



Community-Based Bird Clubs – Animal Welfare Experts

Meetings, Shows, Sales and Auctions in Victoria

Trade, Frequency, History, Welfare, Legislation

The real animal welfare experts are the hundreds of community-based animal groups, the veterinary profession and of course farmers. All these groups have been animal welfare educators and advocates for hundreds of years. Animal welfare is central to our day-to-day existence, it is what we do and our expertise is specialised and professional.

The lack of cooperative consultation from the Minister, and perhaps more critically, the active and ongoing avoidance of consultation is the reason we now confront the unsuitability of Section 96 and the amendments thereto in ensuring the welfare of birds at sales, auctions and shows.

The central issue is

- how would the proposed animal permit system for bird sales improve animal welfare for events that have been successfully self-regulated without incident for over 100 years.
- the amendments as proposed will effectively stop sales, auctions and any trading of birds outside of pet shops and private homes. Other unregulated methods of trading will develop. We predict major animal welfare issues will follow.

SUBMISSION TO THE COMMITTEE INQUIRY INTO
THE DOMESTIC ANIMALS AMENDMENT (PUPPY FARMS AND PET SHOPS) BILL 2016
16/11/2016

Canary and Cage Bird Federation of Australia Inc.

ABN 26 077 908 938

PO Box 230 Frenchs Forest NSW 1640

P: 02 9452 2396

E: birdclubs@aapt.net.au

Warren Wilson (President)

Ron Robertson (Secretary/Treasurer)

Sam Davis (Vice President – Government Liaison)

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Introduction

This paper is a cooperative effort compiled by The Canary and Cage Bird Federation of Australia Inc. with input, support and approval from a broad range of avicultural (breeding and keeping of birds) organisations. The paper is endorsed and submitted on behalf of nearly 200 community-based bird clubs operating throughout Victoria (refer Appendix 1). Although this is a Victorian state issue, it is pleasing to note the terrific support from Avicultural clubs and aviculturists nationally. In addition, we note and appreciate support from Dogs Victoria and various other animal groups. Although their issues with the Bill differ somewhat from ours, we have both experienced a distinct lack of cooperative consultation leading to draconian regulation which we all predict will lead to negative animal welfare outcomes.

In this paper our central objective is to educate and inform legislators, bureaucrats and the wider public about the frequency, size and history of bird shows, sales, auctions and meetings. Aviculture has been self-regulating itself for decades, in many cases centuries, with a range of successful welfare initiatives which are continually refined to improve outcomes and meet changing animal welfare expectations.

All of Aviculture unanimously agrees that welfare of birds is paramount at all times. This is particularly so during times when birds are moved to appear at events such as shows, sales or auctions. Please be clear that on welfare issues we have a zero tolerance for breaches. On welfare principles all parties are largely in agreement, it is how we regulate and ensure compliance with agreed welfare standards that is at issue. Coordination and cooperation is key to achieving improvements in compliance.

The aim of this paper is to explore the issues, present the facts, and then recommend evidence based changes that protect the welfare of animals in our care.

Community-based animal clubs are the main animal welfare educators within society. Nutrition, disease and treatment, housing, husbandry, exercise, mental stimulation, etc. are routine animal welfare topics at our meetings and in our magazines. As volunteer-based clubs it is difficult to compete with well-funded lobby-style activist groups. The really frustrating part of all this, is that we actually agree with much of the intent of these groups.

Sincerely,



Sam Davis
Vice President – Government Liaison
Canary and Cage Bird Australia Inc.
M: 0411 253 512
E: samdavis64@icloud.com

Executive Summary and Recommendations

Section 96 of the current Domestic Animals Act 1994 (DAA) and the proposed amendments in the Bill to require Animal Sale Permits will inhibit a legitimate pastime for tens of thousands of Victorians. Substantial negative animal welfare outcomes may arise as a consequence of Section 96 in both its current and amended form.

The real animal welfare experts are the hundreds of community-based animal groups, the veterinary profession and of course farmers. All these groups have been animal welfare educators and advocates for hundreds of years. Animal welfare is central to our day-to-day existence, it is what we do and our expertise is specialised and professional.

At present, trading of birds at club events by individuals or clubs is not exempt from section 96. This is an anomaly and arises from a single occurrence of the term “caged bird” in the definition of “pet shop” and is the cause of the entire issue.

Approximately 200 Community-based bird clubs operate throughout Victoria. These clubs have been trading birds at thousands of events annually for decades, and in many cases for centuries. There are no records of any investigations, charges or prosecutions at any of these events.

Why then is the government seeking to legislate to solve problems that simply do not exist?

Lack of cooperative consultation from the Minister, and perhaps more critically, the active and ongoing avoidance of consultation has created the issues we now confront. Despite this disappointing engagement, we remain eager to explore and cooperate in the formulation of evidence-based government policy and legislation to reinforce and promote animal welfare. We appreciate (and welcome) changing community expectations regarding animal welfare and continue to offer our assistance and expertise.

The proposed Animal Permit System is simply unworkable - thousands of applications annually, - councils with no avian expertise and funding, - vets unable to provide the given assurance, - unspecified approval processes - and a system full of red-tape and bureaucratic complexity. Without any obvious welfare outcome.

The Protection of Cruelty to Animals Act 1986 (POCTA) is the primary animal welfare legislative tool in Victoria. In our view, efforts to address both perceived and actual animal welfare breaches are better achieved via education, compliance and enforcement of this Act. The recent review of RSPCA Victoria makes similar recommendations. We continue to offer our assistance and support to RSPCA and Local Government in this regard.

On behalf of approximately 200 community-based bird clubs operating in Victoria we make the following recommendations to the Committee Inquiry. We encourage support for Recommendation 1 and either Recommendation 2 or Recommendation 3.

Recommendation 1.

Minister immediately recommends to the Governor in Council (under DAA Section 5), an exemption for all bird clubs from DAA Section 96 in the interim period until processes and solutions related to Recommendation 2 or Recommendation 3 are resolved and passed into law.

Recommendation 2.

Reject the current amendment Bill in its entirety. The Minister has recently announced an Animal Welfare Action Plan with a substantial collaborative intent. This is a perfect opportunity for real stakeholder engagement such that more appropriate amendments can be collaboratively developed. Refer to our submission on the Draft Animal Welfare Action Plan in Appendix 15.

Recommendation 3.

If the current Bill is to progress through parliament, then we encourage support for either of the following amendments.

Option 1. – Replace (remove) Animal Sale Permits Completely.

Replace Section 93 with the following.

93 Offence to sell certain animals outside certain places

After section 96(aa) of the Principal Act insert—

"(ab) unless the sale is organised by an incorporated association whose purpose includes the welfare of the animals to be sold and the relevant council has been notified of date/time and location of the sale at least 14 days prior; or"

Delete Section 32 in its entirety

32 New Division 3B inserted in Part 4

Option 2. – Adds our amendment without removing Animal Sale Permits.

Replace Section 93 with the following.

93 Offence to sell certain animals outside certain places

After section 96(aa) of the Principal Act insert—

"(ab) unless the animal is sold at a place specified in an animal sale permit and under and in accordance with that permit; or"

"(ac) unless the sale is organised by an incorporated association whose purpose includes the welfare of the animals to be sold and the relevant council has been notified of date/time and location of the sale at least 14 days prior; or"

Explanatory Notes

All clubs either are already incorporated associations or can easily become incorporated for a minor annual fee. The *"purpose"* is a legally required element in an incorporated associations constitution. which would specifically include *"the welfare of the animals"* and already forms part of the great majority of existing statements of *"purpose"*.

It is envisaged that a simple list of all meetings, shows, exhibitions, sales, auctions or other club events where birds may be traded would be submitted to the local council at the beginning of each year or as these details come to light. This list of events would also be useful in enabling council to promote the activities of the association via its community events promotional activities. Council and/or RSPCA officers are free to attend events to fulfil their legislated compliance duties under the existing Prevention of Cruelty to Animals Act 1986.

SUBMISSION

Part 1 – Synopsis of the issue

1.1 What is the issue?

It is currently illegal in Victoria to sell, exchange or even offer for sale birds (and other specified animals) at bird club organised events such as sales, shows, auctions or meetings. Although the law has been in place for over 20 years, it was unknown to bird clubs and no compliance or enforcement was undertaken by local government until brought to the attention of authorities by Paris Yves just prior to the Mornington Peninsula Avicultural Society (MPAS) sale back in mid-2015. Annually thousands of events had been operating illegally in ignorance of Section 96.

We thought it to be a trivial oversight and the matter would be rapidly resolved. Unfortunately, the Minister disagreed.

Bird clubs throughout Victoria have routinely sold and exchanged birds at their sales, shows, exhibitions, auctions and meetings without incident. We have identified approximately 200 bird clubs operating in Victoria (Appendix 1), so we are talking about thousands of events annually. The RSPCA has no records of any welfare issues whatsoever at any of these events. For many clubs, such events have been held continuously for well in excess of 100 years.

1.2 What is the current Victorian law?

Section 96 of the Victorian Domestic Animals Act 1994 limits the sale of animals to pet shops, private residences or sales approved under the Wildlife Act 1975 (Appendix 5). The animals affected include dog, cat, rabbit, guinea pig, mouse, reptile, caged bird or any other similar animal of a class or kind prescribed by the regulations.

Section 96 was designed to prevent the sale of animals at “car boot” style markets. Hansard records no mention of club run events whatsoever, hence the law was enacted in ignorance of the thousands of community-based club run events operating throughout Victoria annually.

The Minister, under Section 5 of the Domestic Animals Act 1994 is able to exempt any class of animal from any provisions of the Act. via a recommendation to the Governor in council.

1.3 What about sales approved under the Wildlife Act 1975?

The Wildlife Act 1975 applies to native animals only, hence when approval under the Wildlife Act 1975 has been given then only native species at those particular events can be traded. To date, this applies to the Victorian Avicultural Council (VAC) affiliate sales and the annual Reptile expo run by the Victorian Herpetological Society (VHS).

It is interesting to note that wildlife authorities are supportive of bird sales and compliment the VAC and its affiliate clubs on their outstanding record of animal welfare and assistance with compliance operations (Appendix 11).

1.4 So what was done about this?

Many groups and individuals rapidly wrote submissions to the Minister for Agriculture, Jaala Pulford, to resolve the matter. We presumed it to be an issue that would be rapidly and simply resolved. Unfortunately, the Minister’s responses were less than satisfactory – no acknowledgement of the facts of the issue, no attempt to argue the case logically and no offer to consult. Responses to correspondence were routinely delayed for many months. It was clear this was going to be a drawn out affair (Appendix 8).

The Finch Society of Australia and Canary and Cage Bird Federation of Australia, on behalf of Victorian members and clubs, continued to lobby the Minister for a Section 5 exemption from the troublesome Section 96 (Appendix 8). Eventually, after close on a year of lobbying we were offered a meeting in April 2016 with Minister Pulford’s Chief of Staff, Megan Berry. A significant proposal was prepared (http://www.finchsociety.org/vic_bird_sale_paper.pdf) and submitted to the Minister’s

office in preparation for the meeting. This proposal was compiled and supported by 195 avicultural clubs operating in Victoria (Appendix 1). This proposal forms the basis of this submission.

Dr Stacey Gelis (Avian Veterinarian), Dr Gary Fitt (NFSA Vice President), David Renshaw (VAC President) and Sam Davis (President of the Finch Society of Australia, Vice President of Canary and Cage Bird Federation of Australia) attended the meeting. It is accurate to say the meeting was tense. A synopsis of the meeting was prepared and distributed widely (Appendix 9). This reluctance to cooperate has been a hallmark of the interaction with government over this issue. A response to the meeting from Minister Pulford was eventually received on 1/8/2016 (Appendix 9). The response simply stated that “an exemption from Section 96 would not be appropriate at this time” with no attempt to justify the decision.

1.5 What about the VAC and its role?

The Victorian Avicultural Council (VAC) represents 14 avicultural clubs, the majority being branches of the Avicultural Society of Australia (ASA). Although these are significant clubs, this is a small percentage of the total of 195 bird clubs identified to be operating in Victoria. The only consultation was between VAC representatives and Dr Mariko Lauber (Manager Domestic Animals). Unfortunately, the substance of these discussions was unknown to the wider avicultural community – we believe deliberately so on the request of government. It was a shock (even to the VAC) when the detail of the animal sale permit system within the Bill was made public on Wednesday 12/10/2016.

1.6 So what is the issue with Animal Sale Permits in the amendment Bill?

The Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 was introduced into parliament 11/10/2016. As the name of the Bill indicates, it is primarily concerned with shutting down puppy farms and the sale of dogs in pet shops. These items are by far the main business of the Bill.

The Bill proposes to add Animal Sale Permits to Section 96 as an additional method of selling animals (including birds). Here is a “plain English” summary of the proposed Animal Sale Permit requirements and conditions (with thanks to Lloyd Marshall of Talking Birds).

1. The local council must prepare a report, with council staff able to check the venue and accommodation to be used for birds at the sale. That report must be prepared within 21 days of an application from a bird club being received.
2. If council approval is given an application can then be made to the Minister, who can approve or refuse that application.
3. Each application to the Minister must include a copy of an agreement from a vet who will check the premises and accommodation for birds to be sold, and who will be in attendance throughout the sale.
4. Each application to the Minister must include a guarantee to purchasers for each bird offered for sale.
5. Each application to the Minister must specify the species to be sold and the number of each species.
6. Each application to the Minister must include the full names and contact details of any person who will be selling birds at the sale.
7. Sale organisers must, within 28 days after the sale date, submit a report to the Minister which lists each species and the number of each species offered for sale at the sale, and the number of each species sold at the sale.

Clearly the above requirements and conditions are impossible for all but perhaps the largest sale events to fulfil. There are numerous valid arguments against each and every condition. Councils do not have the expertise (Appendix 12), on what grounds does the Minister approve or disapprove, no vet will be able to provide the given assurance, guarantee of sale for live animals are fraught with

issues, species, numbers and sellers are unknown in advance, who will fund such a costly system – we could write a book! The central issue is understanding how this proposed animal permit system could possibly improve animal welfare for events that have been successfully self-regulated without incident for over 100 years.

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

1.7 So what is being done?

Our proposed common-sense amendment (refer Appendix 13) adds the following as a further method of trading animals (including birds) or replaces Animal Sale Permits altogether.

After section 96(aa) of the Domestic Animals Act 1994 insert—

"(ab) unless the sale is organised by an incorporated association whose purpose includes the welfare of the animals to be sold and the relevant council has been notified of date/time and location of the sale at least 14 days prior; or".

All clubs either are already incorporated associations or can easily become incorporated for a minor annual fee. The “purpose” is a legally required element in an incorporated associations constitution. It is a minor matter to alter the “purpose” to specifically include “the welfare of the animals” central to the club’s existence. No doubt, for many clubs, welfare already forms part of their existing statement of purpose.

It is envisaged that a simple list of all meetings, shows, exhibitions, sales, auctions or other club events where birds may be traded would be submitted to the local council at the beginning of each year or as these details come to light. This list of events would also be useful in enabling council to promote the activities of the association via its community events promotional activities.

It appears likely that it will be some time until the Bill (in any form) is passed into law. Therefore, we require an exemption from Section 96 in the interim period to restore the status-quo. Our amendment proposal (Appendix 12) was formally put to the Minister on October 26th 2016. We were advised that a decision was only days away, however no communication has been received as at 7/11/16.

1.8 Ongoing attempts to inform and consult the Minister and DEDJTR

Media statements by the Minister continue to highlight ignorance of the thousands of community-based bird club events where birds have been routinely traded for over 100 years without incident. Both Minister Pulford and DEDJTR statements continue referring to “one-off sales of large numbers of animals” (for example, Puppy-Farm-Bill-2016-Fact-Sheet.pdf page 4). Due to frustration with these ongoing misleading statements, on 31/10/16 we requested DEDJTR provide legal advice on a number of scenarios (Appendix 14) as a further attempt to explain the full extent of the issue. We await a response.

Part 2. The frequency, size, nature and history of bird shows, sales, auctions and meetings

The facts:

- 2.1 Public bird sales operated by avicultural associations.
 - 2.1.1. Large bird sales are managed by avicultural societies according to well defined, publicly available codes of practice focussed on bird welfare.
 - 2.1.2. Birds sales/expos run by the 14 affiliated clubs of the VAC are authorised by DELWP Amnesty (Appendix7) at the request of the VAC Bird sale co-ordinator. These sales are conducted under the VAC bird sale code of practice (Appendix 3) which is regularly updated to ensure the welfare of birds at these events.
 - 2.1.3. Bird sales have been operating in Victoria and nationally for in excess of 30 years. These sales are major opportunities for education and promotion of aviculture as well as for the trade and exchange of breeding stock.
 - 2.1.4. Bird sales are major social and economic events – particularly in country towns. Over the bird sale weekend, local hotels and motels are booked out, restaurants are full and other small business and attractions experience greater sales.
 - 2.1.5. Bird sales, particularly those in country areas, provide an annual opportunity for local breeders to trade stock with breeders throughout the region at one place and at one time.
 - 2.1.6. Many specialist species and varieties of birds are only made available via bird sales. By contrast pet shops hold limited species that are popular and of interest to the general public.
 - 2.1.7. The best source of management and breeding advice comes direct from breeders. Sellers at bird sales are predominantly breeders who offer on the spot advice as well as their contact details for future follow up advice.
 - 2.1.8. Public bird sales avoid the security concerns for individual breeders through having members of the public visiting their homes. Bird thefts are a real and unfortunate issue.
 - 2.1.9. Local pet shops and specialist bird traders routinely have sales and promotion stands at bird sales. This includes sale of birds as well as accompanying feed and accessories.
- 2.2 Canary club meetings, shows and sales (see Appendix 2).
 - 2.2.1. Canaries have been exhibited and sold at public sales and auctions worldwide for hundreds of years.
 - 2.2.2. In Victoria, there are currently 14 specialist Canary clubs. Each holds regular meetings and at least one annual show. It is routine practice to trade excess stock at any or all of these events.
 - 2.2.3. Club sales provide choice to buyers whilst alleviating security concerns for sellers.
 - 2.2.4. The aim of clubs is to promote the hobby through the provision of information to those purchasing canaries. Meetings and club journals provide ongoing education.
 - 2.2.5. There have been Canary Clubs in Victoria since at least 1886 without incident.

- 2.3 Exhibition budgerigar meetings, shows, sales and auctions.
 - 2.3.1 Budgerigar meetings, shows, sales and auctions are professionally run events that have been occurring routinely throughout Victoria, Australia and the world for well in excess of 100 years.
 - 2.3.2 In Victoria there are currently 18 Specialist Budgerigar Clubs and two Mixed Clubs including Budgerigars. Each holds regular meetings and at least one annual show. It is routine practice to trade excess stock at any or all of these events.
 - 2.3.3 All budgerigar clubs convene meetings, hold shows, run sales and auctions on behalf of their members. This is the primary means of trading stock and is a promotion and major entry into the hobby for members of the public. This provides choice to buyers whilst alleviating security concerns for sellers.
 - 2.3.4 The aim of clubs is to promote the Exhibition Budgerigar hobby and responsible ownership through the provision of information to those purchasing budgerigars. Meetings and the BCV News (Quarterly Publication) provide ongoing education and contacts for all members.
 - 2.3.5 Budgerigars are selectively bred according to strict show standards. These birds are highly prized stud animals of significant value, both financial and in terms of maintaining bloodlines. Sales and auctions provide a means for trading birds securely.
 - 2.3.6 Fund raising for charity. For example, currently one of the BCV Club Secretaries is running an ONLINE Auction for Budgerigars to raise funds to go to the Royal Children's Hospital. 100% of the Raised monies GO to the Royal Children's Hospital. There is added spice to this –a parallel Fundraiser through Pigeon Associations members is underway to see if they can raise MORE for the Royal Children's Hospital. Talk about driven to get a result for the Kids. Good birds funding a good cause and creating wonderful community support! So far the Budgerigar Total is just over \$15,000.00.
- 2.4 Fancy pigeons
 - 2.4.1 Pigeon clubs have been operating throughout Australia since the early 1900s.
 - 2.4.2 Birds are sold by either word of mouth (private sale), or through internet trading sites such as (Gum Tree) or at pigeon shows that are held annually by most clubs.
 - 2.4.3 There are approximately 80 different breeds of fancy pigeon in Australia each having its own breed standard. Birds are bred and shown to these standards.
 - 2.4.4 There is a National Show that is held in a different state of Australia each year. Affiliated clubs generally hold a show in their area for the benefit of members
- 2.5 Racing Pigeons
 - 2.5.1 Racing Pigeon Clubs have been operating in Victoria since the 1890's.
 - 2.5.2 There are in excess of 70 clubs operating throughout Metropolitan and Rural Victoria comprising in the order of 3000 members. Many more in other States.
 - 2.5.3 Racing pigeons are not "livestock" nor "exotic animals". They may be "caged birds", although this is not admitted as the birds generally have the ability of free flight outside of a "cage". There does not appear to be a definition of

“caged birds” but a listing of many varieties of birds included or excluded from the effect of legislation.

- 2.5.4 They also are sold by either word of mouth (private sale), or through internet trading sites specialising in high quality birds or at pigeon shows or auctions that are held annually by most Federations or by individual fanciers when retiring from the sport.
- 2.5.5 The welfare of racing pigeons is paramount as it is with race horses and protocols are in place to ensure this.
- 2.6 Exhibition poultry
 - 2.6.1 There are currently 43 specialist and regional community-based poultry clubs operating throughout Victoria. Each holds regular meetings, shows, sales and/or auctions for the benefit of members and the general public.
 - 2.6.2 A code of practice and guidelines provides parameters within which individuals can operate and provides a professional code which will ensure a high degree of quality control and animal welfare. This Code of Practice can be found on the Victorian Fancy Poultry Association website – www.vfpa.com.au
 - 2.6.3 The breeding and exhibiting of pure breeds of poultry including large fowl, bantams, waterfowl (ducks and geese) and turkeys has been a recreational activity in Australia for over 120 years.
 - 2.6.4 There are nationally approved standards for 85 breeds of Fowls, Bantams, Ducks, Geese, Turkeys, Guinea Fowl and Eggs.
 - 2.6.5 Club run shows operate throughout the cooler months. Routinely there are multiple events occurring throughout Victoria every weekend.
 - 2.6.6 The poultry hobbyist is responsible for maintaining the gene pool of pure breeds of poultry and the survival of many rare, pure breeds of poultry. This responsibility has taken on even greater significance as governments surrender their involvement by closing poultry research stations which once provided an additional purebred gene pool.
- 2.7 Reptile, rabbit, guinea pig, mouse and other species are also routinely traded at meetings, shows, sales and auctions throughout Victoria and nationally.

Part 3. Animal welfare at bird shows, sales, auctions and meetings

The facts:

- 3.1 Community-based bird clubs have been running bird shows, sales, auctions and meetings for hundreds of years.
- 3.2 Birds are routinely traded at thousands of community-based bird club events annually.
- 3.3 Animal welfare is a central theme of most club meetings and magazines. Bird clubs are the primary animal welfare educators and have been for hundreds of years.
- 3.4 Specialist bird clubs are the recognised leaders in bird welfare. Aviary design, nutrition, mental stimulation, disease and treatment and other welfare considerations for specific species are routine topics.
- 3.5 Animal welfare is central to our member's day-to-day existence; it is what we do and our expertise is specialised and professional.
- 3.6 The RSPCA has advised that they have no records of cruelty, welfare breaches or enforcement action at bird club meetings shows, sales or auctions. This is an enviable record given the frequency of such events over more than a century.
- 3.7 The Victorian Avicultural Council (VAC) Code of Practice is strictly enforced at all bird sales and expos run by their affiliates and also by many other Victorian clubs. (refer Appendix 3). Avicultural societies elsewhere in Australia utilise similar codes of practice to ensure welfare during sales.
- 3.8 All bird shows, sales and auctions operated and managed by VAC affiliated avicultural societies appoint stewards. The stewards are responsible for monitoring the health and welfare of birds during the event. This includes ensuring compliance with provisions of the Code of Practice including cage size, cleanliness, feed and water for all birds.
- 3.9 Large bird sales and expos engage avian qualified veterinarians as stewards to monitor the health and welfare of birds prior to and during the event.
- 3.10 The VAC recently conducted training for 40 bird expo stewards on the care and welfare of birds at bird expos. The training was carried out by Dr Stacey Gelis BVSc (Hons) MACVSc (Avian Vet).
- 3.11 Organisers work closely with staff and inspectors from DELWP, RSPCA and Local Councils.
- 3.12 DELWP Secretary Adam Fennessy congratulated the VAC on its ongoing commitment to welfare as recently as November 2015 (Appendix 10).
- 3.13 No aviculturist keeps their birds in show cages, display cages or transport boxes long term. These cages are specifically for use during shows, sales and auctions. The large majority of birds live in large aviaries.
- 3.14 The duration of each show, sale and auction is such that birds need only be in display cages for a minimum time period no longer than 24 hours. Generally, sale events last in the region of 4 hours.
- 3.15 Pet shops and bird dealerships maintain animals awaiting sale for weeks or perhaps months. As such much larger cages and aviaries are required within these establishments.
- 3.16 Stress and risk of injury is greatly reduced when birds are confined to smaller display and transport cages which provide security and ready access to feed, water and privacy.

- 3.17 Smaller display cages and transport boxes simplify and reduce stress during bird exchanges.
- 3.18 We acknowledge that welfare breaches do, at times, occur. Our compliance operations effectively deal with all but a few very rare cases. To our knowledge no such cases have ever led to charges or prosecution.
- 3.19 Exhibition and show birds are trained and accustomed to show cages. The design of standard show cages for canaries, budgerigars, finches and other exhibited species has been established over decades (or even centuries). In most cases the standard sizes and designs are virtually identical worldwide.
- 3.20 Buyers at shows, sales, auctions and meetings obtain expert advice direct from the breeder. Details such as aviary design, aspect, diet, medications and a plethora of other advice leads to ongoing enhanced welfare outcomes for the duration of the bird's life.

Part 4. A review of relevant existing Victorian legislation

The facts:

- 4.1 There are currently three (3) Victorian Acts relevant and which interact to regulate the sale of birds in Victoria. The relevant sections of these Acts are reproduced in Appendices 4, 5, 6. It is critical to understand the purpose of each Act as a baseline for understanding the issues regarding legislation governing bird sales and auctions.
- 4.2 Wildlife Act 1975 and Wildlife Regulations 2013 (see Appendix 4).
 - 4.2.1 The central purpose of this Act is to protect wildlife. This includes regulating use, access and conduct of persons engaged with wildlife. Regarding aviculture, the Wildlife Act is concerned with regulating the keeping of native species.
 - 4.2.2 Wildlife Basic and Wildlife Advanced Licences are issued to aviculturists to enable them to keep specific native bird species under Section 22 of the Wildlife Act 1975.
 - 4.2.3 Licence conditions included in Wildlife Regulations 2013 require keeping of record books, sale of birds and keeping of birds can only occur at the premises specified on the licence (Reg 31, 39, 62) unless specifically approved in writing by the Secretary.
 - 4.2.4 In recent years an “Amnesty” (reproduced in Appendix 7 and outlined in 3.5 below) against prosecution has been sought and issued by the Secretary to provide exemption from prosecution regarding Regulations 31, 39 and 62. This Amnesty applies only to the sales specified within the document.
- 4.3 Domestic Animals Act 1994 (see Appendix 5).
 - 4.3.1 The purpose of this Act is to promote responsible ownership of dogs and cats. The responsible keeping of birds is not addressed.
 - 4.3.2 Section 96 is titled “Offence to sell certain animals outside certain places”. Note that a place is a physical location.
 - 4.3.3** Section 96 begins with “A person must not sell any animal referred to in the definition of pet shop...”. The only time the term “caged bird” appears in the Act is within the definition of a pet shop. ***This single occurrence of the term “caged bird” is the cause of the entire issue.***
 - 4.3.4 A “domestic animal business in a premises” (s96(a)) is a physical place, a “place that is a private residence” (s96(aa)) is a physical place, and hence a “sale [that] is approved under the Wildlife Act 1975” (s96(b)) is also a physical place.
 - 4.3.5 As a consequence of 3.3.2, 3.3.3 and 3.3.4 it is legal under the Domestic Animals Act 1994 for ALL caged birds to be sold from a sale approved under the Wildlife Act 1975.
 - 4.3.6 Apart from Pet Shops or private residences it is illegal under the Domestic Animals Act 1994 for ANY caged birds to be sold at a sale NOT approved under the Wildlife Act 1975. This is the contrapositive to 3.3.5.
 - 4.3.7 Section 5 provides for the Minister (or more accurately Governor in Council) to exempt any animals from provisions of this Act with or without conditions.
 - 4.3.8 In most cases, Local Government is responsible for compliance with the Domestic Animals Act 1994.
 - 4.3.9 Under Section 68A of the Domestic Animals Act 1994, councils are required to prepare domestic animal management plans. We are unable to locate any plan

mentioning birds. In particular, no mention of training with regard to Section 96 as required under Section 68A (2)(b).

4.4 Prevention of Cruelty to Animals Act 1986 (see Appendix 6).

4.4.1 The purpose of this Act is to prevent cruelty to animals, encourage the considerate treatment of animals and improve the level of community awareness about the prevention of cruelty to animals.

4.4.2 Section 9(1) protects birds (and all animals) against cruelty in all its many manifestations. It is this Section that legally protects the welfare of birds at meetings, shows, sales and auctions regardless of whether they are being traded or not.

4.4.3 In most cases, the RSPCA is responsible for compliance with the Prevention of Cruelty to Animals Act 1986.

4.5 Amnesty 2016 Sales (Appendix 7).

4.5.1 Use of the term "Amnesty" is confusing. An amnesty is a pardon for past crimes. In this case the "Amnesty" document is an approval by the Secretary using his authority provided within the Wildlife Regulations 2013 - specifically r39(b), r62(1). We can't locate legal authority used by the Secretary to ignore breaches of r31 - but that is a trivial technicality of little consequence.

4.5.2 Section 1 of the "Amnesty" states "All individual participants of those events listed in Section 3 of this Amnesty will require a relevant wildlife licence issued under the Wildlife Act 1975". This approval by the Secretary is permitted due to Wildlife Regulations 2013 r39(b). Therefore, it is only licence holders who can "buy, sell or enter into a transaction to dispose of wildlife" (r39) at the events in Section 3 of the Amnesty.

4.5.3 Who are the licence holders? Examining the Wildlife Act 1975, licences are issued under s22 with detail in the accompanying Wildlife Regulations 2013, specifically r6, r7 and r8 (together with Schedules 2, 3, 7). The two licence types of relevance are "Wildlife Basic Licence" and "Wildlife Advanced Licence".

4.5.4 Species covered by licence holders are specified in Schedules 2, 3, and 7 of the Wildlife Regulations 2013.

4.5.5 The buying and selling of exotic species is unregulated by the Wildlife Act 1975 (or the "Amnesty").

4.5.6 The exemptions in Regulation 49(1) and 49(7) permits the sale of unlicensed birds specified in Schedule 4 such as budgerigars, cockatiels and other commonly kept native species under the Wildlife Act 1975, contradicting 3.5.2.

4.5.7 Individuals who DO NOT hold either a "Wildlife Basic Licence" or "Wildlife Advanced Licence" are not legally permitted to buy, sell or enter into transactions" at the specified sales in Section 3 of the "Amnesty".

Part 5. Observations from Aviculture leading to Recommendations

Based on the facts above we make the following observations leading to recommendations:

- 5.1 Ongoing lack of cooperative consultation, delays in responding to correspondence and then lack of evidence to support decisions made by the Minister and DEDJTR has been an unfortunate feature throughout.
- 5.2 The sales detailed within the Amnesty (Appendix 7) uncovered the current issue. Numerous other bird shows, sales, auctions and meetings have been in operation within Victoria for decades or in some cases centuries (refer Part 2).
- 5.3 There is no evidence of any significant welfare concerns at any bird meetings, shows, sales or auctions. This record proves that welfare has been effectively self-regulated by aviculture for decades and in some cases centuries (refer Part 3).
- 5.4 Regulating places where animals can be sold does not address welfare concerns. It is the manner in which the animal is managed during the sale process that is central to the animal's welfare.
- 5.5 The Prevention of Cruelty to Animals Act 1986 (POCTA Act) is the legislative tool that regulates animal welfare issues in Victoria (refer 4.4). Attempts to regulate outside this Act are unwise and only serve to confuse compliance operations unnecessarily.
- 5.6 Bird clubs ensure the welfare of birds at all their events, not just events where birds are traded. In terms of legislative compliance and animal welfare enforcement, the POCTA Act does likewise.
- 5.7 A review of animal welfare policy has just commenced. This review is potentially a terrific opportunity for government to consult with stakeholders to develop evidence-based policy and subsequent legislation. Refer CCBFA submission in Appendix 15.
- 5.8 Unfortunately, fact 4.3.5 conflicts with assertions made by bureaucrats. This has been a major source of disagreement. The documents reproduced in Appendix 8 detail the exchange between the Finch Society of Australia (FSA) and the Minister.
- 5.9 Conflict regarding differing interpretations of the meshing of the Domestic Animals Act 1994 with the Wildlife Act 1975 are irrelevant in terms of ensuring the welfare of birds at bird shows, sales and auctions.
 - 5.8.1 Whether or not a bird is displayed or a bird is offered for sale has no bearing on the welfare of that bird at the show, sale, auction or meeting.
 - 5.8.2 Whether or not a bird is native or exotic to Australia is irrelevant in terms of the welfare of that bird at the show, sale, auction or meeting.
- 5.10 Local Government compliance officers (4.3.8) and other appointed officers do not possess the skills to distinguish between avian exotic and native species. Hence existing DAA Section 96 compliance operations are not currently possible.
 - 5.9.1 Records of correspondence obtained via FOI from Frankston City Council (Appendix 10) confirm such difficulties.
 - 5.9.2 We are unable to locate any "Domestic animal management plan" by any Victorian Local Government that mentions birds whatsoever (refer 4.3.9).
- 5.10 Council officers do not possess avian training sufficient to enable them to assess the proposed Animal Sale Permit applications. The only groups with such expertise are the network of community-based bird clubs.

Appendix 1. — Avicultural Stakeholders

The following stakeholder representative organisations provided input and/or direct support central to the compilation of this document.

- The Canary and Cage Bird Federation of Australia Inc. (CCBFA)
- Victorian Avicultural Council. (VAC)
- The Avicultural Society of Australia (ASA)
- National Finch and Softbill Association (NFSA)
- The Finch Society of Australia Inc. (FSA)
- Australian National Budgerigar Council (ANBC)
- The Budgerigar Council of Victoria (BCV)
- The Budgerigar Society of New South Wales (BSNSW)
- Australian National Pigeon Association (ANPA)
- Australian National Pigeon Racing Board Inc. (ANRPB)
- Victorian Poultry Fanciers Association Ltd. (VPFA)

There are in excess of 70 racing pigeon clubs with some 3000 members who support the submission via the following Victorian representative bodies.

- Victorian Homing Association Inc.
- Victorian Racing Pigeon Union Inc.
- Western Pigeon Federation Inc.
- Greater Melbourne Pigeon Federation Inc.
- Victoria Pigeon Organisation Inc.

Plus Geelong, Ballarat, Bendigo and other major centres.

The following Victorian clubs formally endorse this document directly or via affiliation with one or more of the above representative bodies.

1. Alexandra Poultry Club
2. Ararat Branch of The ASA
3. Australian Canary Association Inc.
4. Australian Carrier Club
5. Australian Jacobin Club
6. Australian Long Faced Tumbler Club
7. Australian National Pekin Club Inc.
8. Australian Oriental Frill, Owl and Turbit Club
9. Australian Plainhead Preservation Club Inc.
10. Australian Pouter & Cropper Club
11. Australian Show Birmingham Roller Club
12. Australian Showpen Homer Association

13. Australorp Club of Victoria
14. Bacchus Marsh & Melton PC Inc.
15. Ballarat & District Budgerigar Society Inc.
16. Ballarat Branch of The ASA
17. Ballarat Canary Improvement Society
18. Ballarat Canary Society Inc
19. Ballarat Poultry Society Inc.
20. Baw Baw Budgerigar Society Inc.
21. Benalla & District Poultry Club
22. Bendigo Branch of The ASA
23. Bendigo Budgerigar Club Inc.
24. Bendigo Poultry Club Inc.
25. Border District Budgerigar Society Inc.
26. Border Fancy Canary Club of Victoria
27. Border Tall and All Game Group Inc
28. British Show Racer Club of Australia
29. Camperdown Poultry Club Inc.
30. Central Victorian Wyandotte Club Inc
31. Centre West Branch of The ASA
32. Chirnside Park
33. Colac Budgerigar Society Inc.
34. Colac Poultry Club Inc.
35. Colour Canary Breeders Association of Victoria
36. Combined & National Canary Exhibition of Victoria Inc.
37. Dandenong Budgerigar Society Inc.
38. Dandenong Canary Society Inc
39. Dandenong Fancy Pigeon Society Inc
40. Dandenong Poultry & Kennel Club
41. Dragoon Club of Australia
42. Eastern District Budgerigar Society Inc.
43. Echuca & District Poultry Club Inc.
44. Essendon Poultry Society (Inc Hamburgh Club of Aust Inc)
45. Euroa & District Poultry Club Inc.
46. Fife Fancy Canary Club of Victoria
47. Footscray & Dist. P.C. Inc. Sussex Club of Aust. Inc
48. Geelong & District "All Breeds" Pigeon Club Inc

49. Geelong & District Budgerigar Society Inc.
50. Geelong & District Poultry Club Inc.
51. Geelong Branch of The ASA
52. Geelong Canary Improvement Society Inc.
53. Gippsland Branch of The ASA
54. Gippsland Budgerigar Society Inc.
55. Gippsland Cage Bird Society Inc
56. Gippsland Canary Club Inc
57. Gippsland Riviera Poultry & Game Club
58. Glenroy Budgerigar Society Inc.
59. Gloster Club of Victoria Inc
60. Goulburn Valley Branch of The ASA
61. Goulburn Valley Budgerigar Club
62. Hamilton & District PC
63. Horsham District Budgerigar & Caged Bird Society Inc.
64. Indian Game Club of Victoria
65. Kialla Pigeon Club
66. King Club of Australia
67. Kyabram & District Budgerigar & Caged Bird Society.
68. Kyneton & District Poultry Club Inc.
69. Langshan Club of Victoria
70. Latrobe Valley Avicultural Club Inc.
71. Leghorn Club of Victoria
72. Leslie Manor
73. Lizard Canary Society of Victoria
74. Lockwood South
75. Maryborough Pigeon Society
76. Mediterranean Poultry Club of Australia
77. Melbourne Border Fancy Canary Club Inc
78. Melbourne Canary Improvement Society Inc
79. Melbourne Pigeon Society
80. Melbourne Regional Fife Canary Club Inc
81. Melton & District Budgerigar Society.
82. Mildura & District Poultry & P. F. C
83. Mildura and District Bird Club
84. Monash Budgerigar Society Inc.

85. Mornington Peninsula Avicultural Society Inc.
86. Mount Gambier Budgerigar Society Inc.
87. Mountain & District Poultry Society Inc.
88. Mountain District Budgerigar Society Inc.
89. Myrtleford Budgerigar Society Inc.
90. Nepean Budgerigar Society.
91. North East Poultry Association
92. Norwich Club of Victoria
93. Oakleigh District Poultry Society
94. Pekin Bantam Club of Victoria
95. Plymouth Rock Club of Aust. (Vic. Branch)
96. Portland & Heywood Poultry Club
97. Rhode Island Club of Victoria Inc.
98. Riverina Budgerigar Society.
99. Seymour Poultry Club Inc.
100. Shepparton & Goulburn Valley PS Incorporating Modern Game Breeders Club of Victoria
101. Showpen Homer Specialist Club
102. South Gippsland Game Fowl Club Inc.
103. South West Budgerigar Society Inc.
104. stuchgreg@gmail.com
105. Swan Hill Branch of The ASA
106. Swan Hill Poultry Club Inc.
107. The Border Fancy Canary Club of Victoria Inc
108. The Colour Canary Breeders Assoc of Vic
109. The Game Club of Victoria
110. The Southern Blowers Club
111. The Yorkshire Canary Club of Vic Inc
112. Twin Cities Fancy Pigeon Club
113. United Budgerigar Society Inc.
114. United Nun Club Australian District
115. Victorian Canary Society Inc
116. Victorian Lizard Canary Society
117. Victorian Norwich Canary Club Inc
118. Victorian Poultry and Kennel Club
119. Victorian Rare & New Breeds Poultry Society Inc.
120. Victorian Show Pigeon Federation Inc.

121. Victorian Waterfowl Association Inc.
122. Victorian Zebra Finch Inc.
123. Wangaratta Poultry Club
124. Warragul Poultry Club
125. Warranambool & District Poultry Club Inc.
126. Western District Branch of The ASA
127. Western Suburbs Budgerigar Society Inc.
128. Wimmera Poultry Club Inc.
129. Wyandotte Club of Victoria
130. Yorkshire Canary Club of Victoria

Appendix 2.

SALE OF CANARIES FROM BIRD CLUB PREMISES

Under the Domestic Animals Act 1994 Section 96 Cage birds including canaries can only be sold from a private residence or a registered Pet Shop. Canaries are included in this Act as 'exotic' birds.

Bird Clubs have been selling members surplus birds for decades in ignorance of this law.

There are 14 specialist Canary Clubs in Victoria with Clubs in Ballarat, Geelong and Gippsland. The rest are based in Melbourne suburbs.

An activist has "unearthed" this old law and informed the Minister Hon Jaala Pulford who instructed her department to enforce the law. The law is required to be enforced by Local Councils and has never been raised as an issue before,

Some native birds including those requiring a licence to hold are currently excluded from the Act by special exemption. A licence is not required to keep or sell canaries.

Fine for selling birds other than by the two specified avenues is \$4,300 per transaction.

Canary breeding and showing has been a hobby of people for hundreds of years. Many people do not belong to Clubs but still enjoy the hobby with aviaries and birdrooms in which to tend to their birds. These people especially look to the bird clubs to replenish their stocks, Pet Shops are far too expensive and going to private homes does not give them the choice they would otherwise have through the clubs sale days. In normal circumstances Club members do not permit buyers at their homes for security reasons.

The Victorian Avicultural Council updated their Code of Practice for Bird Sales in 2014 to ensure that firm standards were met to safeguard the welfare of the birds.

The current position is really ludicrous as the current domestic canary could not survive in the wild and as there are some legitimate ways of obtaining canaries ,there seems to be no valid reason for restricting their sale in this way.

All we want is the Minister to arrange to issue an exemption from the Act to allow Canaries to be sold by Bird Clubs.

Appendix 3.



CODE OF PRACTICE FOR BIRD SALES – 31st October 2014.

A. GENERAL

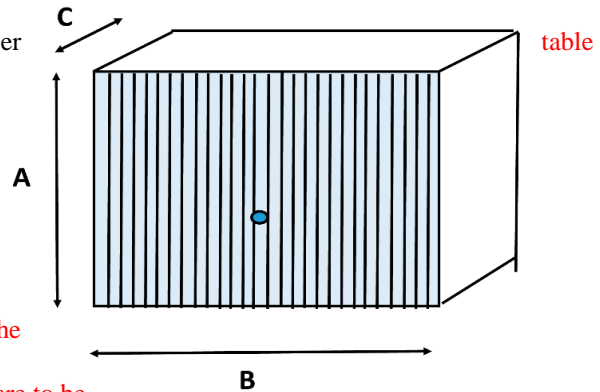
1. This code applies to all avicultural species presented at bird sales.
2. Bird sales are open to all members of the public.
3. Organisers of the Bird Sale are to provide clearly identified stewards that are familiar with this code of practice and are to be in continuous attendance at the venue. A copy of this code of practice is to be displayed in a prominent position at the entrances of the bird sale venue, and copies are to be made available.
4. Stewards have the right to refuse entry to the venue to any person or bird or cage in breach of this code of practice.
5. Bird sales are to be limited to a maximum of four hours and it is recommended that all bird sales start at 11am and finish no later than 3 pm.
6. Only birds and related items are to be made available at bird sales. Other vertebrate species are not permitted.
7. For the safety of birds, with the exception of assistance dogs, other animals including dogs are not permitted to enter the venue, whether on leash, unleashed, contained or carried.
8. There is to be no selling of birds prior to the commencement of the sale.
9. Sale cages containing birds are to be sight covered to prevent pre-selling. Removal of covers is to take place no sooner than 15 minutes before the advertised starting time of the sale unless directed by the stewards to allow them to check compliance with the code of practice for bird sales.
10. Birds being transported to and from bird sale venues are to be carried in an enclosed but well ventilated vehicle.
11. It is recommended that all clubs holding bird sales take prior bookings from all sellers. All sellers are to be made aware of the “Revised Bird Sales Code of Practice” to ensure compliance with the said code and that the code will be strictly enforced by the stewards.
12. Photographing of birds is NOT permitted without the permission of the stewards and bird owners.
13. Entry is conditional upon compliance with the above code of practice for all persons entering the said venue (including buyers, sellers and traders).

B. CAGES

1. **Recommended** cage sizes and bird numbers per as below:

Note:

- Over-crowded cages will not be accepted.
- Airfreight cages shall not be used
- **Variances in sizes of cages will be accepted providing that there is 5cm clearance around the birds when on the perch to prevent overcrowding.**
- **If more birds than the listed number are to be placed in the cage, it is recommended that the cage size be increased in either width or depth by 50% depending on the direction of the perch.**



Size of Bird (Approx length)	No. of Birds	Min Height A	Min Width B	Min Depth C
Up to 100mm Eg Finch Small Canary	6	200mm	250mm	150mm
100-200mm Budgerigar Small parrot Eg Neophema Varied Lorikeet Large Canary Lovebird Diamond Dove King Quail	4	300mm	300mm	150mm
200-300mm Eg. Rosella Conure Cockatiel Rainbow lorikeet Masked Dove	2	350mm	350mm	200mm
300-400mm African Grey Amazon Ringneck Bleeding heart pigeon	1-2 Depending On species	450mm	400mm	250mm
400-500mm Eg. King Eclectus Princess Cockatoos	1-2 Depending On species	550mm	400mm	350mm
500+mm Large Cockatoo Macaw	1	800mm	600mm	500mm

2. All-wire cages are not permitted to be use by either sellers or buyers to contain birds. If necessary, these cages can be modified for use by enclosing the top, bottom and three sides with a draft proof solid material. Cloth is not acceptable.
3. Every buyer of birds should provide containers suitable for the species that are intended to be purchased.
4. The bottom of all cages are to be a minimum of 70cm above the floor level of the venue.
5. Only freshly cleaned and well-presented cages are acceptable, must be free from dirt, dust, old droppings and old stale food and should be a light colour inside (eg. white, light blue, light green).
6. Cages are to have:
 - Perches available suitable for the species within (quail and ground dwelling birds excluded). Removable perches may be used to assist with the catching of birds.
 - Suitable material on the cage floor to prevent soiling of the birds feathers
7. Commercial trades people are permitted to sell new all wire cages as part of their goods. Birds are not permitted to be placed in these cages at the sale. All-wire cages purchased must be removed from the sale venue immediately after purchase and must not be taken into the area where the birds are being sold.
8. Sellers must present their birds with an adequate supply of fresh, clean water, seed and /or other appropriate food for the species contained within suitable vessels for the species for the entire period of the sale. This must be done within 30 minutes of benching their birds. Organisers/Stewards of the bird sale MUST ensure compliance.
9. Birds are only to be confined to a transport/display cage for a maximum period of twenty – four hours.

C. VENUE

1. The venue is to be fully roofed and to be able to be securely closed off to enable the containment of any bird due to accidental escape so that the bird can be re-captured. Bird sale organisers are to provide a minimum of two suitable catching nets suitable for the height of the venue to enable the owners or any sanctioned helper(s) to recover any escaped bird. Birds cannot be caught during the sale unless special permission is sought from the bird sale coordinator.
2. Lighting levels within the venue are to be conducive to clearly view the birds within their display cage.
3. Bird sales are to be deferred or cancelled if the ambient dry-bulb temperature is predicted to reach 32°C or above on the day of the sale.
4. The predicted temperature to be used will be the regional temperature of the closest locality to the bird sale as advertised on the ABC evening television news on the day before the sale. All bird sales advertising should warn members of the public of this condition.
5. Bird sale organisers must obtain Public Liability Insurance of at least \$20 million dollars and all incidents, accidents and injuries must be reported to and recorded by the sale organisers and /or ambulance officers if present.

D. BIRDS

1. Only birds in good health, sound physical condition fully feathered and self-sufficient may be offered for sale. The organisers reserve the right to have a steward or recognised Avian Veterinarian inspect any or all of the birds offered for sale by a seller and, at its sole discretion, shall (upon the advice of the Steward/Veterinarian) determine if the birds shall be allowed to be presented for sale.
2. Only one species of bird is permitted per cage.
3. Birds that have been sold by pre-arrangements must not be put on display or exchanged prior to the advertised start time of the bird sale.
4. Poultry (except quail) & domestic pigeons are not permitted in the sale.

E. REGULATORY COMPLIANCE

1. Any person in possession of native birds requiring a licence is to produce their wildlife licence and record book to authorised officers of the Department of Environment and Primary Industries or members of the Victorian Police.
2. Upon transfer of native birds subject to licence, both buyer and seller are to sight and exchange licence details.
3. All licensed native birds sold at bird sales are to be recorded on the Department of Environment and Primary Industry survey forms. These forms MUST be returned at the finish of the sale to the bird sale organisers.
4. The sale of crossbred hybrid native species is not permitted.
5. Purchase of non-licensed birds: It is the buyer's responsibility to obtain the name and details of the seller as required.

F. DISCLAIMER

1. The Victorian Avicultural Council Inc; its affiliates, its officers and or its committee shall not be responsible for the health or welfare of any birds sold, transferred and /or purchased by any person, where the health of that bird proves to be defective or not up to the standard anticipated by the purchaser.
2. The Victorian Avicultural Council Inc; its affiliates; its officers and or its committee shall not be held responsible for any disease or virus that are transferred by way of any goods sold, transferred and/or purchased at a bird sale organised by the Victorian Avicultural Council Inc or its affiliates.
3. The Victorian Avicultural Council Inc; its affiliates; its officers and or its committee shall not be held responsible for any disease or virus transferred from a bird to a human being by a bird which has been purchased, transferred and or sold at a bird sale organised by the Victorian Avicultural Council Inc; or its affiliates.

Contacts listed on the following web page

<http://avicouncil.com/VAC%2013a/vacoff.htm>

Appendix 4. — Wildlife Act 1975 and Wildlife Regulations 2013

Relevant sections of the Wildlife Act 1975 and Wildlife Regulations 2013 are reproduced below.

WILDLIFE ACT 1975 - SECT 1A

Purposes

The purposes of this Act are—

- (a) to establish procedures in order to promote—
 - (i) the protection and conservation of wildlife; and
 - (ii) the prevention of taxa of wildlife from becoming extinct; and
 - (iii) the sustainable use of and access to wildlife; and
- (b) to prohibit and regulate the conduct of persons engaged in activities concerning or related to wildlife.

WILDLIFE ACT 1975 - SECT 22

Wildlife licences

(1) Subject to subsection (2), the Secretary may license a person to do all or any of the following—

- (a) take or destroy wildlife (other than specified birds);
- (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process or display wildlife (other than specified birds).

(2) The Game Management Authority may license a person to do all or any of the following in respect of specified birds—

- (a) take or destroy the birds;
- (b) buy, sell, acquire, receive, dispose of, keep, possess, control, breed or display the birds.

(3) A licence—

- (a) must be in a prescribed category; and
- (b) is subject to any conditions, limitations and restrictions—
 - (i) that are prescribed; and

(ii) that the Secretary or the Game Management Authority (as appropriate) imposes on the licence or on that category of licence; and

(c) is subject to the condition that the holder of the licence must allow inspection by an authorised officer, at any reasonable time, of any dwelling house specified in the licence for the purpose of monitoring compliance with this Act, the regulations or the conditions of the licence.

(3A) If the regulations vary the conditions, limitations or restrictions on wildlife licences or a category of wildlife licences, the variation has effect, in relation to a wildlife licence in force at the time the regulation is made, upon the Secretary or the Game Management Authority (as appropriate) giving notice of the variation to the holder of the licence.

(4) A person seeking the issue of a licence must apply to the Secretary or the Game Management Authority (as appropriate) in the prescribed manner for a prescribed category of licence and must pay the appropriate prescribed fee with the application.

(5) A licence issued under this section does not authorise a person to take any wildlife from the wild or to destroy, buy, sell, dispose of, keep, possess, control, breed, process or display any wildlife taken from the wild unless the person is specifically authorised by the licence to do so.

(6) A person who holds a licence who contravenes subsection (5) or any condition, limitation or restriction of the licence is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

(7) In addition to any other penalty to which the holder of a licence is liable under this Act, a court before which the holder is convicted of an offence against subsection (6) may impose any additional condition, limitation or restriction on the licence that the court thinks fit.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 31

Storage of record books and return forms

The holder of a wildlife licence must ensure that the record book and copies of return forms are kept in a safe and secure place at the premises specified in the licence.

Penalty: In the case of a natural person, 20 penalty units;

In the case of a body corporate, 30 penalty units.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 39

Wildlife to be bought, sold or disposed of only at specified premises

The holder of a wildlife licence must not buy, sell or enter into a transaction to dispose of wildlife unless—

(a) the transaction occurs at the premises specified in the wildlife licence of one of the parties to the transaction; or

(b) the transaction and the place of the transaction have been specifically approved in writing by the Secretary; or

(c) the transaction is with an exempt person.

Penalty: In the case of a natural person, 20 penalty units;

In the case of a body corporate, 30 penalty units.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 49 (1,2 AND 7)

Exemptions from offences in the Act relating to protected wildlife

(1) A person who keeps, possesses, buys, sells, acquires, receives, displays or disposes of—

(a) wildlife listed in Part A of Schedule 4; or

(b) infertile eggs of wildlife listed in Schedule 7—

is exempt from the operation of sections 45 and 47 of the Act, to the extent that sections 45 and 47 relate to the keeping, possessing, buying, selling, acquiring, receiving, displaying or disposing of that wildlife by the person in the circumstances set out in subregulation (2).

(2) For the purposes of subregulation (1), the circumstances are that the keeping, possessing, buying, selling, acquiring, receiving, displaying or disposing of that wildlife is not for the purposes of hunting and the wildlife—

(a) has been bred in captivity; or

(b) is from a source approved by the Secretary.

(7) A person who buys, acquires, sells or disposes of wildlife listed in Part B of Schedule 4 for non-commercial purposes and does not sell the wildlife from a shop or business premises is exempt from the operation of section 47 of the Act, to the extent that section 47 relates to the buying, acquiring, selling or disposing of that wildlife by the person, if the wildlife has been bred in captivity or is from a source approved by the Secretary.

WILDLIFE REGULATIONS 2013 (SR NO 64 OF 2013) - REG 62

Specified premises

(1) It is a condition of a specified wildlife licence that the holder of the licence must not keep any wildlife at any premises that is not specified in the licence without the prior written approval of the Secretary.

(2) For the purposes of subregulation (1), specified wildlife licence means a wildlife licence that is not—

- (a) a Wildlife Demonstrator Licence; or
- (b) a Wildlife Controller Licence; or
- (c) a Wildlife Displayer Licence; or
- (d) a Wildlife Farmer Licence.

Appendix 5. — Domestic Animals Act 1994.

Relevant sections of the Domestic Animals Act 1994 are reproduced below.

DOMESTIC ANIMALS ACT 1994 - SECT 1

Purpose

The purpose of this Act is to promote animal welfare, the responsible ownership of dogs and cats and the protection of the environment by providing for—

- (a) a scheme to protect the community and the environment from feral and nuisance dogs and cats; and
- (b) a registration and identification scheme for dogs and cats which recognises and promotes responsible ownership; and
- (c) the identification and control of dangerous dogs, menacing dogs and restricted breed dogs; and
- (d) a registration scheme for domestic animal businesses which promotes the maintenance of standards of those businesses; and
- (e) matters related to the boarding of dogs and cats; and
- (ea) the regulation of the permanent identification of dogs, cats, horses and other animals; and
- (f) payments to the Treasurer from fees received by Councils under this Act; and
- (g) other related matters.

DOMESTIC ANIMALS ACT 1994 - SECT 3

Definitions

- (1) In this Act—

"pet shop" means a shop—

- (a) situated in a permanent location; and
- (b) open not less than 5 days a week, excluding a public holiday appointed under the Public Holidays Act 1993 ; and
- (c) where a dog, cat, rabbit, guinea pig, mouse, reptile, caged bird or any other similar animal of a class or kind prescribed by the regulations is offered for sale, sold or bought and sold;

DOMESTIC ANIMALS ACT 1994 - SECT 5

Governor in Council exemptions

- (1) The Governor in Council may by order published in the Government Gazette exempt—
- (a) any animal or class of animal; or
 - (b) any domestic animal business or class of domestic animal business—

from the operation of all or any of the provisions of this Act.

- (2) The Governor in Council may impose conditions on an exemption that the Governor in Council considers to be appropriate in the circumstances.

DOMESTIC ANIMALS ACT 1994 - SECT 68A

Councils to prepare domestic animal management plans

- (1) Every Council must, in consultation with the Secretary, prepare at 4 year intervals a domestic animal management plan.
- (2) A domestic animal management plan prepared by a Council must—

(a) set out a method for evaluating whether the animal control services provided by the Council in its municipal district are adequate to give effect to the requirements of this Act and the regulations; and

(b) outline programs for the training of authorised officers to ensure that they can properly administer and enforce the requirements of this Act in the Council's municipal district; and

(c) outline programs, services and strategies which the Council intends to pursue in its municipal district—

(i) to promote and encourage the responsible ownership of dogs and cats; and

(ii) to ensure that people comply with this Act, the regulations and any related legislation; and

(iii) to minimise the risk of attacks by dogs on people and animals; and

(iv) to address any over-population and high euthanasia rates for dogs and cats; and

(v) to encourage the registration and identification of dogs and cats; and

(vi) to minimise the potential for dogs and cats to create a nuisance; and

(vii) to effectively identify all dangerous dogs, menacing dogs and restricted breed dogs in that district and to ensure that those dogs are kept in compliance with this Act and the regulations; and

(d) provide for the review of existing orders made under this Act and local laws that relate to the Council's municipal district with a view to determining whether further orders or local laws dealing with the management of dogs and cats in the municipal district are desirable; and

(e) provide for the review of any other matters related to the management of dogs and cats in the Council's municipal district that it thinks necessary; and

(f) provide for the periodic evaluation of any program, service, strategy or review outlined under the plan.

(3) Every Council must—

(a) review its domestic animal management plan annually and, if appropriate, amend the plan; and

(b) provide the Secretary with a copy of the plan and any amendments to the plan; and

(c) publish an evaluation of its implementation of the plan in its annual report.

DOMESTIC ANIMALS ACT 1994 - SECT 96

Offence to sell certain animals outside certain places

A person must not sell any animal referred to in the definition of pet shop or prescribed by the regulations for the purposes of that definition—

(a) unless the animal is sold in the course of conducting a domestic animal business in a premises that is registered under Part 4 for that purpose; or

(aa) unless the animal is sold in a place that is a private residence; or

(b) unless the sale is approved under the Wildlife Act 1975 .

Penalty: In the case of a body corporate, 150 penalty units;

In any other case, 30 penalty units.

Appendix 6. — Prevention of Cruelty to Animals Act 1986.

Relevant sections of the Prevention of Cruelty to Animals Act 1986 are reproduced below.

PREVENTION OF CRUELTY TO ANIMALS ACT 1986 - SECT 1

Purpose

The purpose of this Act is to—

- (a) prevent cruelty to animals; and
- (b) to encourage the considerate treatment of animals; and
- (c) to improve the level of community awareness about the prevention of cruelty to animals.

PREVENTION OF CRUELTY TO ANIMALS ACT 1986 - SECT 9 (1)

Cruelty

- (1) A person who—
 - (a) wounds, mutilates, tortures, overrides, overdrives, overworks, abuses, beats, worries, torments or terrifies an animal; or
 - (b) loads, crowds or confines an animal where the loading, crowding or confinement of the animal causes , or is likely to cause , unreasonable pain or suffering to the animal; or
 - (c) does or omits to do an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal; or
 - (d) drives, conveys, carries or packs an animal in a manner or position or in circumstances which subjects or subject, or is likely to subject, it to unnecessary pain or suffering; or
 - (e) works, rides, drives or uses an animal when it is unfit for the purpose with the result that unreasonable pain or suffering is caused to an animal; or
 - (f) is the owner or the person in charge of an animal which is confined or otherwise unable to provide for itself and fails to provide the animal with proper and sufficient food, drink or shelter; or
 - (g) sells, offers for sale, purchases, drives or conveys an animal that appears to be unfit (because of weakness, emaciation, injury or disease) to be sold, purchased, driven or conveyed; or
 - (h) abandons an animal of a species usually kept in a state of confinement or for a domestic purpose; or
 - (i) is the owner or the person in charge of a sick or injured animal and unreasonably fails to provide veterinary or other appropriate attention or treatment for the animal; or
 - (j) other than in accordance with the Catchment and Land Protection Act 1994 , the Wildlife Act 1975 or the Drugs, Poisons and Controlled Substances Act 1981 , intentionally administers to an animal or lays a bait for the animal containing—
 - (i) a poison; or
 - (ii) any other substance which, when administered to that type of animal, has a harmful effect on the animal; or
 - (k) uses spurs with sharpened rowels on an animal; or
 - (l) carries out a prohibited procedure on an animal—

commits an act of cruelty upon that animal and is guilty of an offence and is liable to a penalty of not more than, in the case of a natural person, 250 penalty units or imprisonment for 12 months or, in the case of a body corporate, 600 penalty units.



Department of Environment, Land, Water & Planning

AMNESTY FROM PROSECUTION FOR THE REMOVAL OF LICENSED WILDLIFE AND RECORD BOOKS FROM SPECIFIED PREMISES FOR THE PURPOSE OF PARTICIPATING IN AUTHORISED EVENTS

1. What is the purpose of the Amnesty?

The purpose of this Amnesty is to exempt certain holders of a wildlife licence issued under the *Wildlife Act 1975* for breaching licence conditions related to specified premises only while attending authorised events.

All individual participants of those events listed in section 3 of this Amnesty will require a relevant wildlife licence issued under the *Wildlife Act 1975*.

All other requirements prescribed in the Wildlife Regulations 2013 and on the licence still apply.

2. To whom does this Amnesty apply?

The Amnesty applies to holders of a wildlife licence issued pursuant to section 22 of the *Wildlife Act 1975*.

3. What are the terms of the Amnesty?

A person to whom this Amnesty applies will not be subject to enforcement action in respect of the legislative provisions described below provided the person:

- A. Removes wildlife from the premises specified in their licence for the purpose of attending:
 - i. Bird sales as a registered participant with the Avicultural Society of Australia (ASA) as follows:
 - Western District branch at the Exhibition Hall, Hamilton Showgrounds on 20 March 2016;
 - Geelong branch at the Geelong Showgrounds on 3 April 2016;
 - Gippsland branch at Exhibition Hall, Warragul on 17 April 2016
 - Swan Hill branch at the Italian Club, Swan Hill on 24 April 2016
 - Union Hall, Latrobe University, Bundoora on 1 May 2016;
 - Bendigo branch at the Bendigo Showgrounds on 7 May 2016;
 - Goulburn Valley branch at the Shepparton Showgrounds on 15 May 2016;
 - Mornington Peninsula at the State Dog Centre, Western Port Highway, Skye on 29 May 2016;
 - Mildura and District Bird Club at the Redcliff Civic Centre on 12 June 2016;
 - Ararat branch at the Alexandra Hall, Ararat on 19 June 2016;
 - Centre West branch at the Civic Hall, Cobden on 9 July 2016;

- Latrobe Valley Aviculture Club at the Newborough Town Hall on 3 July 2016;
 - Gippsland Caged Birds at the Exhibition Hall, Warragul on 17 July 2016; and
 - Ballarat branch at the Ballarat Showgrounds on 6 August 2016.
 - ii. Australian Association of Wildlife Artists' Taxidermy Exhibition and Wild Deer Expo at the Bendigo Showgrounds between 3 March 2016 and 6 March 2016 as a registered participant.
 - iii. Victorian Herpetological Society's 2016 Reptile and Amphibian Expo at the Royal Melbourne Showgrounds, Flemington on 5 March 2016 as a registered participant with the Victorian Herpetological Society.
- B. Removes their record book from premises specified in their wildlife licence for the purpose/s only of attending those events listed in Section 3(A) of this Amnesty.

4. What is wildlife?

For the purpose of this Amnesty, 'wildlife' is the same as that defined under section 3 of the *Wildlife Act 1975* and which is held under a wildlife licence issued under section 22 of this Act.

5. What legislative provisions will not apply?

A person to whom the Amnesty applies, who complies with the terms of the Amnesty, will not face enforcement action in respect of a breach of the following regulations under the *Wildlife Regulations 2013*:

- i. Regulation 31 – Storage of record books and return forms
- ii. Regulation 39 – Wildlife to be bought, sold or disposed of only at specified premises
- iii. Regulation 62 – Specified premises

6. For how long does the Amnesty run?

This Amnesty applies only to the events and dates provided at Section 3(A) of this Amnesty, unless cancelled by the Secretary.



ADAM FENNESSY
Secretary

30 /12/ 2015



Appendix 8. — FSA correspondence with Minister



THE FINCH SOCIETY OF AUSTRALIA INC

(Incorporated under the *Associations Incorporation Act 2009*)

PO Box 26 Douglas Park NSW 2569

www.finchsociety.org secretary@finchsociety.org

4/06/2015

Hon. Jaala Pulford MLC

Minister for Agriculture (Victorian Government)

Minister responsible for the Domestic Animals Act 1994

jaala.pulford@parliament.vic.gov.au

Dear Minister,

RE: RESTRICTION ON SALE OF EXOTIC AVIAN SPECIES AT VICTORIAN BIRD SALES

I write as the President of the Finch Society of Australia Inc. and on behalf of our membership throughout Victoria and adjoining areas. Our society includes many hundreds of members nationally, including a number of branches and affiliated clubs. Our focus is finch aviculture however we are also involved in wider issues including endangered species conservation and the psychological and medical benefits of bird keeping.

We encourage legislators at all levels of government to promote responsible animal ownership rather than impose restrictions. It is an accepted fact that animal care provides enormous benefits for individuals' quality of life and therefore the well-being of larger communities.

We understand there is confusion surrounding the sale of non-indigenous (exotic to Australia) bird species at bird sales throughout Victoria. We submit the following facts followed by two (2) recommendations.

Facts

1. Bird sales in Victoria are approved by Government in advance under [Wildlife Regulations 2013 – Reg 39\(b\)](#). The Victorian Avicultural Council (VAC) manages approvals on behalf of individual clubs throughout Victoria. In relation to birds, the [Wildlife Act 1975](#) regulates activities primarily related to indigenous avian species.
2. The [Domestic Animals Act 1994](#) is primarily concerned with the welfare of dogs and cats. The words “Caged birds” appear once only, within the definition of a Pet Shop. The [Domestic Animals Act 1994 – Section 96](#) currently relates to “any animal referred to in the definition of pet shop”.
3. The [Domestic Animals Act 1994 – Section 96\(b\)](#) allows for sale of Caged birds when the “sale is approved under the Wildlife Act 1975.”
4. Under the [Domestic Animals Act 1994 – Section 5](#), the Governor in Council may exempt (with conditions) any class of animal from any provision of the Act.
5. Bird sales have been operating without incident in Victoria, and throughout Australia in excess of 30 years. Given the number and frequency of bird sale events this is an enviable historical record.

6. The health and welfare of birds at all avicultural events is paramount. Larger events, such as bird sales engage avian qualified veterinarians to confirm the health and well-being of all animals. At smaller events stewards are appointed welfare duties.
7. Compliance with government endorsed codes of practice governing cage specifications, feed, water, temperature and other areas are checked by stewards as birds enter and are under surveillance throughout the event.
8. Animal welfare is legislated under [The Prevention of Cruelty to Animals Act 1986](#). RSPCA inspectors are charged with compliance duties and are routinely invited and/or attend bird sales. We are unaware of any compliance issues, charges or concerns in relation to bird sales.

Advice to VAC from the Department of Environment, Land, Water & Planning (DELWP) officers was, to the effect, that sale of exotic avian species at bird sales was in contravention of Section 96 of the Domestic Animals Act 1994. With due respect, we make the following observation. We presume DELWP concludes that bird sale approval (1) does not extend to all "Caged birds" (2). Given (3) we contend this conclusion is in error as the legislation currently stands. In any case, the ruling is unreasonable given facts (5) through (8).

To resolve the situation in a timely manner we make the following recommendations.

Recommendations

1. Minister immediately recommends Governor in Council exempt all "Caged birds" from all provisions in the [Domestic Animals Act 1994 – Section 96](#). (4)
2. Minister immediately recommends Governor in Council retrospectively extends the above exemption to the day the [Domestic Animals Act 1994](#) was enacted.

We look forward to your timely response and would be pleased to discuss further.

Sincerely,



Samuel Davis
President – The Finch Society of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: president@finchsociety.org

CC: Peter Walsh MP (Vic. Shadow Minister for Agriculture), VAC, CCBFA, NFSA, ABA, FSA Committee, FSA Branch and Affiliate Clubs, FSA Members



Hon Jaala Pulford MP

Minister for Agriculture
Minister for Regional Development

8 Nicholson Street
East Melbourne, Victoria 3002
Telephone: 03 9637 9940
DX210074

Mr Sam Davis
President
The Finch Society of Australia Inc
president@finchsociety.org

Ref: MIN004092



Dear Mr Davis

EXOTIC BIRDS AND PUBLIC SALES IN VICTORIA

Thank you for your email of 5 June 2015 regarding the sale of exotic species from bird sales. I apologise for the delay in responding.

In Victoria, most birds can only be sold from a private residence or a registered pet shop, with the exception of some native species. The legislation as it currently stands was introduced in 1994 in response to the broad and unregulated sales of many types of animals, including caged birds, from flea markets, car boot sales and other unsatisfactory situations. Animal welfare for these animals was in many cases unacceptable, with animals confined to small cages without appropriate food or water, while waiting to be sold.

Under the *Domestic Animals Act 1994* (the Act), caged birds can only be sold from a private residence or a registered pet shop. This has been the case for more than 20 years. According to the legislation, a 'pet shop' must be located in a permanent location, and open not less than five days a week (excluding public holidays).

Section 96 of the Act makes it an offence to sell a caged bird (or any other species listed in the Act or the *Domestic Animal Regulations 2005*) from a place other than a private residence or a pet shop, unless the bird is exempt under the *Wildlife Act 1975* amnesty. I am aware that this amnesty for specified species of native Australian birds has been established in conjunction with the Department of Environment, Land, Water and Planning (DELWP). However, exotics have never been included in the amnesty and therefore the sale of exotic species from bird sales has been a long-standing contravention of the Act.

The day-to-day responsibility for the enforcement of the Act, including associated regulations and mandatory codes of practice, rests with local government.

It was recently brought to the attention of biosecurity officers at the Department of Economic Development, Jobs, Transport and Resources that large bird sales were being held at various locations around Victoria.

Staff from the department have been in contact with organisers of bird sales to discuss their legislative requirements. Organisers of the sales have taken action to stop the illegal sale of exotic species at the sales by introducing an expressions of interest system instead.



While I have not been directly involved in this matter, I appreciate the cooperation that has been shown by organisers in making some changes to the way they run their sales in order to comply with the law.

I understand that for some aviculturists and exotic bird hobbyists the changes to the functioning of birds sales may have been unexpected. I must emphasise, however, that there has been no change to the law, or the way it is regulated. The sale of exotic species of birds outside of pet shops and private residences has been continuously banned in Victoria for more than 20 years.

Further information on the *Domestic Animals Act 1994* and its associated regulations and codes, is available at www.vic.gov.au/pets.

Thank you for taking the time to contact me about this matter.

Yours sincerely



Hon Jaala Pulford MP
Minister for Agriculture

22 SEP 2015



THE FINCH SOCIETY OF AUSTRALIA INC

(Incorporated under the *Associations Incorporation Act 2009*)

PO Box 26 Douglas Park NSW 2569

www.finchsociety.org secretary@finchsociety.org

26/11/2015

Hon. Jaala Pulford MLC

Minister for Agriculture (Victorian Government)

Minister responsible for the Domestic Animals Act 1994

jaala.pulford@parliament.vic.gov.au

Dear Minister,

RE: YOUR RESPONSE MIN004092

Thank you for your belated response to our letter. Our initial correspondence regarding this matter is dated 4/6/15 – your response dated 22/9/15. After waiting in excess of 3 months one would assume the facts and recommendation within our submission would have been given due consideration with at least some attempt to address the substance of our submission. Unfortunately the response received is largely irrelevant to the facts and recommendations made in our initial submission. Furthermore, the received response includes a number of factually incorrect statements including misquoting the legislation as it stands.

Before expanding further I make the following self-evident common sense observation that appears to have been missed in all correspondence from government officers in relation to this issue. Do you think it sensible to allow licensed natives to be sold at a sale but not unlicensed birds? For instance, endangered Black-throated Finches (licensed) can be traded at approved bird sales, whilst domestic Canaries and Budgerigars cannot be sold. Clearly this is nonsensical and was never the intention of legislators. The aim of our correspondence is to resolve this nonsense in a timely manner.

Unfortunately your correspondence MIN004092 misquotes section 96 of the Domestic Animals Act 1994. Our initial submission included hyperlinks to the legislation. To assist, a direct quote of section 96 follows:

"DOMESTIC ANIMALS ACT 1994 - SECT 96

Offence to sell certain animals outside certain places

A person must not sell any animal referred to in the definition of pet shop or prescribed by the regulations for the purposes of that definition—

(a) unless the animal is sold in the course of conducting a domestic animal business in a premises that is registered under Part 4 for that purpose; or

(aa) unless the animal is sold in a place that is a private residence; or

(b) unless the sale is approved under the Wildlife Act 1975."

Can I suggest your departmental officers respond to the facts outlined in our initial submission (attached once more FYI). In addition, the following points are in specific response to paragraphs within your correspondence MIN004092:

1. Para 2. Please provide evidence of animal welfare issues regarding bird sales in Victoria (or elsewhere). We are in possession of evidence from RSPCA indicating they are unaware of any such welfare issues.
2. Para 2 "*most birds can only be sold from a private residence or a registered pet shop, with the exception of some native species*" can only be described as misleading. Section 96(b) states "*unless the sale is approved under the Wildlife Act 1975*". The sales in question are approved under the *Wildlife Act 1975*. This fact is undisputed.
3. Para 3. A dishonest recount of Section 96 which neglects 96(b) entirely. This paragraph has been reproduced in many responses in my possession and requires correction to all.
4. Para 4. In this case Section 96(b) is misquoted – in my view quite deceptively. The actual words in s96(b), namely "*unless the sale is approved under the Wildlife Act 1975*" has been altered to read "*unless the bird is exempt under the Wildlife Act 1975 amnesty*". One could have given some credence to an honest mistake with previous errors - perhaps s96(b) was missed entirely? Unfortunately this misquote is clearly a deliberate attempt to mislead. It is the sale and not the birds that require approval under the *Wildlife Act 1975*.
5. Para 5 correctly asserts that local government has responsibility for compliance. Please provide evidence of local council officer competence and qualifications in identifying various avian species. We have documentation from various local councils indicating their officers do not possess the required expertise in this area.
6. Para 6. Large bird sales have been in operation for in excess of 30 years. These are significant events for local avicultural clubs and local communities. We recommend that in future, further investigation is undertaken before decisions which affect significant events are implemented.
7. Para 7. Based on FOI requests in our possession, no written correspondence advising sale organisers of the issue exists. Based on evidence from clubs and local councils, we presume phone calls to be the sole means of communication – please confirm?

I requested a meeting with relevant officers some time ago (14/9/2015 via Katrina Kopczynski) and still await a response to this request.

Sincerely,



Samuel Davis
President – The Finch Society of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: president@finchsociety.org

CC: Peter Walsh MP (Vic. Shadow Minister for Agriculture), VAC, CCBFA, NFSA, ABA, FSA Committee, FSA Branch and Affiliate Clubs, FSA Members

Appendix 9. – Synopsis of Chief of Staff meeting and subsequent correspondence

PRESS RELEASE 8/4/2016

Synopsis of meeting with the office of Minister Jaala Pulford to resolve restrictions on the sale of birds at bird shows, sales and auctions throughout Victoria

On Thursday 7th April Sam Davis (FSA President and CCBFA Vice President), Dr Stacey Gelis (Avian Veterinarian), David Renshaw (President VAC) and Dr Gary Fitt (NFSA Vice President) met with Minister Jaala Pulford's Chief of Staff Megan Berry to present the following paper on behalf of the membership of approximately 195 Victorian Avicultural clubs.

“Bird Shows, Sales and Auctions in Victoria: Frequency, Size, History, Welfare and Legislative Reality”
Download link - www.finchsociety.org/vic_bird_sale_paper.pdf

Discussion emphasised the lack of welfare issues at the frequent bird shows, sales and auctions held throughout Victoria and nationally for well over 100 years. It was agreed by all present that welfare of birds in our charge is paramount and that The Prevention of Cruelty to Animals Act 1986 is the legislative tool regulating captive bird welfare in Victoria. We presented facts highlighting the fallacy that the contentious Section 96 of the Domestic Animals Act 1994 in any way protects the welfare of birds. Furthermore, lack of evidence to the contrary makes it clear Section 96 was enacted in ignorance of frequent bird shows, sales and auctions.

An undertaking was received from the Chief of Staff that Minister Pulford would respond within weeks to our recommendations to exempt “caged birds” from Section 96. Please note there is no guarantee the response will be in our favour.

The Chief of Staff will report back regarding the possibility of appointing an avian representative to the recently formed Victorian Animal Welfare Advisory Committee (AWAC).

The Chief of Staff reaffirmed the Minister's previous undertaking to review Section 96 of the Domestic Animals Act 1994. This will occur in conjunction with other unrelated amendments to the Act which are currently being considered. At this time there is no consultation planned and no timeline for this undertaking hence the urgent need to exempt “caged birds” in the interim.

Thanks to the Minister's office, in particular Chief of Staff Megan Berry, for Thursday's meeting. We look forward to ongoing consultation as we work together to resolve the issue.

My appreciation to all who have contributed to the paper and for the many words of support and encouragement. See you at a sale soon!

Kind regards,

Sam Davis

Finch Society of Australia (FSA) President

Canary and Cage Bird Federation of Australia (CCBFA) Vice President



The Hon Jaala Pulford MP

Minister for Agriculture
Minister for Regional Development

1 Spring Street
Melbourne, Victoria 3000 Australia
Telephone: +61 3 8392 6000
DX 210292

Ref: CMIN165632R

Mr Sam Davis
President
Finch Society of Australia
samdavis64@icloud.com

Dear Mr Davis

SYNOPSIS MEGAN BERRY MEETING

Thank you for your email of 16 June 2016, following your meeting with my Chief of Staff, Ms Megan Berry, regarding bird sales in Victoria. I apologise for the delay in responding to you.

Ms Berry and I have discussed your request regarding an exemption from section 96 of the *Domestic Animals Act 1994* (DAA) for bird sales. Whilst I applaud the Victorian Avicultural Council for its activities to ensure the welfare of birds at bird sales, an exemption from section 96 would not be appropriate at this time. A review of section 96 of the DAA is underway and any changes in policy in relation to this section will be introduced to Parliament before the end of the year.

You also requested that an avian specialist be appointed to the Animal Welfare Advisory Committee (AWAC). In late 2015, AWAC was reformed to become an expertise based committee (it was previously an industry based committee). Applications for membership were publically advertised and suitably qualified individuals were encouraged to apply. A large number of applications were received and all positions on the committee are currently filled. It is therefore not possible to appoint an avian specialist at this time. The term of appointment is for 3 years and I would encourage your industry to consider an appropriate person to apply in 2018, or if a position becomes available in the future.

Thank you for taking the time to write to me.

Yours sincerely

Hon Jaala Pulford MP
Minister for Agriculture

Date 1 / 8 / 2016



THE FINCH SOCIETY OF AUSTRALIA INC

(Incorporated under the *Associations Incorporation Act 2009*)

PO Box 26 Douglas Park NSW 2569

www.finchsociety.org secretary@finchsociety.org

28/08/2016

Hon. Jaala Pulford MLC
Minister for Agriculture (Victorian Government)
Minister responsible for the Domestic Animals Act 1994
jaala.pulford@parliament.vic.gov.au

Dear Minister,

RE: YOUR CORRESPONDENCE CMIN165632R 1/8/2016

Thank you for your letter in response to our 7/4/2016 meeting with your Chief of Staff Megan Berry. At this meeting a significant proposal, endorsed by some 195 clubs throughout Victoria was presented - http://www.finchsociety.org/vic_bird_sale_paper.pdf

Given your acknowledgement that welfare of birds is ensured at bird sale events we presume the imminent proposed amendments to Section 96 of the Domestic Animals Act 1994 will be such that all restrictions on the operation of bird sales by avicultural clubs of all types will be removed. We look forward to these amendments resolving this issue.

Please be aware that the Victorian Avicultural Council (VAC) represents 14 avicultural clubs in Victoria. These are large clubs that each run significant bird sales each year, nevertheless they are a small fraction of the total of all bird clubs operating in Victoria. During the compilation of the above proposal we identified and represented a total of 195 bird clubs with operations in Victoria - many have held bird sales without incident for over 100 years. It is critical that amendments to Section 96 resolve the issue for all clubs.

We remain committed to the welfare of all birds.

Sincerely,

Samuel Davis
President – The Finch Society of Australia Inc.
Vice President – Canary and Caged Bird Federation of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: president@finchsociety.org

CC: Peter Walsh MLA (Vic. Shadow Minister for Agriculture), Melina Bath MLC, Russell Northe MLA, VAC, CCBFA, NFSA, ABA, FSA

Appendix 10. — Documents obtained under FOI from Frankston City Council

From: [redacted]
Sent: Tuesday, 26 May 2015 4:52 PM
To: [redacted]@ecodev.vic.gov.au
Subject: RE: Bird Show Event Organiser

FYI

Thanx

I have just got back from Dogs Vic, and they know all about this, so does [redacted] (got his number from them too)
Apparently the complainant has made a few allegations about this event and is organising the press and the organisers are organising the police, everyone is organising, ha ha

Expecting a group of activists who are going to be protesting.

The avicultural society group is also going to have bird stewards plus [redacted] plus (someone) [redacted] from the DLEWP and [redacted] (the organiser) assisted in the development of the most recent Code of Practice for Bird sales 2014, so I cannot see him not running a tight ship.

I will call [redacted] tomor if need be, but I want to coordinate with [redacted] and the DLEWP rep going on Sunday. The sale opens to the public only between 11 am to 2pm on the Sunday.

😊



>> Senior Animal Management Officer
Civic Centre >> 30 Davey Street Frankston >> PO Box 490 Frankston VIC 3199
Telephone: [redacted]



From: [redacted]@ecodev.vic.gov.au [mailto:[redacted]@ecodev.vic.gov.au]
Sent: Tuesday, 26 May 2015 2:27 PM
To: [redacted]
Subject: Bird Show Event Organiser

Hi [redacted]

[redacted] has just advised the even organiser is [redacted]. His contact number [redacted],

Also I have informed [redacted] that you may be in contact with him about this matter also.

Thanks [redacted]

From: [REDACTED]
Sent: Tuesday, 26 May 2015 5:26 PM
To: [REDACTED]@ecodev.vic.gov.au
Subject: RE: Bird Show Event Organiser

Heads up

Just had a call from [REDACTED]

[REDACTED] I just explained where we are coming from and section 96 and that exotic birds that require a licence can only be sold from a private residence or DAB (Pet Shop). I also explained that I wouldn't know which birds require a licence or not and will be relying on DLEWP expertise on the day, I am not guessing. I also explained that Frankston City is not intending to run rough shot over the event, obviously received an allegation so we need to respond. I did say that our position at this minute was not about issuing penalties or anything, just need to ensure that 96 is complied with. [REDACTED]



[REDACTED] >> Senior Animal Management Officer
Civic Centre >> 30 Davey Street Frankston >> PO Box 490 Frankston VIC 3199
Telephone: [REDACTED]



From: [REDACTED]@ecodev.vic.gov.au [mailto:[REDACTED]@ecodev.vic.gov.au]
Sent: Tuesday, 26 May 2015 4:55 PM
To: [REDACTED]
Subject: RE: Bird Show Event Organiser

Hi [REDACTED]

I suggest that you do call [REDACTED] if you can. He has some information around bird breeds that he can provide you and may be able to share some of his knowledge on the Wildlife aspect.

Thanks again [REDACTED]

I am leaving the department. My last working day will be 29 May 2015. After this date any emails should be directed to the pet welfare address at pet.welfare@ecodev.vic.gov.au.

[REDACTED] | Project Officer - Local Government Council Liaison | Biosecurity Assurance
Regulation and Compliance | Biosecurity Division
Department of Economic Development, Jobs, Transport and Resources
475 Mickleham Road, Altrincham, Victoria 3049
T: [REDACTED] | E: [REDACTED]@ecodev.vic.gov.au
www.economicdevelopment.vic.gov.au

Any personal or sensitive information contained in this email and attachments must be handled in accordance with the Victorian Information Privacy Act 2000, the Health Records Act 2001 or the Privacy Act 1988 (Commonwealth), as applicable. This email, including all attachments, is confidential and/or may contain information that is legally privileged. If you are not the intended recipient, you must not disclose, distribute, copy or use the information contained in this email or attachments. Any confidentiality or privilege is not waived or lost because this email (and any attachments) has been sent to you in error. If you

From: [redacted]@rspcavic.org.au>
Sent: Wednesday, 27 May 2015 10:59 AM
To: [redacted]
Subject: RE: Skye Bird Sale and Expo

Hi,

[redacted] from DEWLP will be in attendance with myself and another Inspector . We are meeting in the car park at 8.45 am . Apparently the show starts at 9.30 to 2pm. I don't believe we will need to be there that period of time- depending . So will do inspections early to ensure compliance. They also have Avian Stewarts present to ensure they are in compliance with the Code of practice for bird sales.

Cheers [redacted]

RSPCA Inspector
Mornington Peninsula



1030 Robinsons Road Pearcedale 3912
P: [redacted] F:5978 7255 [redacted]@rspcavic.org.au

From: [redacted] [mailto:[redacted]@frankston.vic.gov.au]
Sent: Wednesday, 27 May 2015 10:22 AM
To: [redacted]
Subject: Skye Bird Sale and Expo

Hi ya

Just need to coordinate my visit to the above sale on Sunday with you guys. Are you and the officer from DLEWP attending together and if so what time?. The information I have received is that the sale is open to the public from 11 am to 2pm on the Sunday.

[redacted] spoke to you on the telephone yesterday and because the department apparently has received an allegation that there may be birds being sold illegally at the sale, the Domestic Animals Branch on behalf of The Minister for Agriculture has requested Frankston City to attend with the following instructions.

- * Exotic birds that require a licence cannot be sold without a licence other than from a private residence or Domestic Animal Business (Pet Shop). Instructions from the Branch is that this Contravenes section 96 of the DAA 1994 - Offence to sell certain animals outside certain places
- * Because I am not qualified to determine which birds require a licence I will need to be guided by the officer from the DLEWP.

Copy obtained under FOI Act

From: [REDACTED]
Sent: Thursday, 28 May 2015 3:44 PM
To: [REDACTED]
Subject: FW: Bird expo

Hey

C U in the carpark at 845 am.....it sounds like it will be ok, sorted.....as it should have been.

Catch ya



>> Senior Animal Management Officer
Civic Centre >> 30 Davey Street Frankston >> PO Box 490 Frankston VIC 3199
Telephone: [REDACTED]



From: [REDACTED]@delwp.vic.gov.au [mailto:[REDACTED]@delwp.vic.gov.au]
Sent: Thursday, 28 May 2015 3:24 PM
To: [REDACTED]
Cc: [REDACTED]@delwp.vic.gov.au; [REDACTED]
Subject: Re: Bird expo

Afternoon all

I've spoken with a couple of you but thought I'd send a quick email to let you know what I know about Sunday's bird show.

I spoke to [REDACTED] (VAC), he is having a meeting tonight with their board and they will be advising participants of the show that there are to be no transactions involving exotic birds (the amnesty from DELWP allows them to trade in wildlife only).

He is also going to be arranging for all the wildlife to be in one section and all the exotics to be in another, so there should be no confusion about what can and can't be traded and what is or isn't wildlife.

[REDACTED], if there are any transactions you observe that you're unsure about, [REDACTED] will be able to identify whether it involves wildlife species.

Good luck and thanks for enduring the last few days of phone calls, lawyers and emails!

Catch you all soon.

[REDACTED] | Acting Regional Manager, Environment and Natural Resources | Port
Phillip
Regional Services | Department of Environment, Land, Water & Planning
Level 8, 8 Nicholson Street, East Melbourne, Victoria 3002
M: [REDACTED] | F: 039637 8889 | E: [REDACTED]@delwp.vic.gov.au

From: [REDACTED]
Sent: Monday, 1 June 2015 11:02 AM
To: [REDACTED]@ecodev.vic.gov.au'
Cc: [REDACTED]
Subject: Skye Bird Sale & Expo
Attachments: appendix 1.pdf; Appendix 2.pdf; Appendix 3.pdf

Hi [REDACTED]

As discussed earlier please find my summary of the above event as follows.

On Sunday 31st May at 845 am I attended the Dogs Victoria, State Dog Centre on Westernport Highway Skye where I met 2 RSPCA Inspectors and a wildlife representative from DELWP.

My understanding was that this was in response to allegations lodged with State Government departments about possible legislative breaches at the event.

* Subsequently the 3 Officers and myself had a briefing with one of the organisers [REDACTED] and other representatives from the Mornington Peninsula Avicultural Society.

It was explained that a process had been implemented to address the matter of Section 96 of the Domestic Animals Act 1994, whereas all non-indigenous (exotic) birds in their cages were set up in a long line against a wall and fenced off using webbing erected approximately 1 metre from birds. Each cage on display had a number affixed. Along the front of the fencing there were 3 or 4 tables that had "Expressions Of Interest" forms available (Appendix 1), these were for the prospective buyers/purchasers to complete noting the cage number and the buyers details. Also available was an agreement form "Non Native Birds Display" (Appendix 2) for the sellers to complete in conjunction with one of the 4 bird stewards that were on duty to lodge details of the birds that they had on display. In addition, there was a poster "Public Notice" (Appendix 3) affixed at every entrance, on the sides of tents, on every table, both in the non-indigenous (exotic) bird area, the native bird area and the general trading section (you could not miss them). This poster informs all in attendance that non-indigenous (exotic) birds will not be traded at the sale.

I remained at the event until approximately 1130 am, I did not observe any breaches and make comment that the organisers did a great job in the implementation of their adopted strategy at such late notice, given the circumstances.

On behalf on the Frankston City Council I would like to express appreciation to [REDACTED] and his team, for their cooperation in regard to this matter demonstrated yesterday.


Appendix 11. — DELWP Secretary Fennessy Applauding Welfare Commitment



Department of Environment
Land, Water & Planning

8 Nicholson Street
East Melbourne, Victoria 3002
PO Box 500
East Melbourne, Victoria 8002
www.delwp.vic.gov.au

Mr David Renshaw
President
Victorian Avicultural Council Inc
renwood2@bigpond.net.au

Ref: SEC011679


Dear Mr Renshaw

AMNESTY FROM PROSECUTION UNDER THE WILDLIFE ACT 1975 TO ATTEND AUTHORISED EVENTS

Thank you for your letter dated 12 October 2015 requesting an amnesty for your 2016 bird sales.

We are privileged in Victoria to have access to a diverse range of wildlife for many different purposes. Your organisation has a long-standing history in promoting and advancing the keeping of birds and conducting bird sales. As you have outlined, these activities provide many social, economic and environmental benefits to both individuals and the broader community.

The steps you have put in place to ensure the welfare of birds at these shows demonstrates your commitment to ensuring that these events occur in a manner that maintains their health and wellbeing and is responsive to any issues that may arise. I also value your proactive engagement with Wildlife Officers leading up to and during these events to ensure there is effective monitoring and compliance.

I would be pleased to issue an amnesty from prosecution for your 2016 sales once you have confirmed the dates and venues for these events. To facilitate this process, please contact Don Hough, Director Regulation and Approvals on telephone (03) 9637 8443 when you have confirmed your arrangements.

Thank you for raising this matter with me and I wish you every success with your 2016 events.

Yours sincerely

Adam Fennessy
Secretary

18 NOV 2015

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



Appendix 12. — Email to all 79 Victorian councils and selected typical replies

Dear «DEAR_MAYOR» and «DEAR_CEO»,

RE: THE DOMESTIC ANIMALS AMENDMENT (PUPPY FARMS AND PET SHOPS) BILL 2016- COUNCIL IMPLICATIONS FOR COMMUNITY BIRD (AND OTHER ANIMAL) CLUB EVENTS

The Canary and Cage Bird Federation of Australia represents bird clubs nationally. This includes budgerigar, finch, pigeon, canary, poultry, etc. community clubs. For this issue, we represent approximately 195 community-based bird clubs operating throughout Victoria. These clubs organise thousands of community events annually, including meetings, exhibitions, sales, auctions, shows, etc. Birds are traded, sold, exchanged routinely at all these events and many have been in operation for well over 100 years with few, if any animal welfare issues.

We wish to draw your attention to an urgent issue regarding section 32 of “The Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016” (the amending Bill) affecting the sale of birds and other animals via animal sale permits. This Bill is scheduled for second reading debate in the legislative assembly during the October 25-27th 2016 sitting so time is of the essence. Councils will be tasked with implementing the proposed animal sale permits specified in Section 32 of the amendment Bill. The red tape and cost to local councils will be significant with no identified benefits to animal welfare outcomes.

Minister Pulford recently initiated a review of animal welfare via the document *Improving the Welfare of Animals – Draft Action Plan 2016-2021*. We applaud the strong intention to consult with stakeholders that is a central theme of this plan. Unfortunately, there has been no meaningful consultation with bird groups prior to the formulation of the proposed animal permit system and hence the proposed system shows a lack of understanding of the issues affecting animal welfare at club self-regulated events. Our current information suggests a corresponding lack of consultation with local government.

Here is a “plain English” summary of the proposed Animal Sale Permit requirements and conditions (with thanks to Lloyd Marshall of Talking Birds).

1. The local council must prepare a report, with council staff able to check the venue and accommodation to be used for birds at the sale. That report must be prepared within 21 days of an application from a bird club being received.
2. If council approval is given an application can then be made to the Minister, who can approve or refuse that application.
3. Each application to the Minister must include a copy of an agreement from a vet who will check the premises and accommodation for birds to be sold, and who will be in attendance throughout the sale.
4. Each application to the Minister must include a guarantee to purchasers for each bird offered for sale.
5. Each application to the Minister must specify the species to be sold and the number of each species.
6. Each application to the Minister must include the full names and contact details of any person who will be selling birds at the sale.
7. Sale organisers must, within 28 days after the sale date, submit a report to the Minister which lists each species and the number of each species offered for sale at the sale, and the number of each species sold at the sale.

To comply with point 1 above, a detailed assessment of the proposed event must be undertaken by a suitably qualified council authorised officer. Section 32 of the amending Bill adds Section 58M, 58N, 58O and 58P which detail the required assessment process.

We are trying to understand how such a permit system could possibly work, given the potential thousands of such applications made annually and hence request the following information from «COUNCIL»

1. Details of avian expertise and training of council authorised officers to make the required assessment.
2. Details of state government consultation with council during the preparation of the amendment Bill.
3. Any other matters of relevance.

We are requesting an amendment to the amendment Bill to remove animal sale permits for bird (and other animal) clubs. To be replaced with a simple notification to council of all proposed events. This allows council to fulfil its obligations under the POCTA Act and also allows council to promote these community events via existing community event marketing efforts. Our network of community based not-for-profit clubs have a proud unblemished history regarding animal welfare which we wish to continue. We have grave concerns that implementation of the proposed system will result in significant negative animal welfare outcomes.

Thank you for your prompt consideration of this matter. Please do not hesitate to make contact if we can assist with further details on this issue, including details of our proposed amendments.

Sincerely,



Samuel Davis
Vice President – Canary and Caged Bird Federation of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: samdavis64@icloud.com



24 October 2016

Mr Samuel Davis
Canary and Caged Bird Federation of Australia Inc.
samdavis64@icloud.com



GPO Box 1603
Melbourne VIC 3001

Phone 61 3 9658 9658
Fax 61 3 9654 4854
www.melbourne.vic.gov.au

DX210487
ABN 55 370 219 287

Dear Mr Davis

Council implications for community bird club events

Thank you for your email to myself and the Lord Mayor on 19 October 2016 about the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016.

As an elected representative of Council, the Lord Mayor is unable to have any involvement in Council's operational decisions, particularly in relation to animal management. As Acting Chief Executive Officer of the City of Melbourne, I am responsible for all operational functions, which is why I'm responding to you.

I understand that you have since discussed this matter over the phone with Dean Robertson, Acting Manager On-street Compliance Services.

As Dean has explained, the City of Melbourne's Animal Management Officers are not avian experts, nor do they have the specialist training to enable them to make the proposed assessments.

The City of Melbourne was not consulted about the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016, which was first introduced on 11 October and is due for a second reading later this week. While we agree with the overall spirit and intent of the proposed legislation, we do have concerns about the practicality of monitoring and enforcing compliance with the changes.

We have contacted the relevant State Government department about the proposed amendments and we have been made aware of plans for procedures, templates and training for officers, should the legislation be successful.

I trust my letter addresses your concerns. If you wish to discuss this further, Dean Robertson can be contacted directly on 9658 8052 or at dean.robertson@melbourne.vic.gov.au.

Yours sincerely

Rob Adams
Acting Chief Executive Officer

Service Request 3462945
CoM ref DM 10159581

Your Ref:

Our Ref: A1485433
A1492072

27 October 2016

Samuel Davis
Vice President – Canary and Caged Bird
Federation of Australia Inc.
samdavis54@icloud.com

Dear Mr Davis,

Thank you for bringing this matter to Council's attention. Council is aware of "The Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016" affecting the sale of birds and other animals via animal sale permits. This is one of a number of changes that may be a resourcing issue for all Victorian Local Governments to administer and enforce.

We acknowledge Canary and Cage Bird Federation of Australia's position and are sympathetic to the concerns that the proposed legislation places on your members. I can advise that your concerns regarding the proposed animal sale permit provided for in the Bill have been raised with the Victorian Local Government Peak Body, Municipal Association of Victoria. It is our understanding that they are seeking a meeting with the Minister's office.

I wish you all the best in your advocacy regarding the Domestic Animals Amendment (Puppy Farm and Pet Shops) Bill 2016 that is currently before State Parliament. If you wish to discuss this further, please contact Richard Maugueret, Acting Manager City Amenity & Safety on Ph: 9742 0770.

Kind Regards



Kelly Grigsby
Chief Executive Officer



**CORANGAMITE
SHIRE**

Our Ref: D/16/47103

20 October 2016

Mr Samuel Davis
Vice President
Canary and Caged Bird Federation of Australia Inc
By email: samdavis64@icloud.com

Dear Mr Davis

**Re: The Domestic Animals Amendment (Puppy Farms And Pet Shops) Bill
2016- Council Implications for Community Bird (And Other Animal) Club
Events**

Corangamite Shire Council share your concerns about the proposed permit system. A major concern for Council is the workload this new permit will place on Local Government and the expectation of the approval process. We can confirm that our current training program for Local Laws staff does not include specialised training for birds and the identification of standards required for the sale of such animals.

Corangamite Shire have not been involved in the consultation process for the development of this Bill and believe that it is contrary to the State Government and Local Government cost shifting agreement. Throughout our municipality we have a strong relationship with a number of clubs and bird enthusiasts which are proactive in meeting legal requirements for the sale and ownership of birds. We believe that this new permit system will degrade Council's relationship with these clubs and over time result in a negative outcome for animal welfare.

Yours faithfully

Lyall Bond
Manager Environment and Emergency

CORANGAMITE SHIRE COUNCIL

Civic Centre, 181 Manifold Street, Camperdown VIC 3260
Telephone 03 5593 7100 Facsimile 03 5593 2695 Email shire@corangamite.vic.gov.au
www.corangamite.vic.gov.au

Appendix 13 – Amendment proposal submitted to Minister 26/10/16



ABN 26 077 908 938

HON. SECRETARY/TREASURER RON ROBERTSON
PO BOX 230 FRENCHS FOREST NSW 1640
E: birdclubs@aapt.net.au P: 02 9452 2396

26/10/2016

RE: AMENDMENT PROPOSAL

On behalf of the clubs represented on this issue by the CCBFA and in association with the Victorian Avicultural Council (VAC) -

1. We require our amendment (option 1 or option 2 detailed in Appendix A below) to be passed into law, and
2. A Domestic Animals Act 1994 Section 5 exemption for bird clubs from Domestic Animals Act 1994 Section 96 in the interim until our amendment becomes law, and
3. Confirmation in writing from the Minister of commitment to (1) and (2) above.

Once confirmation (3) is received, then we see no reason to involve ourselves further in this matter.

If this is not acceptable then we will continue our lobbying in association with other parties. I would be pleased to speak with the Minister or her representative regards this matter.

Sincerely,

Samuel Davis

Vice President – Canary and Caged Bird Federation of Australia Inc.

P: (02) 4632 7987

M: 0411 253 512

F: (02) 4632 8002

E: samdavis64@icloud.com

Appendix A

Proposed amendments to the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016

Option 1. – Replaces (removes) Animal Sale Permits Completely.

Replace Section 93 with the following.

93 Offence to sell certain animals outside certain places

After section 96(aa) of the Principal Act insert—

"(ab) unless the sale is organised by an incorporated association whose purpose includes the welfare of the animals to be sold and the relevant council has been notified of date/time and location of the sale at least 14 days prior; or"

Delete Section 32 in its entirety

32 New Division 3B inserted in Part 4

Option 2. – Adds our amendment without removing Animal Sale Permits.

Replace Section 93 with the following.

93 Offence to sell certain animals outside certain places

After section 96(aa) of the Principal Act insert—

"(ab) unless the animal is sold at a place specified in an animal sale permit and under and in accordance with that permit; or"

"(ac) unless the sale is organised by an incorporated association whose purpose includes the welfare of the animals to be sold and the relevant council has been notified of date/time and location of the sale at least 14 days prior; or"

Explanatory Notes

All clubs either are already incorporated associations or can easily become incorporated for a minor annual fee. The *"purpose"* is a legally required element in an incorporated associations constitution. It is a minor matter to alter the *"purpose"* to specifically include *"the welfare of the animals"* central to the club's existence. No doubt, for many clubs, welfare already forms part of their existing statement of purpose.

It is envisaged that a simple list of all meetings, shows, exhibitions, sales, auctions or other club events where birds may be traded would be submitted to the local council at the beginning of each year or as these details come to light. This list of events would also be useful in enabling council to promote the activities of the association via its community events promotional activities. Council and/or RSPCA officers are free to attend events to fulfil their legislated compliance duties under the existing Prevention of Cruelty to Animals Act 1986.

Appendix 14 – Animal Trading Scenarios – Request for advice from DEDJTR



ABN 26 077 908 938

HON. SECRETARY/TREASURER RON ROBERTSON
PO BOX 230 FRENCHS FOREST NSW 1640
E: birdclubs@aapt.net.au P: 02 9452 2396

31/10/2016

Dr. Mariko Lauber
Manager – Domestic Animals
Department of Economic Development, Jobs, Transport and Resources

Dear Mariko

RE: ANIMAL TRADING SCENARIOS – LEGAL ADVICE

The Canary and Cage Bird Federation of Australia (CCBFA) is a national body representing many hundreds of clubs nationally. On this issue, we represent a total of 195 bird clubs operating in Victoria. There is significant confusion regarding recent public comment by Minister Jaala Pulford with regards Section 96 of the Domestic Animals Act 1994.

For your convenience, Appendix A includes relevant sections of the current Domestic Animals Act 1994, together with the definition of “sell” from the Wildlife Act 1975.

We make no assertion regards the actuality or hypotheticality of each scenario below. Our aim is to ensure our affiliate clubs operate within the current and proposed law. Your urgent consideration of each scenario that follows is appreciated.

Scenario 1.

A canary club has been operating in Victoria for close to 100 years. They run an annual show at a local community hall where members from many other clubs participate. The show is a public event to promote the fancy. Members routinely trade birds with members of other clubs and with members of the public at this event. The club estimates approximately 20-50 birds might be traded on the day.

Scenario 2.

An avicultural club in Victoria runs a bird sale annually where a few hundred birds are traded. At this event an “expression of interest” system is used to display non-native birds. The “expression of interest” system allows buyers to obtain seller details so they can negotiate and complete the sale transaction outside of the bird sale venue.

Scenario 3.

A budgerigar club operating in Victoria runs an auction from a council-owned hall. The birds on offer are displayed in approved show cages to enable inspection by prospective buyers. At this event buyers present and remote (via phone and internet) can bid. Successful bidders present complete the transaction immediately, whilst remote purchasers are shipped their birds over the next few days.

Scenario 4.

A bird club operating in Victoria has evening monthly meetings. Members, guests and the public travel from surrounding districts to attend - often up to an hour or more travelling time. At these meetings, a variety of guest speakers present on a broad range of bird welfare topics. At this monthly meeting place birds are routinely sold, swapped and otherwise traded amongst the attendees.

Scenario 5.

A bird club member in rural Victoria resides some hours from another club member. They organise and meet at a location approximately halfway between their places of residence. The members swap several birds to assist with their breeding programs.

Scenario 6.

A broad range of birds are routinely advertised on sites such as Petlink and Gumtree. Numerous transactions both within Victoria and nationally are completed daily. The transfer of birds occurs at the seller's residence, at the buyer's residence, at a mutually agreed venue or via shipping companies such as JetPets and Qantas Q-GO Pets.

Scenario 7.

The national poultry show is to be held in Victoria. At this event, some 10 thousand birds are expected to be exhibited at a large function and exhibition centre. As part of the event an onsite auction will be held where some 500 plus lots representing a broad array of different and rare poultry varieties will go under the hammer.

Scenario 8.

A private breeder of softbills and other avian species regularly trades birds with zoos, museums and wildlife parks nationally, including within Victoria. Often the birds are shipped and other times the breeder travels to the facility (often in Victoria) to complete the transaction.

Scenario 9.

An online auction system is used to sell racing pigeons to club members and the public. Bids are lodged and accepted online prior to the advertised end time for each lot. Birds are shipped directly from the seller's loft to the purchaser.

Given the current Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 recently introduced into parliament, we would appreciate comment on each scenario regarding:

1. Legality under the current Domestic Animals Act 1994 and other relevant legislation.
2. Legality should the Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016 pass into law.

Given the pending upper house Committee Review and the ongoing nature of bird events throughout Victoria we look forward to your timely response.

Sincerely,



Samuel Davis
Vice President – Canary and Caged Bird Federation of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: samdavis64@icloud.com

CC: CCBFA, VAC, CCBFA Victorian affiliate clubs, Peter Walsh MP (Vic. Shadow Minister for Agriculture), Jaala Pulford MP (Minister for Agriculture), Josh Morris MP (Chair - Standing Committee on the Economy and Infrastructure)

Appendix 15. CCBFA submission on the Draft Animal Welfare Action Plan 2016-2021



ABN 26 077 908 938

HON. SECRETARY/TREASURER RON ROBERTSON
PO BOX 230 FRENCHS FOREST NSW 1640
E: birdclubs@aapt.net.au P: 02 9452 2396

9/10/2016

Animal Welfare Action Plan
475 Mickleham Road
Attwood VIC 3049
animal.welfare@ecodev.vic.gov.au

RE: IMPROVING THE WELFARE OF ANIMALS – DRAFT ACTION PLAN 2016-2021

The Canary and Cage Bird Federation of Australia (CCBFA) represents many hundreds of clubs nationally including well in excess of 100 clubs throughout Victoria. We support Animal Welfare initiatives in all jurisdictions and have represented aviculturists on a variety of government committees nationally. Aviculture has a proud animal welfare history in Australia largely via the clubs and their various governing and representative bodies.

We applaud the collaborative intent of the action plan, in particular Action area 2. Personification of animals is an area that requires care when developing animal welfare policy. Birds are not humans and hence their welfare needs differ significantly. Avian welfare is a hugely diverse area with a broad range of species and management practices to consider.

Action Area 1 comments

- A1.1. We support a single Act to cover all aspects of Animal Welfare developed as an amended version of the current POCTAA 1986.
- A1.2. The term “new contemporary legislation” (1.1(c)) is not defined and care is advised to ensure existing and well tested processes are only replaced based on sound evidence.
- A1.3. In 1.2, formal statutory processes for ongoing consultation with stakeholders regarding updates to regulations and codes of practice would assist.
- A1.4. There are no significant welfare issues in aviculture, therefore care is needed to avoid over regulation which is often counterproductive.

Action Area 2 comments

- A2.1. We full support the intent to collaborate and invest in activities that promote animal welfare. Such investment to be extended to clubs who are currently the major implementers of animal welfare education and training to their membership.
- A2.2. Avicultural organisations are engaged in the promotion of ethical care, we routinely run training and produce educational materials on best practice to our members. This expertise should be specifically encouraged as part of this review process.
- A2.3. Many avicultural clubs maintain and support aviaries in hospitals, nursing homes, dementia wards and other health care facilities. The positive effect of animals on human health care should be acknowledged in the Action plan. Promotion of animals as therapy encourages positive animal welfare outcomes.

Action Area 3 comments

- A3.1. Real support from stakeholders is the key to minimising the need for enforcement. To achieve such support requires a real commitment to consultation with stakeholder

representative groups who in turn must consult with their membership. This is not easy for government groups to achieve and hence deserves specific mention in the plan.

- A3.2. Material explaining welfare requirements to particular stakeholder groups is best developed by stakeholders in close consultation with government. This must be an ongoing process. A single education campaign after new legislation is passed is insufficient.

Listed below are areas highlighting the diversity of aviculture CCBFA represents within Australia.

1. Exhibitors who selectively breed domesticated species such as canaries, fancy pigeons, exhibition poultry, budgerigars and finches, to a standard.
2. Racing pigeons are selectively bred and trained much like thoroughbred horses. These are athletes whose nutrition, housing and welfare is crucial to their performance.
3. Aviary birds where the challenge is to develop husbandry to breed the birds successfully and such that the captive population is genetically sustainable.
4. Pet birds as companion animals. There are more birds kept as pets in Australia than dogs and cats. Most are kept as companion animals where they improve quality of life for their owners.
5. Threatened species work, including captive breeding recovery efforts. Often in parallel with the conservation and zoo communities. The close observation possible in an aviary environment has proven critical.

Given the diversity of avicultural interests, open communication and consultation will be a critical challenge if the deliverables are to be supported by the avicultural community. Based on experiences in other jurisdictions and to progress our comment on action areas 1, 2 and 3 we make the following recommendations.

1. Form a statutory Aviculture Advisory Panel with representatives from significant avicultural groups and stakeholders so ongoing consultation is ensured. Our comments for each Action Area above specify some of the likely roles for this panel.
2. Deliver regular and transparent updates on the progress of the Animal Welfare Review, including AWAC minutes, to all stakeholders.

Aviculture for our membership is a passion. A love, affinity and understanding of birds as individual beings with their own specific needs is the central theme. The knowledge and skills of Australian aviculturists is renowned world-wide. Legislation, policy and code of practices should aim to encourage aviculture rather than focus on compliance.

Experience tells us that cooperation and consultation is the answer to building a legislative framework that will be supported and thence achieve the desired welfare outcomes. We look forward to our involvement in this process.

Sincerely,



Samuel Davis
Vice President – Canary and Caged Bird Federation of Australia Inc.
P: (02) 4632 7987
M: 0411 253 512
F: (02) 4632 8002
E: samdavis64@icloud.com