative to Options 1 and 2 (as positive impacts for livestock do not relate to the use of glue traps in commercial food manufacturing premises), resulting in a **score of 2**.

As noted in Option 2, the proposed changes related to this option reduce the negative impacts, rather than generating positive impacts. As such, these are discussed below.

## Negative impacts

The prohibition of glue traps for animals will eliminate the risk of inappropriate sale and ban use, thus maximising animal welfare with respect to these traps. This avoids the negative impacts associated with these traps in Options 1 and 2 and therefore results in a reduced negative impact. Negative impacts related to the use of other traps remain, and this option is given a **score of -4** in relation to negative impacts.

## Overall assessment

Overall, the increase in animal welfare compared with Option 2 is likely to be moderate, as the majority of conditions faced by animals remain the same. However, restrictions on the sale of glue traps will also be easier to prosecute given the clarity of a ban in regulation and this may also contribute some animal welfare benefit. This option is therefore given an aggregate **score of -2** for this criterion.

## 6.4.2 Regulatory burden criterion - analysis of Options 1 to 3

All options enable the use of traps compared with the Base Case. This means that the regulatory burden is lower in all options compared with the level of burden in the Base Case (i.e. the maximum burden which could be faced is equal to that of the Base Case).

### 6.4.2.1 Option 1: Use of traps under certain conditions

This option represents a significant decrease in regulatory burden compared with the Base Case as the use of a range of traps is enabled. However, this effect is mitigated somewhat by the conditions of use applied.

## Positive impacts

In the case of all traps enabled in this option, the behaviour of individuals and businesses will indicate the extent of the reduction in regulatory burden. As this option represents a continuation of the status quo (i.e. as per the POCTA Regulations 2008), the widespread use of traps for pest control purposes (with conditions on use) indicates that the use being enabled is more convenient and/or effective for individuals and businesses than the non-trapping options which would be required in the Base Case.

The enabling of traps represents a significant reduction in regulatory burden and this option is given a **score of 6**.

## Negative impacts

There will be a small increase in costs for pest controllers applying to use traps where a Ministerial approval is required, such as for use of leghold traps in urban areas as the regulations introduce a fee for these approvals.

Government will face higher enforcement costs in this option, as the conditions on the design, possession, use and management of traps all need to be monitored. While this is an additional cost, it is not considered likely to significantly outweigh the reduced burden for individuals and businesses.

The additional enforcement costs and result in a negative impact **score of -1**.

## Overall assessment

The enabling of traps represents a significant reduction in regulatory burden. With minor associated enforcements costs this option is given an aggregate score of 5 for this criterion.

### 6.4.2.2 Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations

#### Positive impacts

This option will also result in a lower regulatory burden than the Base Case as the use of a range of traps is enabled. The enabling of traps represents a significant reduction in regulatory burden and this option is given a score of 6.

#### Negative impacts

More stringent conditions on the use of glue traps and leghold traps represent an increase in regulatory burden compared with Option 1.

#### Glue traps

A permit system for the use of glue traps would introduce an additional regulatory burden compared with Option 1. Pest controllers wishing to use glue traps in a commercial food manufacturing premises will face additional time and effort to apply for a permit and establish compliance with conditions through annual reporting requirements. Feedback from stakeholders suggests that the additional burden of obtaining a permit is not likely to be large.

Quantification of this additional burden in applying for a permit has not been possible, as the specific structure and required information in the application process is not defined and therefore the time and effort which would be required to apply for a permit is unknown.<sup>92</sup>

Government will face an increased administrative cost of processing permit applications and monitoring compliance.

#### Leghold Traps

Phasing out the Ministerial approval system for leghold trap-checking time variations will impose an additional regulatory burden compared with Option 1. This change will require all users of leghold traps, (some of) whom would be able to check traps every 72 hours in Option 1, to check traps every 24 hours. This burden would be experienced by the Victorian Wild Dog Program, which uses leghold traps (and other methods) to control wild dogs in rural Victoria. It is only the Victorian Government which faces increased burden as they hold the only approval for 72-hour trap-checking.

In previous submissions as part of the current (Option 1) process for obtaining Ministerial approval for 72-hour trap-checking, the Victorian Wild Dog Program has estimated the additional cost of achieving the same service level (in terms of trapping, community engagement, baiting and all other aspects of the Program) under 24-hour trap-checking. This additional cost is estimated to be approximately \$3.1 million per year, if 24-hour trap-checking were to be introduced immediately with the Victorian Wild Dog Program continuing to operate using the current technology and processes.<sup>93</sup>

However, this option does not propose to introduce 24-hour trap-checking immediately. The five-year phase out timeframe is included to allow the continuation of a Program of testing new technology which could allow remote checking of traps. Subject to the ongoing development and

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<sup>92</sup> The number of permits which would be sought is unknown. However, this variable could be defined using reasonable assumptions based on the size of the pest control industry.

<sup>93</sup> Victorian Wild Dog Program submission, DELWP (2019)

ultimate success of this technology, the regulatory burden is likely to be significantly lower than \$3.1 million per year after 2024 when the phase out finishes.

During the five-year phase time period, additional costs are not likely to be significant. In practice, the Victorian Wild Dog Program already (mostly) achieves 48-hour trap-checking during the week and only relies on 72-hour trap-checking over weekends. The Victorian Wild Dog Program has estimated the cost of achieving 48-hour trap-checking at \$0.98 million per annum (this additional cost is largely attributable to achieving 48-hour trap checking on weekends). Therefore, the cost to government of making gradual progress towards 24-hour trap-checking is likely to be relatively low.

The five-year phase out timeframe is intended to allow for technological/process developments such as remote checking to be implemented to achieve a lower regulatory burden. Note that while the phase-out period and new technology can reduce the regulatory burden significantly, it is highly unlikely to eliminate it - e.g. even if remote checking is widespread, Wild Dog Controllers will still need to be able to physically get to a trapped animal within 24 hours, and this will require more resources than used in the current Victorian Wild Dog Program.

Overall, costs during the five-year phase out period are likely to be minimal while the cost of achieving 24-hour trap-checking times after 2024 is likely to be significantly lower than the cost of implementing this change immediately.

The cost to government of enforcement is unlikely to be higher than for Option 1 in the long term. Enforcement of a permit system for glue traps may result in a marginal increase in effort. However, the phase out of the Ministerial approval process for leghold trap-checking time variations will result in a decrease in cost as this approval process is no longer required after five years.

The more stringent conditions on the use of glue traps and leghold traps represent an increase in regulatory burden, which has been **scored as -4**.

### **Overall assessment**

Overall, this option still results in a decrease in regulatory burden compared with the Base Case (in which achieving the same outcomes may be prohibitively expensive) but does carry an increase in burden compared with Option 1. This option is given an aggregate **score of 2** for this criterion.

#### **6.4.2.3 Option 3: Glue traps prohibited for sale and use on animals, and phase out of Minister approval system for leghold trap-checking time variations**

##### **Positive impacts**

This option will also result in a lower regulatory burden than the Base Case as the use of a range of traps is enabled. The enabling of traps represents a significant reduction in regulatory burden and this option is given a **score of 6**.

##### **Negative impacts**

This option is likely to have a very similar regulatory burden (and negative impact) to Option 2. The prohibition of glue traps (as opposed to using a permit system) is likely to result in a slight increase in regulatory burden for pest controllers working in commercial food manufacturing premises as they will be required to use other methods (which may be less effective or require greater effort and cost to achieve the same result). However, feedback from stakeholders indicates that glue traps are one of many tools used and represent a very small percentage (less than 1%) of overall activity. Banning glue traps is therefore likely to introduce some additional burden on pest controllers but this effect is unlikely to be substantial.

Government will face the cost of enforcing a ban on glue traps but will not have to bear the cost of maintaining a permit system. The net impact on Government is unlikely to be material compared with Option 2.

The prohibition of glue traps represents a slight increase in regulatory burden from Option 2, which has been scored as -5.

### Overall assessment

Given the slight increase in burden associated with the prohibition of glue traps, this option is given an aggregate score of 1 for this criterion.

## 6.4.3 Economic/social/environmental impact criterion - analysis of Options 1 to 3

### 6.4.3.1 Option 1: Use of traps under certain conditions

The economic, social and environmental impacts of enabling the use of traps are likely to be substantial.

#### Positive impacts

Economic benefits from enabling the use of traps (for all types enabled), include:

- Additional sales in the retail sector (profit for retailers).
- Additional sales in the wholesale sector (profit for manufacturers).
- Reduction in losses of food/grain etc. from rodent incursions.

The economic and social benefits of the Victorian Wild Dog Program, which uses a range of tools not just trapping to control wild dogs, have been studied in terms of the damaging effect that wild dog attacks can have on the economic viability of sheep farming and the social impacts (such as stress) of landowners having to deal with the aftermath of wild dog attacks.

The economic cost to the agricultural sector of being unable to control wild dogs has been estimated at \$13.2 million per year.<sup>94</sup> Note that this represents the total costs of an inability to control wild dogs and leghold traps are only one aspect of achieving this control. The economic benefit of controlling wild dogs is therefore attributable to the collective contribution of traps, baiting, exclusion fencing, community education etc.

The above economic cost to the agriculture sector is measuring an opportunity cost faced by areas which have been made uneconomic or marginal by wild dog presence. This is estimated to be approximately the same size as the area successfully managed by the Victorian Wild Dog Program (meaning the economic benefit of the program is roughly equal to this figure). Economic benefit can also be seen in the reduction in numbers of sheep lost to attacks. Since the introduction of the current Victorian Wild Dog Program, the number of sheep killed or maimed by wild dogs has fallen from approximately 4,000 per year to approximately 1,000 per year.<sup>95</sup>

Social benefits from controlling wild dogs are also significant. Landholders experience stress from wild dogs related to:

- Persistent thoughts of the dog attack issue.
- Lack of sleep.
- Anger and frustration.

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<sup>94</sup> Social Benefit Cost Analysis: Wild Dog Management in Victoria, C. Lightfoot (2010), as cited in Victorian Wild Dog Program Submission, DELWP (2019)

<sup>95</sup> Victorian Wild Dog Program submission, DELWP (2019)

- Impacts on relationships at a personal, business and community level.
- Time involved in dealing with the issue.<sup>96</sup>

Research on the stress impacts faced by landholders after a wild dog attack (measured using Relative Stress Index) indicate that levels of stress faced by landowners can be severe.<sup>97</sup>

In addition to the substantial economic benefits for the agricultural sector and communities related to the control of wild dogs, the use of other types of trap provide social benefits to the extent that individuals and businesses are better able to manage pest species. These benefits may include:

- Hospitality, or food and beverage industries being able to prevent contamination more effectively, protecting food safety.
- Individuals being able to manage their household environment more effectively.
- Pest controllers having a more complete range of tools at their disposal.
- Benefits for native wildlife and vegetation from limiting the impact of pest species.

Environmental benefits derived from enabling the use of traps as one aspect of pest control include:

- General prevention of population explosions in pest species.
- Protecting biodiversity in native environments. (e.g. protecting native species from predation or habitat destruction from pest species).

Based on these very significant positive impacts, this option has been given a **score of 9**.

### Negative impacts

There are no negative impacts relative to the Base Case.

### Overall assessment

Overall, the enabling of traps under certain conditions contributes to significant to very significant economic, social and environmental benefits associated with the effective control of various pest species. This option is given a **score of 9** for this criterion.

#### 6.4.3.2 Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations

##### Positive impacts

This option delivers largely the same economic, social and environmental benefit as Option 1. To maintain consistency throughout the analysis, the service level provided by the Victorian Wild Dog Program is assumed to remain the same as in Option 1 (i.e. as this assumption was used to calculate regulatory burden).

There may also be an environmental benefit from preventing the public from using glue traps, as this is likely to result in a reduction in wildlife being caught in glue traps.

Based on these very significant positive impacts, this option has been given a **score of 10**.

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<sup>96</sup> Constantly chasing dogs: assessing landholder stress from wild dog attacks on livestock using quantitative and qualitative methods, Ecker et. al (2016)

<sup>97</sup> Victorian Wild Dog Program submission, DELWP (2019) and Constantly chasing dogs: assessing landholder stress from wild dog attacks on livestock using quantitative and qualitative methods, Ecker et. al (2016)

### **Negative impacts**

The introduction of a permit system for the use of glue traps is considered unlikely to have a meaningful economic impact. As these traps are only able to be used by commercial pest controllers in commercial food manufacturing premises in all options, this change is expected to have only a minor (if any) impact on the sales and manufacturing of glue traps relative to Option 1.

The minor negative impacts have been assessed to give this option a **score of -1**.

### **Overall assessment**

Overall, this option is considered to have equivalent economic, social and environmental impacts as Option 1 and is therefore also given an aggregate **score of 9** for this criterion.

#### **6.4.3.3 Option 3: Glue traps prohibited for sale and use on animals, and phase out of Minister approval system for leghold trap-checking time variations**

### **Positive impacts**

There are no additional (or reductions in) positive impacts under this criterion compared with Option 2. Therefore, positive impacts in this option are also **scored 10**.

### **Negative impacts**

The prohibition of glue traps will have a negative economic impact related to reduced sales and manufacturing of traps. The restricted use of these traps in Option 2 (to just pest controllers using in commercial food manufacturing premises) means this effect is likely to be relatively minor. To some extent, this reduction in sales and manufacturing may be offset by an increase in demand for alternative methods which aim to achieve the same results.

The prohibition of glue traps for animals may marginally reduce the effectiveness of pest control with respect to rodents in commercial food manufacturing businesses.

The negative impacts have been assessed to give this option a **score of -2**.

### **Overall assessment**

The majority of impacts are likely to remain the same as in Option 2. Assuming that available alternatives are less efficient in achieving the same results as glue traps, the overall impact of prohibiting these traps is likely to be a slightly lower overall economic, social and environmental impact compared with Option 2.

On that basis, this option is given an aggregate **score of 8** for this criterion.

### **6.4.4 MCA analysis - scoring summary**

Table 11 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 3 is the highest scoring and is therefore the preferred option.

Table 11: Multi-criteria Analysis scoring summary: Traps

Criteria	Weight	Option 1: Use of traps under certain conditions	Option 2: Use of glue traps under a permit system and phase out of Minister approval system for leghold trap-checking time variations	Option 3: Glue traps prohibited for sale and use on animals, and phase out of Minister approval system for leghold trap-checking time variations
Animal welfare	50%	-6	-4	-2
Regulatory burden	25%	5	2	1
Economic, social and environmental impact	25%	9	9	8
Weighted score		0.5	0.75	1.25

## 6.5 Rodeos and rodeo schools

This section outlines the impacts of the regulatory options proposed for the 'rodeos and rodeo schools' section of the draft POCTA Regulations 2019. The impact of each option is assessed against the defined criteria, relative to the Base Case to provide a means of ranking all options against each other.

Potential changes to the POCTA Regulations 2008 governing the operation of rodeos and rodeo schools are largely intended to simplify and clarify good practice which is already widely displayed in the industry. Costs and benefits are therefore primarily related to the more effective management of risk and providing piece of mind to industry participants.

### 6.5.1 Animal welfare criterion - analysis of Options 1 and 2

#### 6.5.1.1 Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations

There is unlikely to be a significant change in animal welfare in this option as conditions around the running of rodeo events would remain effectively the same as in the Base Case. The administrative change to allow approved rodeo organisations to apply for a permit/licence is not expected to have a significant impact on animal welfare.

The absence of a significant impact on animal welfare compared with the Base Case means this option is given a **score of 0** for this criterion.

#### 6.5.1.2 Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations

##### Positive impacts

The additional conditions introduced in this option are likely to result in some improvement in animal welfare compared with Option 1. However, feedback from stakeholders indicates that in many cases these additional conditions are already being met by the industry and the proposed changes in conditions are largely intended to ensure that good practice is clarified and maintained.

While these practices are common, this option does mitigate a risk that they are not followed and is therefore likely to deliver an improvement in animal welfare. Areas of potential improvement from the additional conditions in this option compared with Option 1 include:

- The introduction of a requirement to produce Animal Welfare Plans would assist rodeo operators to meet their regulatory requirements by ensuring clear lines of accountability and would therefore minimise the risk of harm to all animals at rodeo events.
- Requiring veterinary practitioners with specific experience in cattle and horses would help to better safeguard the welfare of cattle and horses at rodeo events.
- Reduction of risk of animal stress and likelihood of injury from regulation allowing rodeo events to be delayed or postponed due to extreme weather conditions.
- Regulation to prohibit motor vehicles in the arena (unless the vehicle is required to transport an injured animal) reduces the risk of these vehicles causing distress to animals.
- Clarification of the restriction on the repeated use of animals at rodeos, and of the use of fireworks at rodeos, minimises the risk of injury and stress to animals used at rodeos.
- Clarifying where some regulations apply specifically to bucking animals, relating to equipment and the number of times animals are used, ensures appropriate accountability for animals used in all event types at the rodeo.

As these conditions are already widely met in the absence of specific requirements, the impact on animal welfare is likely to be positive but relatively low. This option is therefore given a **score of 2** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

The relatively low positive impact on animal welfare and lack of negative impact results in an overall **score of 2** for this criterion.

## **6.5.2 Regulatory burden criterion - analysis of Options 1 and 2**

### **6.5.2.1 Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations**

#### **Positive impacts**

There may be a slight decrease in regulatory burden in this option despite conditions around the running of rodeo events effectively remaining the same as in the Base Case. This potential reduction is a result of a more efficient regulatory framework being applied (compared with using multiple mechanisms to achieve the same conditions in the Base Case). Individuals, organisations and Government all benefit from this increased simplicity. However, the magnitude of this effect is unlikely to be significant given that compliance with conditions will be effectively the same as in the Base Case.

The administrative change to allow approved rodeo organisations to apply for a permit/licence is not expected to have a unique impact as this process will have the same effect as existing applications.

Due to the marginal increase in regulatory simplicity/efficiency, this option is given a **score of 1** for this criterion.

## Negative impacts

There are no negative impacts relative to the Base Case.

## Overall assessment

The marginal increase in regulatory simplicity/efficiency, and lack of negative impacts, has resulted in this option being given a **score of 1** for this criterion.

### 6.5.2.2 Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations

#### Positive impacts

There are no additional positive impacts in relation to this criterion relative to Option 1. Due to the marginal increase in regulatory simplicity/efficiency, this option is given a **score of 1** for this criterion.

#### Negative impacts

The additional conditions introduced in this option are likely to result in an increase in regulatory burden compared with Option 1. However, feedback from stakeholders indicates that in many cases these additional conditions are already being met by the industry and the proposed changes in conditions are largely intended to ensure that good practice is clarified and maintained.

While these practices are common, this option does impose requirements on rodeo organisers to produce additional documentation and ensure their compliance with these conditions. Potential regulatory burden for the specific areas of change are:

- The requirement to complete an Animal Welfare Plan will require rodeo licence or permit holders to complete a plan to the standard and level of detail required by the draft POCTA Regulations 2019. Required details predominantly relate to defining roles, responsibilities, and reporting/communication processes which will be implemented. This represents a moderate increase in regulatory burden compared with Option 1. However, this additional burden is mitigated by the following factors:
  - AWV intend to provide guidance to reduce this burden (details required in Animal Welfare Plans will be clearly set out in the draft POCTA Regulations 2019 as noted above). Organisations which run multiple rodeos are also likely to have a licence covering multiple rodeos and will therefore only have to produce a single Animal Welfare Plan which could be valid for multiple events, reducing the overall burden experienced. The burden of additional time and effort required by industry (e.g. to produce Animal Welfare Plans) has not been quantified due to uncertainty around the time that will be required to complete this additional administrative work (i.e. the time taken will depend on the level of detail required and the level of support provided by guidance/templates etc.). The number of plans required is also uncertain, as this depends on how many rodeo events will require individual plans, under individual rodeo permits, and how many will be run by organisations which can conduct multiple rodeos under a single licence. An indicative maximum number of plans required can be identified by assuming that all rodeos require their own plan - over the last 5 years (2014-2018), the average number of rodeos held was 25 per year.<sup>98</sup>
  - Industry has requested the above change, indicating that the burden is relatively low from their perspective (or at least low enough not to be outweighed by the benefits). While the requirement to produce a plan increases burden, industry is

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<sup>98</sup> Source: Animal Welfare Victoria

seeking clarity and security on how responsibility of the licence or permit holder for animal welfare can be appropriately defined (currently, a single licence or permit holder faces full responsibility for animal welfare but may be unable to manage all aspects of animal welfare at the same time, e.g. they cannot be at the arena and holding yards at the same time).

- The requirement for veterinarians to be experienced in dealing with livestock and horses is unlikely to impose additional burden. Feedback from stakeholders indicates that this is already common (effectively universal) and new regulation would be formalising this. Similarly, the requirement for veterinarians to monitor the loading of injured animals for transport is unlikely to introduce a material burden, as this reflects existing practice in the industry.
- Allowing flexibility in start times to accommodate severe weather events is likely to represent a marginal decrease in regulatory burden as operators are afforded more flexibility than in Option 1.

This option will impose a higher regulatory burden than Option 1. It is also likely to have a greater regulatory burden than the Base Case. While the draft POCTA Regulations 2019 could be more efficient than the application of conditions administratively in the Base Case, and flexible start times reduce regulatory burden to some extent, additional documentation requirements are estimated to outweigh these effects. The overall effect is likely to be minor given the mitigating factors described above.

In addition to the impacts on organisations, Government will face additional costs of scrutinising Animal Welfare Plans and providing guidance and information to organisations. The combined effects of relatively minor increases in burden for the industry and government mean that this option is given a **score of -2** for this criterion.

### **Overall assessment**

The combined effects of a marginal increase in regulatory simplicity/efficiency and relatively minor increases in burden for the industry and government mean that this option is given an aggregate **score of -1** for this criterion.

## **6.5.3 Economic/social/environmental impact criterion - analysis of Options 1 and 2<sup>99</sup>**

### **6.5.3.1 Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations**

Introducing regulation with effectively the same conditions as in the Base Case is unlikely to deliver any significant economic, social or environmental benefits (although this may provide additional clarity for applicants).

The absence of any significant impact compared with the Base Case means this option is given a **score of 0** for this criterion.

### **6.5.3.2 Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations**

While this option does introduce changes in conditions compared with Option 1, these primarily have the effect of ensuring that existing practice is maintained and do not restrict or enable any activities which are likely to have significant economic or environmental impacts.

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<sup>99</sup> It is noted that given there are not significant costs and benefits in relation to this criterion, they have not been assessed separately.

There may be some social benefit from the introduction of Animal Welfare Plans. This potential change is at the request of industry for the purpose of providing clarity and comfort around responsibilities with respect to protecting animal welfare at rodeos. The additional peace of mind for rodeo operators represents a wellbeing improvement.

The absence of other economic, social and environmental impacts means the overall effect is relatively minor. This option is given a **score of 1** for this criterion.

## 6.5.4 MCA analysis - scoring summary

Table 12 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 2 is the highest scoring and is therefore the preferred option.

Table 12: Multi-criteria Analysis scoring summary: Rodeos and rodeo schools

Criteria	Weight	Option 1: Permit/licence required to operate rodeos and introduction of applications for approved rodeo organisations	Option 2: Permit/licence required to operate rodeos with additional conditions and introduction of applications for approved rodeo organisations
Animal welfare	50%	0	2
Regulatory burden	25%	1	-1
Economic, social and environmental impact	25%	0	1
Weighted score		0.25	1

## 6.6 Scientific procedures

This section outlines the impacts of the regulatory options proposed for the 'scientific procedures' section of the draft POCTA Regulations 2019. The impact of each option is assessed against the defined criteria, relative to the Base Case to provide a means of ranking all options against each other.

Proposed changes to the regulations governing the use of animals in scientific procedures are intended to manage the risks to animals by ensuring licence holders are able to make better informed decisions about whether a procedure is appropriate. Changes also aim to simplify regulation and to remove unnecessary regulatory burden.

### 6.6.1 Animal welfare criterion - analysis of Options 1 to 3

#### 6.6.1.1 Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice

This option effectively replicates in regulation the conditions which are assumed to be applied administratively in the Base Case. As conditions on, and practices by, licensees are assumed to be the same as in the Base Case, there is not likely to be any difference in animal welfare outcomes. The rationale for this assumption is that the Minister or Department Head is likely to apply

conditions to licences (as provided for in the POCTA Act) and replicating existing conditions is considered the most reasonable assumption to set the Base Case for analysis.

This option is therefore given a **score of 0** for this criterion.

#### **6.6.1.2 Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and amend the Pound Animals Code of Practice**

##### **Positive impacts**

Changes in this option impose additional education requirements on new AEC members. This is likely to have a positive impact on animal welfare. Feedback from stakeholders indicates that audit processes have shown that some AEC members are not receiving adequate training under the current regulatory framework.

More comprehensive training is expected to improve animal welfare, as better trained AEC members would be more aware of the extent of their responsibilities with respect to approving and monitoring all activities involving animals. Their oversight and attention to the full scope of animal use is anticipated to promote best practice as intended by the Australian Code for the Care and Use of Animals for Scientific Purposes, 8th edition 2013 (Australian code).

Amendments to the Pound Animals Code of Practice may result in a marginal reduction in risk to the welfare of pound animals, but this is unlikely to be material in practice as the use of pound animals is very uncommon - in the seven years to 2018<sup>100</sup>, only nine animals from pounds have been used in scientific procedures (all in 2017).<sup>101</sup>

The removal of monthly record keeping requirements is not expected to have an impact on animal welfare. Other reporting requirements on licence holders capture the same information and the removal of these monthly records aims to make regulation more efficient without increasing risks to animal welfare.

The overall impact on animal welfare is assessed as moderately positive, as the reduction in risk to animal welfare from defined conditions relating to the use of animals in scientific procedures is likely to be material (resulting in a moderate positive impact) but amendments to the Pound Animals Code of Practice are unlikely to have a significant impact. This option is given a **score of 3** for this criterion.

##### **Negative impacts**

There are no negative impacts relative to the Base Case.

##### **Overall assessment**

The moderately positive impact on animal welfare, with no negative impact means this option has been given a **score of 3** for this criterion.

#### **6.6.1.3 Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice**

##### **Positive impacts**

This option is likely to have the same impact on animal welfare as Option 2. Training requirements for AEC members are the same and therefore deliver the same improvement in animal welfare, as are the changes to record keeping requirements.

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<sup>100</sup> The most readily available time series provided by stakeholders.

<sup>101</sup> Source: DJPR

The change in this option to revoke the Pound Animals Code of Practice is unlikely to have a material impact on animal welfare for the same reason as the lack of impact in Option 2 (i.e. the rarity with which animals from pounds are used already).

The absence of any significant impact compared with Option 2 means this option is also given a **score of 3** for this criterion.

### **Negative impacts**

There are no negative impacts relative to the Base Case.

### **Overall assessment**

The moderately positive impact on animal welfare, with no negative impact means this option has been given a **score of 3** for this criterion.

## **6.6.2 Regulatory burden criterion - analysis of Options 1 to 3**

### **6.6.2.1 Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice**

#### **Positive impacts**

There is unlikely to be a major change in regulatory burden compared with the Base Case as this option effectively replicates in regulation the conditions which are assumed to be applied administratively in the Base Case. This may represent a minor reduction in regulatory burden as these conditions are more transparently set out in regulation.

This minor reduction in regulatory burden means that this option is given a **score of 1** for this criterion.

#### **Negative impacts**

There are no negative impacts relative to the Base Case.

#### **Overall assessment**

The minor reduction in regulatory burden means that this option is given a **score of 1** for this criterion.

### **6.6.2.2 Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and amend the Pound Animals Code of Practice**

#### **Positive impacts**

The removal of monthly record keeping requirements will reduce regulatory burden in this option by reducing the time and effort required of licence holders to maintain multiple records. This reduction has resulted in a **score of 1**.

#### **Negative impacts**

Mandatory training requirements for new AEC members represent an increased regulatory burden, in terms of the time spent in training by members who would not otherwise have undertaken training in the regulatory framework in Option 1. Offsetting this burden is that mandatory training by DJPR means that the current requirement for licence holders to provide access to training will be partially met by the department.

The extent of this burden has been estimated using expected amount of training completed per year:

- DJPR expects approximately 30-50 AEC members to require training each year.

- Training is expected to take 1-1.5 hours to complete.
- The average hourly wage is estimated to be \$50 per hour.<sup>102</sup>
- Training will be available online and therefore no travel time is required.
- The overall regulatory burden of mandatory training in Victoria is estimated to be \$1,488 - \$3,721 per annum.

This estimate represents an overall cost to AEC members of mandatory training but has not been adjusted to reflect either the proportion of AEC members who would have otherwise accessed training anyway or the reduction in burden from removing some requirements from licence holders.

There is also likely to be a relatively small increase in cost to Government in this option. The development of online training is expected to cost approximately \$80,000 up-front and require a minor ongoing management cost.

This quantification indicates a moderately negative impact, and this option is given a **score of -3** for this criterion.

### Overall assessment

Overall, the quantification, combined with mitigating factors indicates a moderately negative impact, and this option is given an aggregate **score of -2** for this criterion.

#### 6.6.2.3 Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice

##### Positive impacts

This option is likely to have a slightly lower regulatory burden (including cost to Government) than Option 2. The only area of difference in this option is revoking the Pound Animals Code of Practice. This change provides additional clarity and simplification for industry (although is unlikely to reduce regulatory burden given the rarity with which this code is required) while reducing the cost to Government of monitoring an element of regulation which is unnecessary (as animals from pounds are so rarely used in the current system).

This reduction has resulted in a **score of 2**.

##### Negative impacts

There are no negative impacts relative to the Option 2. The assessment indicated a moderately negative impact, and this option is given a **score of -3** for this criterion.

##### Overall assessment

This option is still likely to have a higher regulatory burden than the Base Case (due to mandatory training) and is given an aggregate **score of -1** for this criterion.

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<sup>102</sup> This figure assumes a 37.5 hour working week and 15% on-costs. Wage data from the Average Weekly Earnings, Victoria (Dollars) - Trend (all persons, full time), ABS, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6302.0Nov%202018?OpenDocument>

### **6.6.3 Economic/social/environmental impact criterion - analysis of Options 1 to 3<sup>103</sup>**

#### **6.6.3.1 Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice**

Formalising the conditions applied administratively in the Base Case by making regulations is not considered to have any significant economic, social or environmental impacts. This option is therefore given a **score of 0** for this criterion.

#### **6.6.3.2 Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and amend the Pound Animals Code of Practice**

Mandating training for AEC members may provide some additional social benefit from providing licence holders with additional peace of mind that they are meeting their obligations under the Australian Code. Stakeholder survey information indicates that the industry is aware of the need for more training and is broadly supportive of it being mandatory. In a stakeholder questionnaire which received 85 responses:

- Over 80% of responses supported regulation being in place to manage the issue of AEC member training needs.
- Over 60% of responses supported training of AEC members being made mandatory.

This social benefit is estimated to have a positive effect, but the absence of other impacts means the overall impact of this option is not considered to be large. This option is given a **score of 3** for this criterion to reflect this moderate positive impact.

#### **6.6.3.3 Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice**

Revoking the Pound Animals Code of Practice is the only difference between this option and Option 2. This change is considered to have only limited economic, social or environmental impacts.

This option is therefore also given a **score of 3** for this criterion.

### **6.6.4 MCA analysis - scoring summary**

Table 13 provides a summary of the MCA scoring for options 1 to 3, indicating that Option 3 is the highest scoring and is therefore the preferred option.

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<sup>103</sup> It is noted that given there are not significant costs and benefits in relation to this criterion, they have not been assessed separately.

Table 13: Multi-criteria Analysis scoring summary: Scientific procedures

Criteria	Weight	Option 1: Defined conditions relating to the use of animals in scientific procedures and amend the Pound Animals Code of Practice	Option 2: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and amend the Pound Animals Code of Practice	Option 3: Defined conditions relating to the use of animals in scientific procedures, mandate AEC training and revoke the Pound Animals Code of Practice
Animal welfare	50%	0	3	3
Regulatory burden	25%	1	-2	-1
Economic, social and environmental impact	25%	0	3	3
Weighted score		0.25	1.75	2

## 6.7 Fees assessment

Analysis of fee options is required where regulations define an application and approval process for licences, permits and approvals in a number of areas. The *Victorian Guide to Regulation* states that the general government policy is for regulatory fees and charges to be set on a full cost recovery basis. The Department of Treasury and Finance *Cost Recovery Guidelines* expand on this and outline how setting fees on a full cost recovery basis meets the key objectives of efficiency and equity in the following ways:

- Full cost recovery promotes the efficient allocation of resources by sending the appropriate price signals about the value of all the resources being used in the provision of government goods, services and/or regulatory activity.<sup>104</sup>
- From a horizontal equity point of view, full cost recovery ensures that those that have benefited from government-provided goods and services, or those that give rise to the need for government regulation, pay the associated cost. Those parties that do not benefit or take part in a regulated activity do not have to bear the costs.<sup>105</sup>

The Victorian Government has a policy of automatically indexing fees each year to take account of inflation. This ensures the value of fees is maintained and therefore the principle of full cost recovery is maintained (where fees are charged on this basis). In practice, this is achieved by defining fees in regulations using “fee units” and then indexing the value of a fee unit each year.

The value of a fee unit for the period 1 July 2019 to 30 June 2020 is \$14.81.<sup>106</sup>

<sup>104</sup> Department of Treasury and Finance (2013) *Cost Recovery Guidelines* - [https://www.dtf.vic.gov.au/sites/default/files/2018-01/Cost-Recovery-Guidelines-Jan2013\\_0.pdf](https://www.dtf.vic.gov.au/sites/default/files/2018-01/Cost-Recovery-Guidelines-Jan2013_0.pdf)

<sup>105</sup> Department of Treasury and Finance (2013) *Cost Recovery Guidelines* - [https://www.dtf.vic.gov.au/sites/default/files/2018-01/Cost-Recovery-Guidelines-Jan2013\\_0.pdf](https://www.dtf.vic.gov.au/sites/default/files/2018-01/Cost-Recovery-Guidelines-Jan2013_0.pdf)

<sup>106</sup> Victorian Government (2019), *Victoria Government Gazette No. G14 Thursday 4 April 2019*, p. 576 - <http://www.gazette.vic.gov.au/gazette/Gazettes2019/GG2019G014.pdf>

### 6.7.1 Activities requiring fees

Fees are proposed for approvals, permits and licences which relate to therapeutic electronic devices, traps, rodeos and scientific procedures. The *Cost Recovery Guidelines* require a RIS to establish that the activities on which fees are charged are required; and that cost recovery is therefore appropriate.

Requiring approvals, permits and licences for the above activities has been deemed necessary to safeguard animal welfare and support the objectives of the POCTA Act and the draft POCTA Regulations 2019. The need for the proposed activities is outlined in detail earlier in this chapter in the analysis of regulatory options:

- Approvals for therapeutic electronic devices ensure that these devices are appropriate for their proposed use and will provide therapeutic effect and allow the Minister to place conditions on the use of devices which will safeguard animal welfare.
- Trap approvals are a means of achieving the broader economic, social and environmental benefits of effective pest control while mitigating the inherent risks to animal welfare posed by the use of traps.
- Requiring rodeo and rodeo school operators to have permits/licences provides a means of ensuring conditions that support the safeguarding of animal welfare at these events and provides clarity to industry by setting out the conditions and responsibilities.
- Requiring scientific procedures to be undertaken in licenced premises (or under a scientific procedures field work licence) safeguards animal welfare by limiting the conditions under which scientific procedures can be performed using animals as well as ensuring the procedures are only undertaken with the oversight of an AEC.

The ability to set fees in these areas is set out in the POCTA Act. Section 42(1)(nc) provides for regulations which set fees for the grant, issue or renewal of licences or permits under the POCTA Act. This may include fees for the cost of administration, the provision of services, and for performing other functions or duties in relation to licences or permits.

Section 42(1)(ne) of the POCTA Act provides for regulations which set fees for anything else (i.e. anything not specifically listed in the preceding sections) required under the POCTA Act or in regulations.

### 6.7.2 The cost of providing approvals, permits and licences

In 2016, DJPR commissioned independent research to identify the 'efficient cost base', undertake an 'activity based costing' exercise and estimate the full cost recovery level of fees related to scientific procedures licences.<sup>107</sup> This research was then used to adjust fees for scientific procedures licences.

This research identified the activities required of Government to maintain the regulatory element (e.g. a licencing system) which is the basis of a fee and estimates the cost incurred by Government in undertaking these activities. The methodology applied in this independent research for calculating the level of full cost recovery involved the following steps:

1. Identify the efficient cost base.
2. Identify the activities required of Government.

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<sup>107</sup> Rivers Economic Consulting (2016), *Setting of licence administration and compliance inspection fees for animal research licences*

3. Apply the cost base to each activity to estimate the fee level which will achieve cost recovery.

The independent analysis estimates the 'efficient' cost by calculating:

- Minimum direct costs (labour, materials and direct operating expenditures).
- Minimum indirect costs (accommodation, corporation overheads and capital related costs such as depreciation of IT systems etc.).

Labour costs were calculated including salary costs and the following on-costs:

- Salary related on costs - overtime, payroll tax, recreation leave, sick leave, long service leave, annual leave, superannuation, Work Cover premiums and maternity leave.
- 'Other' total levies - vehicle costs, IT and telephone costs, accommodation and maintenance costs and business and corporate services.

These costs were calculated separately for the relevant grades within the Victorian Public Service to estimate the efficient cost base (i.e. appropriate hourly cost to be applied for each grade).

All activities required to manage each process were identified and the number of hours taken to complete each activity estimated. Table 14 gives an example of the activities required to manage scientific premises procedures licences and the time taken to undertake each activity. Appendix A provides an example of these activities costed for each type of licence.

Table 14: Activities required to manage scientific procedures premises licences

Activity	Additional comments	Time (hours)
New Licence application advice	N/A	0.50
New Licence application data entry	Time to record licence details, premises and AECs.	1.04
New licence finance management	Finance - apply to create customer, create invoice, process invoice.	0.30
Premises inspection arrangement	Allocate auditor, contact auditor with address, email licence application to auditor.	0.25
Fit and proper determination	Supporting documents and offence check.	0.25
Fit and proper determination	Review of non-Vic regulator audit report for non-Vic SPFL.	0.00
New Licence approval	Check data and issue licence on Bioweb.	0.10
Licence renewal notification/reminders	N/A	0.10
New Licence dispatch	Letter creation, email & hard copy, file.	0.75
Licence amendment - AEC members	Check and verify supporting documents, data entry.	0.26
Licence amendment - premises	Data entry, arrange premises inspection, amended licence dispatch.	0.50
Reissue amended licence - premises	N/A	0.10
Licence amendment - nominated person	Data entry, supporting documents check, amended licence dispatch.	0.75
Reissue amended licence - nominated person	N/A	0.10
Fieldwork notifications	Data entry.	0.40
Annual returns - preparation of return document	N/A	0.10
Annual returns - collection and collation of data	N/A	0.75
Annual returns - preparation of report	N/A	0.30
Annual returns - preparation of briefing for report approval	N/A	0.10
Annual returns - publish report to website	N/A	0.10
Communication (Website maintenance, newsletter distribution, convene training sessions, broadcast comms re legislation)	N/A	1.00
Licence Closure	Averaged per year.	0.10

Source: Rivers Economic Consulting

Using the hourly costs calculated previously (presented in the table above), these data enable the costing of a licence/licence renewal based on which activities need to be undertaken and the level of effort required (i.e. not all activities need to be completed in all cases or may require differing

amounts of effort). An example activity which needs to be undertaken for any scientific procedures premises licence is:

- “New licence application data entry” - this activity needs to be undertaken for all types of licence and requires the same level of effort irrespective of how many years the licence is for. The cost for all types of application is therefore the same.

An example activity which only needs to be undertaken in a subset of cases is:

- “Fit and proper determination: review of non-Victorian regulator audit report for a non-Victorian AEC” - this activity is only relevant for applications in which a non-Victorian AEC is nominated and therefore this cost is only included in these cases.

An example activity which only needs to be undertaken in all cases but requires varying effort is:

- “Annual returns: preparation of report” - this activity is estimated to take 30 minutes to complete but must be completed for each year of the licence term. The effort required for this activity therefore varies across the licence types of licence and these costs are reflected in the associated fees.

Costs are calculated by multiplying the number of hours taken by the hourly wage including overheads and on costs. The hourly wage varies depending on the seniority of the worker undertaking the activity, with different workers undertaking different functions (e.g. relatively junior workers needing more time to input and process application and more senior workers requiring less time to review the completed process). Some costs are one-off and remain the same whether an application is for a licence covering multiple years, while others are annual costs and therefore vary with the length of time an application covers. An example fee calculation is provided in Appendix A, showing the hourly wages, time taken and yearly multipliers (to account for whether the activity is one-off or annual) which are used to calculate fees for scientific procedures premises licences which can last from one to four years.

The independent analysis also calculated estimates of the 10-year present value of revenues which are likely to result from the full cost recovery of fees related to scientific procedures. This estimate is approximately \$530,000.<sup>108</sup> Fee revenue in other areas of the regulations is more uncertain, with the introduction of new activities requiring fees meaning no directly comparable data are available in these areas (i.e. electronic devices, trap approvals and the introduction of licences for rodeo organisation). However, activities (broadly defined, e.g. the number of rodeos) in these areas have typically been significantly fewer than the number of scientific procedures licences and revenues are therefore expected to be only marginally higher than the estimate for scientific procedures.

DJPR has separately undertaken an exercise which considers the same categories of costs for administrative processes relating to licences, permits and approvals in the other areas of the draft POCTA Regulations 2019. This analysis has been undertaken as part of the current RIS process to enable calculation of the costs incurred by Government in providing these licences, permits and approvals. This additional analysis estimates the cost recovery amounts for administering the following activities:

- Approvals for therapeutic electronic devices.
- Approvals for the use of traps.
- Rodeo licences and permits, rodeo school permits and the approval of rodeo organisations.

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<sup>108</sup> Rivers Economic Consulting (2016), *Setting of licence administration and compliance inspection fees for animal research licences*

The activities required to manage applications for these approvals, permits and licences are similar in nature and burden to those described above for scientific procedures premises licences. This example outlined from the independent research on scientific procedures fees is therefore representative of how the full cost recovery level has been calculated for other fees.

DJPR found that existing fees for rodeo licences and permits, rodeo school permits and the approval of rodeo organisations substantially under recovered costs.

### 6.7.3 Analysis of cost recovery options

As noted above, Government policy is to charge fees on a full cost recovery basis to achieve efficiency and equity objectives. However, there are circumstances in which partial, or no cost recovery may be appropriate. Factors in addition to efficiency and equity which may influence the appropriate level of cost recovery include:

- Social policy objectives (e.g. the cross subsidisation of some activities may be considered desirable).
- Market failures such as externalities (e.g. activities which have societal benefits in addition to private benefits may merit cross subsidisation).
- Practical implementation of cost recovery (e.g. the level of fees required to achieve cost recovery may be prohibitively high for the associated activity to occur).

Three cost recovery options have been assessed to determine a preferred option which takes account of the efficiency and equity principles as well as the additional considerations listed above. These options are:

- Option 1: No cost recovery (from any activities).
- Option 2: Partial cost recovery (overall, this may include a combination of full cost recovery for some activities and partial or no cost recovery on others).
- Option 3: Full cost recovery (for all activities).

#### 6.7.3.1 Option 1: No cost recovery

In most cases, fees are charged to private organisations or individuals who receive a private benefit from the activity which is enabled by the relevant approval, permit or licence and which do not contribute significantly to social policy objectives or generate positive externalities.

The operation of rodeos, use of traps and undertaking of scientific procedures in general are activities which deliver social, economic and environmental benefits. However, the individuals and organisations undertaking these activities are receiving private benefits (e.g. profits, intellectual property) from the ability to undertake these activities and in most cases are likely to have limited impact on the delivery of specific social policy aims or positive externalities in addition to this private benefit.

In these cases, there is a strong rationale for the objectives of efficiency and equity to be upheld and for cost recovery to be sought. This indicates that some level of cost recovery is justified and therefore, **this option is not preferred.**

#### 6.7.3.2 Option 2: Partial cost recovery

While the rationale for some level of cost recovery is strong, there are specific instances which exhibit features that indicate full cost recovery may not be appropriate. These instances include:

- Schools and children's services undertaking scientific procedures are providing education which is merit good, meaning that society receives benefits from education provision in addition to the benefits accruing to the schools and students directly. Requiring some level of cross subsidisation of this activity (i.e. the use of general revenue from taxpayers) can be considered to improve equity as the beneficiaries (in this case society) would pay the associated cost of government activity.
- Not-for-profit organisations often provide services which directly align with social policy objectives. Examples include scientific and medical research, which provide discoveries that advance human knowledge generally or lead to advances in healthcare.

This indicates that, while cost recovery may be justified in most cases, there are examples in which significant public benefits are delivered in addition to the benefit received by the organisation or individual in question. Partial cost recovery is therefore **the preferred option**.

### 6.7.3.3 Option 3: Full cost recovery

The analysis in the previous sections indicates that full cost recovery for all activities is **not the preferred option**.

## 6.7.4 Implementation of the preferred cost recovery option

Fees will be implemented to achieve the preferred option of partial cost recovery by targeting the specific instances which deliver additional social value. This means that fees for most organisations and individuals will be set at the full cost recovery level. Support for activities which deliver additional social value will be achieved by setting fees at nil for the subset of organisations which generate these benefits. Fees set at nil in the draft POCTA Regulations 2019 relate to scientific procedures premises licences and scientific procedures field work licences in the following organisations:

- Registered schools within the meaning of the *Education and Training Reform Act 2006*.
- Children's services within the meaning of the *Children's Services Act 1996*.
- Not-for-profit organisations consisting of 5 or fewer full-time equivalent employees.

The independent analysis regarding fees related to scientific procedures occurred in 2016 and changes to fees were already implemented in the POCTA Regulations 2008. Fees related to scientific procedures are therefore already set at full cost recovery and are proposed to remain unchanged in the draft POCTA Regulations 2019.

This means that most fees in the draft POCTA Regulations 2019 are also included in the POCTA Regulations 2008 and are already charged at either full cost recovery or nil as proposed in the draft POCTA Regulations 2019. There is therefore no change to fee levels proposed in most cases. As these fees already exist and are not proposed to change, implementation of these fees is expected to be straightforward and managed as part of the general implementation of the draft POCTA Regulations 2019 (discussed in more detail in Chapter 8).

There are a small number of changes to fees. New fees are being introduced for electronic devices and traps. Existing fees are being increased for rodeos to achieve full cost recovery. Implementing these changes will require greater focus and specific communication with industry within the broader implementation program. In instances of new fees in these areas, these fees are required to enable cost recovery to occur in areas where costs will be incurred which were not recoverable under the POCTA Regulations 2008 (or where the activities themselves are new). Instances of increased fees are in areas where the cost recovery analysis described above indicated that fees under the POCTA Regulations 2008 were below full cost recovery levels.

Fees for the draft POCTA Regulations 2019 (i.e. the preferred options identified above) are shown in Table 15, which also highlight changes from the fees in the POCTA Regulations 2008.

Table 15: Fees in draft POCTA Regulations 2019 (preferred option)

Fee	Fee units (POCTA Regulations 2008)	Fee units (Draft POCTA Regulations 2019)	Percentage change	Amount
<i>Electronic devices</i>				
Fee for approval of therapeutic electronic devices	N/A	30	N/A	\$444.30
<i>Trap Approvals</i>				
Fee for all trap related approvals	N/A	23	N/A	\$340.63
<i>Rodeos</i>				
Fee for the issue of a rodeo licence	45	48	7%	\$710.88
Fee for the issue of a rodeo permit	12	41	242%	\$607.21
Fee for the issue of a rodeo school permit	6	34	467%	\$503.54
Fee for the approval of a rodeo organisation	N/A	63	N/A	\$933.03
<i>Scientific Procedures</i>				
Fee for a scientific procedures premises licence (1 year)	38.4	38.4	0%	\$568.70
Fee for a scientific procedures premises licence (2 years)	60.9	60.9	0%	\$901.93
Fee for a scientific procedures premises licence (3 years)	83.4	83.4	0%	\$1,235.15
Fee for a scientific procedures premises licence (4 years)	105.9	105.9	0%	\$1,568.38
Fee for renewal of a scientific procedures premises licence (renewed for 1 year)	32.4	32.4	0%	\$479.84
Fee for renewal of a scientific procedures premises licence (renewed for 2 years)	54.5	54.5	0%	\$807.15
Fee for renewal of a scientific procedures premises licence (renewed for 3 years)	76.5	76.5	0%	\$1,132.97
Fee for renewal of a scientific procedures premises licence (renewed for 4 years)	98.6	98.6	0%	\$1,460.27
Fee for a scientific procedures field work licence (Victorian AEC nomination only) (1 year)	32.2	32.2	0%	\$476.88
Fee for a scientific procedures field work licence (Victorian AEC nomination only) (2 years)	51	51	0%	\$755.31
Fee for a scientific procedures field work licence (Victorian AEC nomination only) (3 years)	69.9	69.9	0%	\$1,035.22
Fee for a scientific procedures field work licence (Victorian AEC nomination only) (4 years)	88.8	88.8	0%	\$1,315.13

Fee for a scientific procedures field work licence (Non-Victorian AEC nomination) (1 year)*	37.3	37.3	0%	\$552.41
Fee for a scientific procedures field work licence (Non-Victorian AEC nomination) (2 years)*	53.1	53.1	0%	\$786.41
Fee for a scientific procedures field work licence (Non-Victorian AEC nomination) (3 years)*	68.8	68.8	0%	\$1,018.93
Fee for a scientific procedures field work licence (Non-Victorian AEC nomination) (4 years)*	84.6	84.6	0%	\$1,252.93
Fee for renewal of a scientific procedures field work licence (Victorian AEC nomination only) (1 year)	27.5	27.5	0%	\$407.28
Fee for renewal of a scientific procedures field work licence (Victorian AEC nomination only) (2 years)	45.9	45.9	0%	\$679.78
Fee for renewal of a scientific procedures field work licence (Victorian AEC nomination only) (3 years)	64.2	64.2	0%	\$950.80
Fee for renewal of a scientific procedures field work licence (Victorian AEC nomination only) (4 years)	82.6	82.6	0%	\$1,223.31
Fee for renewal of a scientific procedures field work licence (Non-Victorian AEC nomination) (1 year)*	26.4	26.4	0%	\$390.98
Fee for renewal of a scientific procedures field work licence (Non-Victorian AEC nomination) (2 years)*	41.8	41.8	0%	\$619.06
Fee for renewal of a scientific procedures field work licence (Non-Victorian AEC nomination) (3 years)*	57.1	57.1	0%	\$845.65
Fee for renewal of a scientific procedures field work licence (Non-Victorian AEC nomination) (4 years)*	72.4	72.4	0%	\$1,072.24
Fee for a specified animals breeding licence (1 year)	35.1	35.1	0%	\$519.83
Fee for a specified animals breeding licence (2 years)	54.6	54.6	0%	\$808.63
Fee for a specified animals breeding licence (3 years)	74	74	0%	\$1,095.94
Fee for a specified animals breeding licence (4 years)	93.4	93.4	0%	\$1,383.25
Fee for renewal of a specified animals breeding licence (1 year)	29.5	29.5	0%	\$436.90
Fee for renewal of a specified animals breeding licence (2 years)	48.4	48.4	0%	\$716.80
Fee for renewal of a specified animals breeding licence (3 years)	67.4	67.4	0%	\$998.19
Fee for renewal of a specified animals breeding licence (4 years)	86.4	86.4	0%	\$1,279.58
Fee for preparation of compliance report (administrative) (per hour)#	5.6	5.6	0%	\$82.94 per hour
Fee for preparation of compliance report (monitoring) (per hour)#	10	10	0%	\$148.10 per hour

\*These fees apply when a non-Victorian AEC is nominated regardless of whether a Victorian AEC has also been nominated.

# These fees are set at an hourly rate to avoid cross subsidisation of large licence holders by small licence holders and accurately and equitably recover costs.

## 7. Summary of the preferred option

### 7.1 Summary of option and impacts

The following table summarises the preferred option. A full description of the draft POCTA Regulations 2019 can be found in Chapter 5 (refer to page 40).

Table 16: Summary of preferred option and impacts

Description	Impact
<b>Protection of Animals - Offences. Option 2 (refer to page 41)</b>	
<p>The draft POCTA Regulations 2019 include specific regulations that state offences with relation to general requirements, being:</p> <ul style="list-style-type: none"> <li>• Transportation of animals.</li> <li>• Possession of fighting implements.</li> <li>• Mouthpieces.</li> <li>• Pronged collars.</li> <li>• Prescribed kinds of traps.</li> <li>• Leaving animals unattended in cars.</li> <li>• Carrying animals on metal trays of motor vehicles.</li> <li>• Transport of farm animals in passenger vehicles.</li> <li>• Transport of farm animals when not weight-bearing on all limbs.</li> <li>• Duration for which farm animals can be transported without access to water.</li> <li>• Tethering of animals.</li> <li>• Sheep with overgrown wool.</li> <li>• Pain relief for mulesing of sheep.</li> <li>• Sale and use of fruit netting.</li> </ul>	<p><b>Animal welfare:</b></p> <ul style="list-style-type: none"> <li>• The draft POCTA Regulations 2019 increase the number of defined offences and therefore the ability to incur a fine for non-compliance in relation to an offence. As such, better treatment of animals is expected resulting from an increased risk of people being fined.</li> <li>• A ban on wildlife-unsafe fruit netting will reduce the likelihood of animals becoming trapped in netting.</li> <li>• Requirements to take measures to clear warrens before the use of Oxy-LPG devices greatly reduces the risk of animals becoming injured from misuse or malfunctions of the devices.</li> <li>• Prohibiting the mulesing of sheep without pain relief will reduce pain and suffering for sheep that are mulesed.</li> </ul> <p><b>Regulatory burden:</b></p> <ul style="list-style-type: none"> <li>• Introduction of many offences in the draft POCTA Regulations 2019 is unlikely to increase burden as offences would remain in place in the Base Case.</li> <li>• Consumers may face higher up-front costs to purchase wildlife-safe fruit netting, however the greater quality and effectiveness of this netting means that the overall impact is negligible.</li> <li>• Slight increase in time and cost of mulesing sheep due to requirement to provide pain relief, however it is believed that around 80% of people completing mulesing already use pain relief.</li> <li>• Increased burden from the requirement to clear warrens before the use of Oxy-LPG devices as additional pest control measures are required before use.</li> </ul>

<ul style="list-style-type: none"> <li>• Use of Oxy-LPG devices that destroy burrows.</li> </ul> <p>It is noted that key changes under the preferred option include making it an offence to use or sell fruit netting for the purposes of covering household fruit trees, vegetable gardens and other fruiting plants unless it has certain features, such as a mesh-size of 5mm or less when stretched, is white in colour and has a strand diameter of no less than 500 microns). In addition, it would be an offence for anyone to use Oxy-LPG devices unless all reasonable efforts have been made to empty the warren of live rabbits using other methods.</p>	<ul style="list-style-type: none"> <li>• Reduced cost for Government with infringement offences included in the draft POCTA Regulations 2019. Enforcing these would not require prosecution (through a lengthy and costly legal process).</li> </ul> <p><b>Economic/social/environmental impact:</b></p> <ul style="list-style-type: none"> <li>• Minimal impact with introduction of many regulatory offences as they would still be considered an offence in the Base Case.</li> <li>• Reduced costs of rescue and care of animals and costs to the health system when animals become trapped in wildlife-unsafe netting, reduced risk of distress for people discovering the injured or dead animals and increased resource efficiency with wildlife-safe netting being more durable, but there will be negative impacts on retailers who sell wildlife-unsafe netting.</li> </ul>
<b>Protection of Animals - Electronic devices Option 3 (refer to page 48)</b>	
<p>The use of electronic devices would be prescribed under the draft POCTA Regulations 2019. This means that devices would be limited to only those permitted by the draft POCTA Regulations 2019 and under certain conditions, being:</p> <ul style="list-style-type: none"> <li>• Placement or use of certain electronic devices.</li> <li>• Electric fences.</li> <li>• Electric bird deterrents.</li> <li>• Electric prodders.</li> <li>• Electronic stunning devices.</li> <li>• Electronic ejaculators.</li> <li>• Electronic collars.</li> <li>• Electrofishing.</li> <li>• Electrocutation traps.</li> </ul> <p>Under this Option, only specific types of electronic collars would be permitted. The draft POCTA Regulations 2019 would state that a person must not use, sell, hire or supply a remote-training or anti-bark collar (an exception would be put in place for police or military dogs). Containment collars will be permitted with conditions governing use.</p>	<p><b>Animal welfare:</b></p> <ul style="list-style-type: none"> <li>• While the use of electronic devices can increase the risk of animal harm and suffering, outlining conditions on the use of electronic devices in the draft POCTA Regulations 2019 reduces these risks.</li> <li>• The draft POCTA Regulations 2019 ensure that: <ul style="list-style-type: none"> <li>• Electric currents in electric fences and electric bird deterrents are not sufficient to harm or kill an animal.</li> <li>• Electric prodders cannot be used on certain species or animals under a certain age.</li> <li>• Users of electronic stunning devices must have a licence issued under the <i>Meat Industry Act 1993</i>.</li> <li>• Use of electronic ejaculators is limited to veterinary practitioners who have been trained on the proper use of the devices.</li> <li>• Users of electrofishing and electric foot apparatus must have a scientific procedures licence.</li> </ul> </li> <li>• A ban on the use of remote-training and anti-bark collars will eliminate the risk of animals experiencing pain and distress (even if the intended behaviour change is for the animal's benefit), and implications of misuse are eliminated.</li> <li>• The draft POCTA Regulations 2019 will provide further clarification on the use of some electronic devices, which can help users to ensure appropriate use.</li> </ul> <p><b>Regulatory burden:</b></p>

	<ul style="list-style-type: none"> <li>• Possible increase in regulatory burden for electronic device users as conditions on use will be prescribed, but this is likely to be minimal because the risk and suffering that the conditions aim to reduce would have breached Section 9 of the POCTA Act in the Base Case.</li> <li>• Increased burden from animal owners having to use alternative methods to remote-training and anti-bark collars, as these methods are often labour-intensive and require increased effort from owners.</li> <li>• Additional requirement to leave a visual cue in place when using containment collars (which may have to be maintained), but this is unlikely to significantly increase the burden.</li> <li>• Increased cost of enforcement for Government.</li> </ul> <p><b>Economic/social/environmental impact:</b></p> <ul style="list-style-type: none"> <li>• Additional restrictions and conditions of the use of electronic devices, but this is likely to be minor as the draft POCTA Regulations 2019 still allow use of many devices.</li> <li>• Possible minor increase in social benefit as there will be a reduced risk of people facing stress, anxiety or threats to personal safety associated with misuse of devices.</li> <li>• Significant (but not major) impact of reduction in sales of remote-training and anti-bark collars.</li> <li>• Potential social benefits from use of alternative animal training techniques, such as increased understanding of pet behaviour and increased satisfaction from use of positive reward-based training mechanisms, but if the reduced use of electronic collars is not offset by other training methods then the wider community may be impacted (such as through increased barking from dogs).</li> </ul>
<b>Traps. Option 3 (refer to page 54)</b>	
<p>Under this option the following traps would be able to be used under certain conditions:</p> <ul style="list-style-type: none"> <li>• Leghold traps.</li> <li>• Confinement traps.</li> <li>• Net traps.</li> <li>• Non-kill snares.</li> <li>• Rodent kill traps.</li> <li>• Kill traps.</li> </ul>	<p><b>Animal welfare:</b></p> <ul style="list-style-type: none"> <li>• While the use of traps can increase the risk of animal harm and suffering, outlining conditions on the use of traps in the draft POCTA Regulations 2019 reduces these risks.</li> <li>• The draft POCTA Regulations 2019 ensure that:</li> <li>• Use of confinement traps must comply with conditions surrounding the design, use and monitoring of these traps to limit risk of harm to animals and capture of non-target species.</li> </ul>

- Lethal trap devices.

It is noted that the provision for the Minister to approve a longer trap check time interval for leghold traps for wild dogs under the Victorian Wild Dog Program would be phased out by 31 December 2024.

Further, under the preferred option, a person must not sell or use glue traps for the purposes of trapping an animal.

- Net traps must be checked every four hours to minimise the risk of distress for captured animals.
- Non-kill snare traps must have specified features and users must follow certain conditions to reduce the risk of physical injuries and distress for animals.
- Kill traps must not have design features that can cause animals unnecessary pain and suffering before death.
- The risk of prolonged animal suffering in leghold traps is reduced as all of these traps must be checked every 24 hours.
- A ban on glue traps eliminates the risk of animal harm and suffering from being trapped.

**Regulatory burden:**

- Reduced overall regulatory burden compared to the Base Case as use of traps is allowed as specified in the draft POCTA Regulations 2019, but conditions on use somewhat mitigate this.
- Burden for the Victorian Wild Dog Program of checking leghold traps every 24 hours of up to \$3.1 million per year. The five-year phase-out timeframe and adoption of remote trap-checking technology will reduce this burden considerably but is unlikely to eliminate it.
- Reduced cost to Government in the long run as Ministerial approvals process for leghold trap-checking exemption will be removed.
- Minor increase in burden for previous users of glue traps as they have to find alternative control devices, however there are only a small number of glue trap users.
- Greater enforcement costs for Government to monitor conditions on design, use and management of traps, but this is not considered likely to outweigh the overall reduction in burden for individuals and businesses.

**Economic/social/environmental impact:**

- Allowing use of traps will result in economic benefits from increased sales in retail and wholesale sectors, but there may be a minor offset as use is under certain conditions outlined in the draft POCTA Regulations 2019.
- Social and environmental benefits from being able to better manage pest species, such as reduced threat of food contamination and reduced risk of impact from pest species on native wildlife and vegetation.

	<ul style="list-style-type: none"> <li>• Reduction in economic cost to the agricultural sector where wild dog control would not be possible without the Victorian Wild Dog Program (compared to the Base Case where traps are not permitted to be used), and the economic benefits from a reduction in livestock numbers killed or maimed by wild dogs.</li> <li>• Social benefit of reduced stress for landholders whose stock was previously threatened by wild dogs.</li> </ul>
<b>Rodeos and rodeo schools. Option 2 (refer to page 56)</b>	
<p>Rodeos can only be operated by licence and permit holders. Licence and permit holders have to comply with a range of conditions similar to the POCTA Regulations 2008.</p>	<p><b>Animal welfare:</b></p> <ul style="list-style-type: none"> <li>• Likely to be a positive impact on animal welfare with inclusion of conditions in draft POCTA Regulations 2019, but this is expected to be minimal because many conditions would be applied administratively through the permit and licence system in the Base Case and any additional conditions would likely be met under the Base Case.</li> </ul> <p><b>Regulatory burden:</b></p> <ul style="list-style-type: none"> <li>• Since many conditions would be applied administratively and other conditions would be met even if not a requirement in the Base Case, the overall impact on regulatory burden is expected to be minor.</li> <li>• The increase in burden may be generated from requirement to complete additional reporting and subsequent cost to Government of reviewing reporting and providing guidance, but AWV will provide guidance to reduce this burden.</li> <li>• Allowing flexibility in start times of rodeos is likely to result in a marginal reduction in burden for event organisers.</li> </ul> <p><b>Economic/social/environmental impact:</b></p> <ul style="list-style-type: none"> <li>• Given that practice would be similar as in the Base Case these impacts are expected to be minimal.</li> <li>• There may be some level of social benefit from greater clarity around roles and responsibilities with the Animal Welfare Plans being a requirement and there may be additional piece of mind for rodeo operators.</li> </ul>

**Scientific procedures. Option 3 (refer to page 60)**

In the preferred option, there will be defined conditions relating to the use of animals in scientific procedures, AEC members will be required to undertake mandatory training and the Pound Animals Code of Practice will be revoked.

**Animal welfare:**

- Overall positive impact on animal welfare, with mandatory training requirements for AEC members expected to improve awareness of the extent of their responsibilities with respect to approving and monitoring all activities involving animals.
- No impact on welfare from conditions being introduced with draft POCTA Regulations 2019 as these would be applied administratively in the Base Case.
- Removal of monthly record keeping requirements will not affect animal welfare.
- Since animals from pounds are rarely used in scientific procedures, the impact of revoking the Pound Animals Code of Practice is expected to be minimal.

**Regulatory burden:**

- Overall burden will be higher than in the Base Case, but not by a significant amount.
- Time and cost of producing monthly records will be eliminated.
- Increased burden for AEC members having to complete mandatory training, but the requirement for licence holders to provide training will be reduced.
- Small increase in cost for Government to develop online training for AEC members (estimated to be \$80,000 up-front and minor ongoing management costs).
- Revoking the Pound Animals Code of Practice will reduce regulatory burden as clarity and simplification will be provided for industry and enforcement costs for Government will fall.

**Economic/social/economic impact:**

- Positive social impact for licence holders knowing that AEC members have received training and are aware of how to minimise risks to animal welfare.
- Revoking the Pound Animals Code of Practice is not expected to have any significant impact.

## 7.2 Competition assessment

As part of the RIS process an examination of the impact of the draft POCTA Regulations 2019 on competition is required.

The draft POCTA Regulations 2019 are not anticipated to have a material impact on competition. The primary impact on competition of the draft POCTA Regulations 2019 is the requirement for licencing for rodeos and rodeo schools and scientific procedures. Rodeos can only be operated by licence and permit holders who are required to comply with a range of conditions. In the POCTA Act, there are three different types of licences relating to scientific procedures:

- Scientific procedures premises licences - authorises scientific procedures carried out at scientific premises.
- Scientific procedures field work licences - authorises scientific procedures carried out outside of scientific premises.
- Specified animals breeding licences - authorises the breeding of specified animals and related practices necessary for their sale for use in scientific procedures.

Under these licences, the licence holders must abide by any conditions that are prescribed or that the Department Head imposes on the licence.

Licensing was present in the POCTA Regulations 2008 and no substantial competition issues have been raised to date. The draft POCTA Regulations 2019 do not significantly change licence fees or conditions and are therefore not anticipated to significantly impact competition.

The below table outlines a number of questions that assist in understanding whether the draft POCTA Regulations 2019 are likely to impact on competition. Regulation is likely to have an impact if any of the questions can be answered in the affirmative.

**Table 17: Impacts of the draft POCTA Regulations 2019 on competition**

Test question	Assessment	Reason
Is the proposed measure likely to affect the market structure of the affected sector(s) - i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms?	No	The draft POCTA Regulations 2019 do not affect the market structure of impacted sectors in any significant way. The only potential impact could relate to the licencing requirements for rodeos and rodeo schools and scientific procedures. However, providing an organisation complies with the associated conditions, they should be eligible to receive a licence and therefore not affect market structure.
Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?	Unlikely	As above, organisations would need to meet the requirements in licences for rodeos and rodeo schools and scientific procedures. However, in the absence of the draft POCTA Regulations 2019, it is likely that, in the case of rodeos and rodeo schools, a code would stipulate similar requirements. In the case of scientific procedures, codes would also apply similar conditions and as such the draft POCTA Regulations 2019 are unlikely to make it more difficult for new entrants.
Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more	Unlikely	The various elements of the draft POCTA Regulations 2019 have a range of impacts on individuals and businesses, however they do not target or regulate a certain sector or sub-

Test question	Assessment	Reason
than others (e.g. small firms, part-time participants in occupations etc.)?		sector. Rather, they generally regulate certain actions or activities. Firms or individuals involved in these activities are impacted but all firms undertaking these are expected to be impacted in a similar way.
Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?	Minor impacts	The draft POCTA Regulations 2019 impact on the range of products that individuals and businesses can use, and this may impact on the range of products a business sells. These include the type of fruit netting, traps, Oxy-LPG devices, remote-training or anti-bark collars and electronic devices.
Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?	No	The same requirements will be imposed on new entrants compared with incumbents.
Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?	Minor impacts	The draft POCTA Regulations 2019 prohibit the use of certain equipment or the performance of certain activities, however the same objectives cannot be achieved through other means.

The impact on competition from the draft POCTA Regulations 2019 are expected not to be material. DJPR believes that the restrictions are necessary to achieve the objectives of the draft POCTA Regulations 2019, and that the benefits of these restrictions outweigh the costs.

### 7.3 Small business impacts

The *Victorian Guide to Regulation* states that consideration should be given to the impact that the preferred option could have on small businesses. The ABS defines a small business as having less than 20 employees.<sup>109</sup>

The introduction of new offences into the draft POCTA Regulations 2019 is expected to have some impacts on small businesses. There are small businesses around Victoria, such as discount stores, that currently sell the type of fruit netting that will be banned under the draft POCTA Regulations 2019. There may be a loss of sales revenue with a ban on wildlife-unsafe fruit netting, however the impact of this is expected to be minor. This is for two reasons. Firstly, stores can substitute the sale of wildlife-unsafe netting with netting that complies with the draft POCTA Regulations 2019. Secondly, feedback from stakeholders indicated that, because this netting is often low cost, the loss of profits from reduced sales will be minimal. They also noted that many stores are happy to stop selling the wildlife-unsafe netting when the issue is raised with them, which also suggests that the impact for the businesses is not significant.

The requirement to provide pain relief to sheep when mulesing takes place may result in slightly increased costs to contractors however this will be offset through their charges to producers. While these costs will get passed onto producers, they advise that increased costs are offset through improved recovery times and reduced weight loss in sheep. The impact compared to the current situation is not likely to be large, as many farmers already administer the sheep with pain relief voluntarily. However, while over 80% of producers in Victoria already use pain relief while mulesing, this figure is lower for producers with a flock size of 250 or fewer (to around 70%).<sup>110</sup> This impact, while still relatively minor is likely to be felt more significantly by small businesses.

<sup>109</sup> Small Business in Australia, ABS, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DOSSbyTopic/297DB51F08B97920CA256BD000281897?OpenDocument>

<sup>110</sup> <https://www.wool.com/globalassets/start/on-farm-research-and-development/sheep-health-welfare-and-productivity/sheep-health/breech-flystrike/r-and-d-update/2017-merino-husbandry-practices-survey-bsloane.pdf>

The requirement to clear warrens before the use of Oxy-LPG devices may reduce the purchase of such devices and impact on businesses that sell them. One business in Victoria sells the devices (and has invested significantly in their development) and so any reduction in purchases would impact that business. This business does sell other products and services relating to other forms of animal control and vegetation management however and therefore is not solely reliant on Oxy-LPG device sales.

Pet shops, animal product suppliers and stock and station agents in Victoria - many of whom are small businesses - may be impacted by reduced sales of electronic devices as the draft POCTA Regulations 2019 include conditions on the use of these devices. The ban on the sale and use of remote-training and anti-bark collars is likely to have the greatest impact. In the Base Case, the devices could be used unless they are shown to cause unnecessary harm and suffering to animals. From this respect, use of electronic devices will likely be more limited under the draft POCTA Regulations 2019 than the Base Case, meaning that small businesses that sell these products would be negatively affected. It is noted however that under the Base Case codes and standards also limit the use of electronic devices. Further, the POCTA Regulations 2008 also include conditions on the use of these devices. In addition to these impacts, businesses seeking approval to use electronic devices for therapeutic purposes will have to pay a fee

Overall, the draft POCTA Regulations 2019 in relation to the use of traps will provide economic benefits for small businesses compared to the Base Case because the Base Case does not allow the use of any traps. This means that sales will be able to be made under the draft POCTA Regulations 2019, and businesses will receive significant benefit. In comparison to the current situation, however, there may be some impact to businesses who sell and use glue traps (as these will be banned under the preferred option). Nevertheless, stakeholders noted that the use of glue traps is limited and alternatives do exist, albeit in some instances they can be less effective. While businesses using traps enabled by the draft POCTA Regulations 2019 will benefit from this flexibility, this will also result in a requirement for some of these businesses to pay a fee for trapping approvals

Part 4 (Rodeo and Rodeo Schools) of the draft POCTA Regulations 2019 broadly regulates the conduct of the rodeo industry in Victoria. This industry consists almost entirely of small business or individuals, and therefore the impact of the draft POCTA Regulations 2019 will fall almost entirely on small businesses (such as rodeo organisers or stock contractors). The costs imposed by the draft POCTA Regulations 2019 are relatively low and affect only a small number of businesses. Small businesses operating in this industry generally understand the requirements and already comply with them (under the current regulatory framework). The addition of new conditions in the draft POCTA Regulations 2019 may provide rodeo organisers and stock contractors with improved efficiencies across their operations and therefore are likely to be beneficial to small businesses when compared to the current approach (the POCTA Regulations 2008). However, permit/licence application fees will impact these businesses

Part 5 (Scientific Procedures) of the draft POCTA Regulations 2019 affects a variety of organisations who undertake these procedures. This includes universities, hospitals, government departments of agriculture and the environment, research institutions, and private companies. These institutions are generally medium to larger-sized organisations, with 22 per cent of the 241 licensed organisations (or approximately 53 organisations) employing ten or fewer staff. The draft POCTA Regulations 2019 therefore will only impact on a relatively small proportion of smaller scientific establishments. The fees associated with licences to undertake these scientific procedures will likewise be experienced by some small businesses (although some small not-for-profit organisations will not experience this impact if they meet the requirements to be exempt from fees).

## 8. Implementation

### 8.1 Implementation plan

As outlined, the draft POCTA Regulations 2019 are replacing the sunseting POCTA Regulations 2008. While there are a number of changes, the majority of the regulations are substantively the same as the current requirements and the regulatory approach will not change significantly. As a result, activities associated with implementation will remain largely the same as the business as usual approach under the current regulatory environment.

That being said, a variety of activities will be undertaken to assist with implementation of the draft POCTA Regulations 2019. AWV will develop a series of resources to educate the community and organisations about the requirements of the draft POCTA Regulations 2019 and assist them with complying with these, particularly where they have changed from the POCTA Regulations 2008. These resources will include:

- A template Animal Welfare Plan for rodeo licence and permit holders.
- Factsheets on regulatory requirements including:
  - Sale requirements for traps, fruit netting and electronic collars.
  - Transport of animal requirements.
  - Implementation of pain relief for mulesing.
  - Use of leghold traps and electronic devices.
  - Use of fruit netting.
- Information provided on the Agriculture Victoria website on legal requirements and how to meet them.
- The development of application forms and annual reporting templates for reporting on specified trap approval use and other approvals.

Messaging about changes to the POCTA Regulations 2019 would be provided to the community at the time of their commencement, with the preparation of resources undertaken within six months of the POCTA Regulations 2019 taking effect.

In addition, at the time of making the POCTA Regulations 2019, AWV will conduct a communications campaign to advise the community, relevant industries, impacted businesses and relevant stakeholder organisations of the changes.

Transition periods will also apply to assist individuals and organisations change their behaviour and activities to align with the new requirements. These will apply in the following areas:

- The mulesing of sheep unless pain relief has been administered. A 12-month transition period is proposed for this offence.
- The provision for the Minister to approve a longer trap-check time-interval for leghold traps for the Victorian Wild Dog Program would be phased out by 31 December 2024, enabling a 5-year transition period for government organisations utilising this exemption to adapt their working practices, including adoption of new technologies.

During the transition periods outlined above, AWV and other enforcement organisations will work with industry to assist with implementation.

## 8.2 Enforcement

Enforcement of the POCTA Act and the POCTA Regulations is undertaken by inspectors authorised under the POCTA Act from the following organisations:

- Department of Jobs, Precincts and Regions (DJPR).
- Royal Society for the Prevention of Cruelty to Animals (Victoria) (RSPCA Victoria).
- Department of Environment, Land, Water and Planning (DELWP).
- Game Management Authority.
- Local Government.
- Victoria Police.<sup>111</sup>

The new offences have primarily been included in Part 2 of the draft POCTA Regulations 2019 (Protection of Animals), as well as in Part 4 (Rodeos and rodeo schools) and Part 5 (Scientific procedures).

New offences are intended to be added in the following areas:

- Leaving animals unattended in cars on hot days.
- Carrying animals on metal trays of motor vehicles on hot days.
- Transport of farm animals in passenger vehicles.
- Transport of farm animals when not weight-bearing on all limbs.
- Duration for which farm animals can be transported without access to water.
- Tethering of animals.
- Sheep with overgrown wool.
- Pain relief for mulesing of sheep.
- Sale and use of fruit netting.
- Use of Oxy-LPG devices that destroy burrows in a similar manner.
- Preventing the use of motor vehicles in the arena of a rodeo or rodeo school except in an emergency.

There are a total of 69 infringement offences in the draft POCTA Regulations 2019. Fourteen new infringement offences have been proposed in the draft POCTA Regulations 2019. All the infringeable offences are listed in Schedule 5 of the draft POCTA Regulations 2019.

Infringement penalties in the draft POCTA Regulations 2019 range from 1 to 4 penalty units (PU). 1 PU = \$165.22 (as of 1 July 2019).

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<sup>111</sup> Reporting animal cruelty, Agriculture Victoria (2017), <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/reporting-animal-cruelty>

These infringement offences and penalty levels were developed in consultation with the Infringements System Oversight Unit within the Department of Justice and Community Safety using the Attorney-General's Guidelines to the *Infringements Act 2006*.

## 9. Evaluation strategy

Various mechanisms will be used to evaluate the effectiveness of the draft POCTA Regulations 2019. A variety of tools and approaches will inform the ongoing assessment of the POCTA Regulations 2019, particularly in relation to the achievement of improved animal welfare outcomes.

The primary indicators of impact are the number and type of animal welfare reports received. The main gap in information and data resulting from a reliance on the number and type of animal welfare reports received is understanding issues which occur and are not reported. To address this gap, AWV consults with industry and the community on a regular basis to understand key concerns in relation to animal welfare.

AWV works with relevant enforcement organisations on an ongoing basis to monitor reports received. This comprises:

- Quarterly meetings between Agriculture Victoria (including both policy and enforcement areas) and RSPCA Victoria.
- Monitoring by AWV of regulation offences received and investigated by DJPR and RSPCA Victoria Inspectorate officers authorised under Part 2 of the POCTA Act, via quarterly compliance reports.
- Monitoring by AWV of prosecutions by all agencies via monthly reports received from the Magistrates' Court of Victoria.
- DJPR receiving reports from nominated veterinary practitioners detailing the condition of animals involved in rodeos and rodeo schools and any injuries sustained by the animals.
- AWV receiving reports directly from the public, via email and phone, about animal welfare issues.

As seen in Figure 3 (page 29), animal welfare reports made to DJPR have increased over the last 14 years, with the highest number of reports received in 2018-19. In 2017-18, 1,280 reports were received while in 2018-19, 1,747 reports were received. In developing the draft POCTA Regulations 2019 the animal welfare issues which had the most reports were considered as well as issues raised during the extensive stakeholder consultation. The draft POCTA Regulations 2019 assist in addressing these issues.

Under the draft POCTA Regulations 2019, some trapping approvals would require the preparation of an annual report. For example, this requirement would apply to any approval granted to leave animals trapped in large leghold traps set for wild dogs under the Victorian Wild Dog Program for up to 72 hours (up to 31 December 2024). The data and information obtained from these reports would assist in monitoring the effectiveness of the trapping regulations.

The requirement for licence and permit holders of rodeos and rodeo schools to complete Animal Welfare Plans where licence and permit holders would demonstrate how they would meet their obligations under the draft POCTA Regulations 2019, will also assist with the monitoring and evaluation of animal welfare at rodeos. In addition, auditing of rodeos and rodeo schools is undertaken and compliance with licence and permit conditions is assessed.

Random checks of the welfare of animals at saleyards and rodeos are also undertaken to monitor animal welfare.

AWV officers authorised under Part 3 of the POCTA Act audit scientific procedures licence holders and specified animals breeding licence holders, to monitor compliance with the licence conditions

and minimum standards specified in the regulations. AWV officers authorised under Part 3 of the POCTA Act also receive and monitor details prescribed in the draft POCTA Regulations 2019, of all animals used in scientific procedures and specified animals bred under licence.

As outlined in Chapter 2, the Victorian Government has committed to modernising Victoria's animal welfare laws which includes a review of the POCTA Act. Under this new modernised animal welfare legislative framework, new regulations will need to be developed. As part of this work the appropriateness, efficiency and effectiveness of the draft POCTA Regulations 2019 will be evaluated.

## 10. Consultation strategy

The making of the draft POCTA Regulations 2019 has been an extensive process which began in July 2018. The development of the draft POCTA Regulations 2019 has been informed by consultation with a broad range of stakeholders, including industry, representative bodies, animal welfare organisations and government. Consultation was used to identify the areas of major concern with the POCTA Regulations 2008 (as detailed in section 3.4) and to understand the impacts of the options considered.

Workshops were held with stakeholders to discuss key areas of concern. Representatives attended on behalf of:

- Animal industry organisations.
- Nature reserve managers.
- Electronic collar manufacturers.
- Rodent trap manufacturers.
- Unincorporated areas.
- Dog trainers.
- Research scientists.
- Enforcement organisations.
- Animal welfare and conservation groups.
- The veterinary profession.
- Pest controllers.
- Rodeo operators.
- Government agencies.

A survey of local councils was undertaken by AWV to understand the key areas of concern with the POCTA Regulations 2008. A total of 79 Councils were surveyed, with 43 responding (a response rate of 54.4%).

A survey of scientific procedures licence holders was also undertaken (in 2019) by AWV to further understand issues that were identified through earlier consultation, relating to Part 4 (Scientific Procedures) of the POCTA Regulations 2008. The survey was sent to 382 recipients, including 293 on behalf of licence holders (emailed to licence nominees and licensing officers) and 89 representatives of AECs. With 85 responses, this represented a response rate of 22.25%.

The outcomes of the workshops and the survey results were used to identify what aspects of the POCTA Regulations 2008 should be changed. This informed the options development for this RIS. Once the options were developed, a number of organisations were consulted in order to gather data and information on the impacts of the proposed options. The organisations consulted were:

- Australian Environmental Pest Managers Association.
- Australian Veterinary Association.

- Department of Environment, Land, Water and Planning.
- Department of Jobs, Precincts and Regions.
- Jansen Farm Services.
- Victorian Farmers Federation.
- Wildlife Victoria.

This RIS represents another step in the consultation process and AWV welcomes comments or suggestions with respect to the nature, extent, and likely impacts of the draft POCTA Regulations 2019, and any variations that may improve the overall quality of the draft POCTA Regulations 2019.

The *Subordinate Legislation Act 1994* requires that the public be given at least 28 days to provide comments or submissions. Members of the public will, therefore, have a total of 28 days to comment on this RIS and the draft POCTA Regulations 2019.

## Appendix A Example Fee Calculation

Table 18: Fee calculations for scientific procedures premises licences (2016 dollars - i.e. updated fee units result in higher nominal values)

Activity	Additional comments	VPS category	Hourly Charge out rate	Raw time	Adjusted time with weighted year-based multiplier	Total cost of activity weighted average	Adjusted time with 1 year multiplier	Total cost of activity for 1 year licence	Adjusted time with 2 year multiplier	Total cost of activity for 2 year licence	Adjusted time with 3 year multiplier	Total cost of activity for 3 year licence	Adjusted time with 4 year multiplier	Total cost of activity for 4 year licence
New Licence application advice	N/A	VPS3	\$64.20	0.50	0.50	\$32.10	0.50	\$32.10	0.50	\$32.10	0.50	\$32.10	0.50	\$32.10
New Licence application data entry	Time to record licence details, premises and AECs.	VPS3	\$64.20	1.04	1.04	\$66.52	1.04	\$66.52	1.04	\$66.52	1.04	\$66.52	1.04	\$66.52
New licence finance management	Finance - apply to create customer, create invoice, process invoice.	VPS3	\$64.20	0.30	0.30	\$19.26	0.30	\$19.26	0.30	\$19.26	0.30	\$19.26	0.30	\$19.26
Premises inspection arrangement	Allocate auditor, contact auditor with address, email licence application to auditor	VPS3	\$64.20	0.25	0.25	\$16.05	0.25	\$16.05	0.25	\$16.05	0.25	\$16.05	0.25	\$16.05
Fit and proper determination	Supporting documents and offence check	VPS3	\$64.20	0.25	0.25	\$16.05	0.25	\$16.05	0.25	\$16.05	0.25	\$16.05	0.25	\$16.05
Fit and proper determination	Review of non-Vic regulator audit report for non-Vic SPFL	VPS6	\$110.78	0.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00
New Licence approval	Check data and issue licence on Bioweb	VPS6	\$110.78	0.10	0.10	\$11.08	0.10	\$11.08	0.10	\$11.08	0.10	\$11.08	0.10	\$11.08
Licence renewal notification/reminders	N/A	VPS3	\$64.20	0.10	0.10	\$6.42	0.10	\$6.42	0.10	\$6.42	0.10	\$6.42	0.10	\$6.42
New Licence dispatch	Letter creation, email & hard copy, file	VPS3	\$64.20	0.75	0.75	\$48.15	0.75	\$48.15	0.75	\$48.15	0.75	\$48.15	0.75	\$48.15
Licence amendment - AEC members	Check and verify supporting documents, data entry.	VPS3	\$64.20	0.26	0.83	\$53.15	0.26	\$16.62	0.52	\$33.24	0.78	\$49.86	1.04	\$66.48
Licence amendment - premises	Data entry, arrange premises inspection, amended licence dispatch.	VPS3	\$64.20	0.50	1.59	\$102.08	0.50	\$31.92	0.99	\$63.84	1.49	\$95.77	1.99	\$127.69
Reissue amended licence - premises	N/A	VPS6	\$110.78	0.10	0.10	\$11.08	0.10	\$11.08	0.20	\$22.16	0.30	\$33.23	0.40	\$44.31
Licence amendment - nominated person	Data entry, supporting documents check, amended licence dispatch.	VPS3	\$64.20	0.75	2.40	\$153.98	0.75	\$48.15	1.50	\$96.30	2.25	\$144.45	3.00	\$192.60
Reissue amended licence - nominated person	N/A	VPS6	\$110.78	0.10	0.10	\$11.08	0.10	\$11.08	0.20	\$22.16	0.30	\$33.23	0.40	\$44.31
Fieldwork notifications	Data entry	VPS3	\$64.20	0.40	1.27	\$81.55	0.40	\$25.50	0.79	\$51.00	1.19	\$76.51	1.59	\$102.01
Annual returns - preparation of return document	N/A	VPS3	\$64.20	0.10	0.32	\$20.53	0.10	\$6.42	0.20	\$12.84	0.30	\$19.26	0.40	\$25.68
Annual returns - collection and collation of data	N/A	VPS3	\$64.20	0.75	2.40	\$153.98	0.75	\$48.15	1.50	\$96.30	2.25	\$144.45	3.00	\$192.60
Annual returns - preparation of report	N/A	VPS3	\$64.20	0.30	0.96	\$61.59	0.30	\$19.26	0.60	\$38.52	0.90	\$57.78	1.20	\$77.04
Annual returns - preparation of briefing for report approval	N/A	VPS6	\$110.78	0.10	0.32	\$35.43	0.10	\$11.08	0.20	\$22.16	0.30	\$33.23	0.40	\$44.31
Annual returns - publish report to website	N/A	VPS3	\$64.20	0.10	0.32	\$20.53	0.10	\$6.42	0.20	\$12.84	0.30	\$19.26	0.40	\$25.68
Communication (Website maintenance, newsletter distribution, convene training sessions, broadcast comms re legislation)	N/A	VPS3	\$64.20	1.00	3.20	\$205.30	1.00	\$64.20	2.00	\$128.40	3.00	\$192.60	4.00	\$256.80
Licence Closure	Averaged per year	VPS3	\$64.20	0.10	0.32	\$20.53	0.10	\$6.42	0.20	\$12.84	0.30	\$19.26	0.40	\$25.68
<b>Total cost</b>						<b>\$1,146.43</b>		<b>\$521.93</b>		<b>\$828.23</b>		<b>\$1,134.53</b>		<b>\$1,440.84</b>

Source: Rivers Economic Consulting

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