

Wildlife Act 1975 – Review Submission

Lawrence Pope: B.A. Hons, Grad Dip H (La Trobe); BSW (Melb)

President of Friends of Bats & Bushcare Inc.

Preamble:

Climate change brings a new urgency and importance to the review of the Wildlife Act 1975.

The increase in fires, droughts, floods and other extreme weather events adds to an array of historical and contemporary human practices impacting on the survival of Australia's wildlife. Climate change makes Victoria's 2021 review of the Wildlife Act 1975 legal both a challenge and an opportunity the salience of which is hard to over-estimate.

This submission will make a few brief comments that the writer hopes may be reflected in a Wildlife Act reflective of 21st century philosophies and mores.

Changed Values Require Changed Legal Instruments and Processes

1. When the Wildlife Act was enacted no universities in Australia taught animal law, today 16 Australian universities have courses in animal law¹ and there are several thousand across the world. There has been a seismic shift in public concern about wildlife specifically and animal welfare in general. Our laws, and the means to enforce them, need to reflect the reality of this change.

Observation: Our experience is that many Parks Victoria staff are unable to perform legal and duty relevant enforcement duties.

Recommendation: That all relevant government employees involved in wildlife / animal protection and habitat protection be Authorised Officers. Being `fit for role` means being able to act decisively within a legal framework.

2. The days when even the most trivial of human interests, unquestionably, outweighed the life and death interests of wildlife have been increasingly challenged over the past decades. Killing or even seriously disturbing wildlife is no longer held by many as justifiable simply because the species of wildlife has dared to survive 200 years of European settlement and is causing an economic or amenity inconvenience. It is also the case that lethal control (killing) of wildlife under an ATCW can traumatise local people who have a long-standing interest or involvement in the animals' welfare.

¹ <https://voiceless.org.au/animal-law/study-animal-law/>

The implications of the above cultural changes regards the issuing of lethal and non-lethal Authority to Control Wildlife Permits is cogent.

Observation: Regional DELWP officers are occasionally unable to make objective ATCW assessments due to social conflicts of interest. The negative psychological impact of the ATCW on nearby rescue or rehabilitation workers, or the wider community, are profound but are rarely taken into account.

Recommendation: ATCWs to be subject to independent assessment. They should be harder to acquire, verifiable, and the interests of persons impacted negatively by the issuing of the ATCW be taken into account.

3. Penalties for wildlife theft, destruction and serious disturbance are not consonant with the community's expectation that wildlife will actually be protected by law and that malefactors will be brought to justice and suffer penalties that are commensurate with their crimes.

Observation: The killing of eagles, emus, koalas, waterbirds and other wildlife in rural Victoria rarely, if ever, results in serious penalties and almost never in custodial sentence and this even when mass, sustained, and egregious violations of the law and community values are experienced.

Recommendation: That penalties for wildlife trafficking crime be made to match that for drug importation and trafficking and for violent crimes against wildlife to match that given for similar crimes against human beings. That loop-holes allowing perpetrators to escape penalties be closed.

4. The concept of "sustainable use" needs to be revisited. In the past it has often been a euphemism for the sustained killing of wildlife for fun or profit. This definition is now largely unacceptable to most people. Wildlife have lives that are not there for our "use". They have a value that is independent of their use value to humans.

Observation: Sustainable use of wildlife as it applies to waterbirds (duck shooting) or kangaroos (Kangaroo industry) usually means their killing.

Recommendation: The term "sustainable use" should either be abandoned or applied to those activities alone that are pro-social and do not involve harming e.g: conservation, observation, bush-walking, bush-care, rescuing and rehabilitation, photography.

5. Aboriginality. Indigenous rights. While agreeing that Australia's pre-European inhabitants and their descendants need to be consulted and their relationship with "country" respected to a far greater extent this should not reach the level of giving unregulated permission to any group to exploit wildlife or habitat in any way they wish. Indigenous people are people and exhibit the same strengths and weaknesses of any other group of humans.

Observation: Across Australia indigenous groups work for better management of the environment and often for the better protection of native species. There are also accounts of cruelty and over-exploitation of wildlife among aboriginal communities using modern weapons and equipment. There are also many examples of conflict between and within indigenous communities about how “resources” should be used or allocated.

Recommendation: That the voice of indigenous Australia be more clearly heard and involvement encouraged. That any take of wildlife be carefully regulated under the Wildlife Act and in accord with the broader community’s expectations regarding welfare and management.

6. Introduced species should not be classed as wildlife and should not be protected under the Wildlife Act.

Observation: People who enjoy killing animals “hunters” have in the past ensured they have a sufficient number of animal lives to take (game) by political actions to have certain introduced species listed as “wildlife” and protected under the Wildlife Act.

Recommendation: That only Australian animals present prior to European arrival be classed as wildlife under Victoria’s Wildlife Act.

7. Colonial species (native animals that live in colonies) e.g. seals, flying foxes, some birds such as penguins, and other rookery species, and their habitats are particularly vulnerable to destruction and disturbance by humans and should as a consequence be accorded special recognition and protection under the Wildlife Act.

Observation: The increase in Australia’s population and our exploitation of nature by land-clearing, logging, and urban and rural “development” in addition to an increase in dog ownership, boating and fishing is causing increased pressure on colony sites everywhere.

Recommendation: That the Wildlife Act provide additional protection for colonial species colony sites. EG: Zoned protection to exclude: Fishing, logging (one kilometre), new developments, dogs, bikes, drones and other disruptive activities.