

Response to the *Wildlife Act 1975* review

This submission is written by Dr Sacha Jellinek, a Research Fellow at the Waterway Ecosystem Research Group (WERG, <http://thewerg.org>) based at the University of Melbourne. WERG undertakes industry-engaged applied research aimed at protecting and improving waterway ecosystem function and health throughout the greater Melbourne region. I have over 18 years experience as an Ecologist working with floral and faunal communities in Victoria and interstate, and has worked for Government and non-government organisations as well as research institutions during this time, so has an understanding of the broad implications of the *Wildlife Act 1975*. I have an understanding of terrestrial as well as wetland ecosystems.

I appreciate the opportunity to provide comment on the *Wildlife Act 1975* (DELWP 2021; hereafter *the Act*). In making this submission, I have reviewed the *fact sheet* and the *Independent Review of the Wildlife Act 1975* (April 2021). In the sections that follow, I respond to the areas of concern.

1.1.1 In what ways does the Act succeed or fail in representing contemporary expectations for, and values relating to, wildlife in Victoria? Please provide examples from your own experience.

I believe the Act fails to protect native animals from harmful effects related to land clearing and development caused by humans. This is evidenced by Victoria's poor record on protecting native animals: Victoria's biodiversity has decreased over the past two centuries, and since European settlement 18 mammal species, two bird species, one snake species, three freshwater fish species, six invertebrate species and 51 plant species have become extinct. Currently 22% of terrestrial mammals, 19% of birds, 30% of reptiles and 43% amphibians are threatened, and the number of critically endangered and vulnerable vertebrate groups continues to increase.

From my professional experience as ecologists, I have seen the decline of animal populations in many parts of Victoria. For example, from work in the Wimmera and northern Victoria I have seen that remnant bushland areas continue to be cleared and grazed by livestock for agricultural purposes, and this has had a direct impact on reptile and invertebrate populations in these landscapes, leaving a subset of the faunal community largely made-up of robust generalist species (Jellinek *et al.* 2013; Jellinek *et al.* 2014).

Much more field-based monitoring needs to be funded to better understand the current state of Victoria's fauna (and the floral communities these rely upon), and this monitoring needs to occur across all faunal groups, not just those which are threatened. A keystone species approach may be required to better protect our native animals and the habitats they require. Similarly, while revegetation and habitat restoration activities continue to be funded, very limited funding is available to monitor the effectiveness of these restoration activities. Without this greater level of funding focussed on monitoring and assessing our biodiversity assets and how we go about restoring them, native animal populations will continue to decline.

In Victoria (and indeed nationally), we need to maintain viable populations of all native animals and aim to reverse the long-term declines of all native species, not just those native species that are threatened. I also believe the Act wrongly includes game animals, and that these should be removed from the Act (see 1.5.3).

1.1.2 Are there conflicts between the interests or expectations of different stakeholders or community members regarding wildlife in Victoria? Please provide examples from your own experience.

I believe that the Act promotes conflict between different stakeholders and community members. For example, the Act protects game animals, which I believe should not be protected under the Wildlife Act as they generally damage natural areas and habitat for native animals. For example, I have seen many examples where deer have damaged revegetated areas, alpine bogs and remnant natural habitat. And there is clear evidence to show that deer populations and impacts are increasing across Victoria (Davis *et al.* 2016). While deer are promoted as a game species by groups such as the Shooters and Fishers Party, this protection to deer directly negatively impacts the work natural resource and conservation agencies do to protect and restore natural habitats (e.g. Parks Victoria, Catchment Management Authorities, Bush Heritage, Greening Australia, etc.). At the same time the Act allows sport shooting for ducks and native quails, which negatively impacts these species and other non-target native animals.

Similar conflicts exist between farming communities and farming bodies (e.g. Victoria Farmers Federation) and conservation organisations as it relates to the protection of natural habitat from threats such as grazing, clearing and burning. Whilst the Victorian Farming Federation argues that clearing native vegetation restricts farmers use of new technologies and ultimately economic benefits (see their submission to the 2017 Review of native vegetation clearing regulations), the reality is that only 34% of Victoria's native vegetation remains, and much of this is on private land with many of these remaining remnants being in a degraded state. This means that many of the habitats that native animals rely upon are geographically restricted, making them more prone to environmental degradation and impacts such as climate change and fire.

Finally, the concept of no net-loss that the Victorian Biodiversity Offsets program relies upon is fundamentally flawed as it accepts ecological losses in return for uncertain gains (Bull *et al.* 2013), and puts developers in direct conflict with conservation organisations. Biodiversity gains seldom occur under Biodiversity Offsets, because it is generally much more difficult and costly to restore or recreate a natural habitat than it is to clear them. Evidence suggests that Biodiversity Offsets may be viable under the scenario where biodiversity is restored within 55 years, and offset ratios are greater than 10:1 (Gibbons *et al.* 2016).

1.1.3 How can the Act balance the diverse interests of Victorians in protecting, conserving, managing and using wildlife? How might such competing interests be better reconciled in legislation? Are there examples from other sectors or other jurisdictions (both in Australia and internationally) that may be useful?

I believe that the Act's guiding principle should be that we seek to maintain and where possible increase viable populations of all native animals and reverse the long-term declines of native species. Victoria is a rich and prosperous state, and I believe restrictions on the use of wildlife and restrictions on the clearing of native vegetation should come before financial benefits. These biodiversity benefits are likely to have positive consequences for society (regarding amenity and mental health) and Indigenous groups who place a high cultural value on native species.

1.4.1 Should the Act prescribe a general duty of care related to wildlife conservation or biodiversity protection more broadly? Why or why not? How could it work in practice?

Yes, I believe that the Act should impose a general obligation on people to take all reasonable and practical measures to prevent or minimise harm to native animals. This would also mean having a much more stringent and transparent Authority to Control Wildlife permit system, and much harsher penalties for those who commit an offence under the Act. At present the penalties are far too low

(as shown in the recent example of the poisoning of the Wedge-tailed Eagles), and the Act is relatively toothless at prosecuting illegal acts that harm wildlife or the habitat they require.

1.5.2 Should any additional animal species or taxa (groups of species) be included in the definition of 'wildlife' or 'protected wildlife'? Should any species or taxa be excluded and therefore be exempt from some provisions in the Act?

I believe all native animals (vertebrates and invertebrates) should be included under the revised Act. The Act should seek to maintain viable population of these native animals and to reverse the long-term declines of all native species, not just those native species that are threatened.

Biodiversity in Victoria continues to decline, as shown by the State of the Environment Report which cited significant declines in 21 out of 35 biodiversity indicators since 2013. Ongoing declines are likely due to threatening processes such as habitat loss, unmanaged or inadequately managed invasive plants and animals, inappropriate fire regimes, and climate change.

1.5.3 Should 'game' animals be defined as wildlife in the Act or defined some other way or excluded from the Act entirely?

All game animal species should be removed from the Act entirely. This is because some of these species can cause large-scale damage to the natural environment. For example, the four species of deer in Victoria have considerable negative impacts on biodiversity through grazing/browsing, wallowing and trampling (Davis *et al.* 2016). They also considerably damage revegetated and restored sites, greatly reducing the value of these areas as future faunal habitat and wasting millions of conservation dollars. In addition, deer have significant negative consequences for agricultural land (damage to crops, competition with livestock, damage to infrastructure and potential transmission of livestock diseases) and public health (vehicle collisions and transmission of pathogens in drinking water) (Hampton and Davis 2020).

2.3.2 How should the Act provide for the protection and conservation of wildlife habitat?

The Act should seek to protect all natural remnant and restored/revegetated habitat that will provide habitat for a broad range of native animal species, especially if those species are listed as keystone species. At present the Act fails to protect animal habitat as it only focuses on direct threats to wildlife. Greater focus should be put on protecting habitat on state-owned land (especially those used for timber harvesting) as well as specifically obligating private landholders to protect remnant habitat on their land. Where productive land would be lost due to protection of high quality habitat on private land, landholders should be paid compensation to protect these valuable areas.

As Victoria's climate is projected to get hotter and drier under a changing climate (Clarke *et al.* 2019), connectivity between habitats should be prioritised, either through revegetation and restoration of habitats, or purchasing/protecting remaining remnant bushland areas. Modelling should be undertaken to determine which species and habitats are most under threat from climate change, and work undertaken to make these species and habitats more resilient through actions such as climate adapted revegetation (Jellinek and Bailey 2020).

4.2.1 Should the Act include provisions that require and enable establishment of a scientific advisory committee or advisory panels to provide expert guidance to key decision makers such as the Minister, the Secretary or the regulator on specific matters relating to wildlife? Why or why not? What other approaches are available?

I believe the Act should require the establishment of a scientific advisory committee. This committee would provide expert guidance to key decision makers on specific wildlife matters and the protection of their habitat. They should provide evidence-based decision making by guiding what habitat is planned to be cleared and if this should occur, such as for Biodiversity Offsets. The membership of this group should be explicit and transparent and based on expertise (similar to section 8 of the FFG Act).

Monitoring that is scientifically-robust and undertaken by trained professionals should be a key component of the Act in order to have a good understanding of native wildlife populations and habitats. Prioritisation of monitoring should be based on threatened species, species likely to be in decline, keystone species and species subject to control authorisations.

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