

Wildlife Act Review

Issues Paper questions – Response 52:

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Primary interests:

- Protection and conservation of wildlife and habitat

Question responses

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.

The Act fails to represent contemporary expectations & values with respect to wildlife. The Act is outdated as it assumes wildlife is there to be hunted or exist for the purposes of serving commercial and/or the practical interests of humans and the community. My view is that wildlife should be respected as simply "being" - an intrinsic part of our environment and life that we enjoy - wildlife should have the right to safely share and enjoy the land with us. The law should do all it can to accommodate and protect the interests of wildlife . Lastly wildlife should not be treated as our "property". - The Act has failed to protect, for example, in the relatively recent Vic case (year or so ago) at the Grampians where many kangaroo carcasses /parts were strewn around a well known tourist precinct - the kangaroos were cruelly slaughtered in an area that they frequented regularly as a tourist attraction - an area they considered safe . If they were killed under licence, this was obviously a breach of the licence conditions. No consequences were reported to my knowledge. - Another example around the same time was a publicly reported online video of an adult male in a Vic N-E Outer Metropolitan residential area that bordered open grasslands - he was laughing as he kept clubbing a local kangaroo with some weapon with the obvious intent to kill - the badly injured animal was bleeding, unable to stand, crawling on its knees trying to get away from him. What was most distressing was the thought that someone else was taking this video instead of stopping him. I am not aware of any legal outcome to this incident but it is indicative that by allowing himself to be videoed , the man had no fear of any legal consequences to his criminal actions . - Another example , the Kinsley Estate Kangaroos (about 20) - the kangaroos have been landlocked /fenced within a small area of new development for well over one year, while the developer and DELWP/Office of Conservation Regulator to and fro - all the while ignoring efforts of wildlife experts & community interest groups to relocate the kangaroos. In short, the administrative/legal process is badly failing the animals that need to be rescued - they should not be made to suffer needlessly - and it begs the question of how this development was approved and allowed to get to this stageNo. - Last example, whales stranding - why is not more research done about use of naval sonar to protect the species ? They are not adequately protected by law.

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.

Yes - the majority of the community which cares about wildlife VERSUS -private farmers/ farming companies who seek to cull kangaroos, log forests & interfere with waterways ; - developers who seek to clear large green tracts; - mining companies with quarries that destroy land & waterways - all of which form the sensitive & significant habitat of wildlife. In the Mornington Peninsula, there is a current proposal by the Ross Trust to reopen a disused mining quarry and extend its mining/quarry operations to over 100 (?) acres of current bushland and waterways in Red Hill - that is the habitat of

various wildlife. The current proposal involves all 3 levels of government - Fed & Govt with input from the local municipal council. There is much local opposition.

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?

Keep the processes clear and simple - avoid complexity. Ensure language clear & understood. Greater transparency & accountability. Most important of all, timeliness of decision making - when it is animals in need /distress, they cannot be allowed to languish interminably as it will be too late.

1.2.1 Are the current purposes of the Act satisfactory? If not, what should the desired outcomes, objectives or purposes of the Act be? How should the objectives and purposes of the Act relate to the desired outcomes? How would they ensure desired outcomes are achieved?

Do not see obvious problem with stated purposes. I support protecting wildlife even tho it may not be indigenous eg wild horses.

1.3.2 Should the Act recognise the cultural significance of Country and wildlife to Traditional Owners and Aboriginal Victorians? Should the Act explicitly recognise the value of Indigenous Ecological Knowledge for the stewardship of Country and the conservation of wildlife?

No

1.3.5 Does the Act provide appropriate mechanisms for Traditional Owners and Aboriginal Victorians to use wildlife? Should the Act support commercial use of wildlife by Traditional Owners and Aboriginal Victorians?

No, because the commercial interest groups will seek to take advantage (via contracts/deals) of any extra rights that the Traditional Owners and Aboriginal Victorians may have to use wildlife - opens the system up to abuse - unacceptable risk.

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. It could work in practice by having standards whereby wildlife is to have priority over a commercial enterprise or a proposed development. For example, any proposed development (like the Kinsley Estate mentioned above 1.1.1) should prepare an Impact Statement that takes into account the impact on wildlife as well as the Environment - and be directly responsible for managing its implementation.

1.5.1 Are there any definitions that are unclear or confusing or that cause problems for achieving the outcomes and objectives of the Act?

I see no problem with wildlife including non indigeneous animals, eg deer, wild horses, ducks . I support the Act protecting both indigenous and non -indigenous. "Habitat" should be defined.

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?

See response to 1.5.1

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

Should be defined as wildlife.

2.1.2 Should wildlife, flora and fauna generally be regulated by a more inclusive statute?

The protection and welfare of wildlife must go hand in hand with flora and fauna, as that is its habitat.

2.1.3 Should game management be regulated under its own Act? What are the advantages and disadvantages of such an approach?

No, because the "game" animals then lose all protection under the provisions of the Wildlife Act - and makes the legislative labyrinth more complex to administer. There is also the danger that once designated as 'game', those animals will become the forgotten ones and not be brought back into the protection of the Wildlife Act should circumstances change and warrant it.

2.3.1 In what ways does the Act succeed or fail in protecting and conserving wildlife habitat? Please provide examples from your own experience.

Refer to response in 1.1.1 & 1.1.2 .

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

Important to define "habitat" (as mentioned earlier). Road Authorities (RTA) (local councils be required under Act to include underground wildlife crossovers/passes in the building of any new major roads/ roads in wildlife areas or repairs of same - as per Canada. These crossovers (usually pipe tunnel) allow wildlife to safely cross under the roads & avoids car accidents. The Act should be cross referenced with the Planning and Environment Act & other related Acts - to ensure wildlife and its habitat is a relevant key consideration in determining approval for any development/planning or mining , etc proposal. NB. My local council has been known to dismiss giving consideration to matters of impact on wildlife (raised in formal planning objections) when considering planning applications for development in my local area.

2.3.3 Should the Act prescribe duties for landowners about protecting and conserving wildlife and wildlife habitat on their land? What could those duties look like?

Yes - should apply to both Council and private land. Example of duties: no interference or disturbance to animals, their habitat or natural waterways; allow animals ready access to water; do not engage in or allow any person to harm wildlife on your property; Rural areas to be limited to max. % of clearance of land for pastures (eg 30%) - subject to Impact Statement to be approved Green wedges compulsory for any land cleared under development approval for residential development.

2.4.1 Do property rights related to wildlife need clarifying? If so, how?

Yes.

2.4.2 Should private landowners have greater rights to use of wildlife on their property?

Not for self /commercial gain - only may euthanise if wildlife is causing undue destruction or harm & all other lesser options to manage have been tried & failed- then evidence required to substantiate as part of formal approval process.

2.4.3 Should the Act recognise sentience of some wildlife and, if so, what would this achieve? How would this recognition affect the rights and responsibilities of governments, businesses and individuals?

YES most definitely ! It is very important to give recognition in law to the animals feelings - they are not inanimate objects - and would have direct the manner in which the courts deal with offences and penalties. Would allow the Act to be enforced more effectively - something for the judiciary to hang their hat on.

3.1.1 Should the Act include statements of principle and criteria to guide regulators, duty holders and the public? Why are such principles important? If you do support including principles, what do you think they should be and why?

Yes. Principles are important to set the underlying standards and value systems that underpin the legislation and relevant obligations/duties. Important in affecting wider perceptions/practices /beliefs. Necessary to guide views and judgments- and to effect changes in practices. Allows the law to reflect the community's better views and act as a guide as to how wildlife should be treated by our society.

3.2.1 Should the Act include provisions for consultation with the community on certain issues? What issues should undergo community consultation?

Yes.

3.2.2 How can community involvement in decision making under the Act be improved?

Local Government Area (LGA) involvement

3.2.3 Are there currently barriers to private sector actors having meaningful involvement in wildlife management and conservation in Victoria? What are those barriers and what problems do they create for achieving the objectives of the Act? How might any such barriers be removed or minimised?

Yes , barriers are that wildlife carers and animal rescuers (who are mostly individual volunteers) do not get the opportunity to have much input ?say on a formal consultative basis- nor do local vets - yet these are the people on the ground with much of the local knowledge as to the welfare of the wildlife in their area. DELWP does not actively seek to engage in consultative process with interested parties either - eg Kinsley Estate kangaroos.

3.3.1 Should the Act enable wildlife management plans? What provisions should be included for such plans?

Yes, but must be such that does not result in undue delays in the decision making process, as may defeat the purpose. When dealing with a wildlife situation , time is often of the essence.

3.6.1 Should the Act contain provisions that allow for issuing mandatory codes of practice, standards or guidelines?

Yes

3.6.2 What activities could most benefit from the development of mandatory codes or standards?

Harvesting of animals eg kangaroos, wallabies Logging Water related activities Whales, seals & dolphins

4.1.1 Does the Act require an adequate degree of transparency about, and accountability for, decision making on matters relating to wildlife? If not, how could this be improved? For example, which activities/decisions/criteria should be more transparent? Which parties should be more accountable and for what?

No.

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?

Yes. But should be careful about membership - suggest be "moving" so does not become a quasi public service body.

5.1.1 Should the Act include other offences?

Yes

5.1.2 Should any offences be repealed?

Yes

5.2.1 Are the maximum penalties in the Act adequate to punish and deter offenders? If not, what should they be?

NO ! Maximum penalties are very important to punish & deter. Current penalties under the Act are woefully inadequate - do not act to deter or punish. The potential or actual gain made by breaching the Act should be FAR outweighed by the nature of penalty imposed. Forfeiture/impounding and seizure should be included as penalties. If say koalas are killed in the lopping of trees, the money made from the trees is to be seized and a further penalty imposed. Directors of companies are to be made personally liable - do not allow them to hide behind corporate veil.

5.3.1 Should the Act contain general provisions creating continuing offences and allowing for additional penalties?

Yes.

5.4.2 Should the Act contain specific provisions to guide sentencing of offenders convicted under the Act?

Yes

5.5.1 Should the Act contain civil penalty provisions? If so, what penalties should be included? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

Yes

5.5.2 Should the Act allow for infringement notices for minor offences? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

Yes

5.5.3 Should the Act contain provisions enabling regulators to enter into enforceable undertakings? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

YES ! eg farmers, CEOs, directors.

5.5.4 Should the Act contain provisions allowing for compensation orders or mandated bonds/financial assurances? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

yes

5.5.5 Should the Act contain provisions allowing for the making of costs orders? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

Yes !

5.5.6 Should the Act contain provisions allowing for the making of a monetary penalty order? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

Yes

5.5.7 Should the Act contain specific provisions to allow for the forfeiture of property used in the commission of an offence under the Act? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

Yes

5.5.8 Does the Act contain adequate regulatory tools, sanctions and remedies to punish and deter wildlife crime? If not, what additional tools, sanctions and remedies should be included within the Act?

No- I support all other options suggested in Issues Paper .

5.6.1 Does the Act contain the necessary powers and provisions to enable authorised officers to enforce the Act? What powers and provisions should be available to authorised officers? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

No

5.7.1 Does the Act provide appropriate provisions for the review and appeal of decisions?

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5.8.1 Should the Act provide for third-party civil enforcement under the Act? How might this make a difference in achieving the intended outcomes of the Act?

YES !!!!