

**Submission from**

**The Coalition Against Duck Shooting**

**to the**

**Review of the Flora and Fauna Guarantee Act 1988**

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## 1. Introduction: Conservation crisis for native waterbirds

The Coalition Against Duck Shooting (CADS) is supportive of protecting biodiversity in general. However, our particular concern is the protection of native waterbirds and this submission will be confined to that area. Your proposed new legislative regime must be able to work well for all species, and that includes the need to work well for native waterbirds. We have real concerns that this is achievable through revision of the Flora and Fauna Guarantee Act 1988 (FFGA) in isolation. Our Section 8 below explains why **the wider legislative framework needs reform to protect native waterbirds.**

The gold standard of native waterbird study, the aerial surveys conducted each year across the same 10 transects of eastern Australia by Professor Richard Kingsford of the University of NSW, shows **a steady decline in waterbird abundance over the 34 years of this survey work.** In the dry years of 2015 and 2016, Kingsford was unable to detect any waterbird breeding. In 2016, waterbird abundance was at a record low<sup>1</sup>.

**Both the long-term decline and the record low populations last year are evidence that the current system has failed to protect native waterbirds.**

Kingsford attributes the overall decline to the combined impact of climate change and loss of habitat as the natural flows of the Murray-Darling system have been diverted to irrigation purposes. He notes that several decades ago, when our Ramsar wetlands were listed internationally, a key factor was their prolific waterbird populations<sup>2</sup>.

Following rains later in 2016, conditions were favourable and the waterbirds bred twice, rather than the usual once, over spring/summer. However, contrary to the views of pro-hunting advocates, **rain doesn't immediately fix the problem of waterbird decline. Young birds must be allowed to survive, mature, and breed for several years if the population is to recover.**

Yet the government, advised by the Game Management Authority (GMA) and no doubt with the consent of DELWP, sanctioned a full-length duck shooting season for 2017. The opening weekend (18-19 March) was horrific – an absolute bloodbath, as shooters fired in darkness, shot protected species, and mowed down young birds. It

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<sup>1</sup> *Aerial Survey of Wetland Birds in Eastern Australia, Annual Summary Reports*, JL Porter, RT Kingsford and K Brandis, 2015 and 2016

<sup>2</sup> *Birds of the Murray-Darling Basin*, R Kingsford, J Lau and J O'Connor, 2014, pages 4-5.

has long been recognised that young birds are particularly vulnerable to shooters, as they have no sense of the danger and no learned skills of evasion. Many of the young were still chicks, needing parental care. In the shooting frenzy, scores of shooters fired for fun, not food, leaving many hundreds of dead birds on the wetlands.

The GMA belatedly issued a media release on Wednesday 22 March 2017, acknowledging that there is an increasing number of duck shooters who behave illegally, unethically and irresponsibly<sup>3</sup>. It listed the scandalous behaviours during opening weekend at wetlands near Kerang. While GMA claimed the majority of duck shooters act responsibly, they also came in for criticism – for tolerating the illegal behaviour of others. **GMA appears to have no remedy for the uncontrollable results of state-sanctioned duck shooting.**

Your review of legislation is timely. Legislative failures have allowed politics and self-interest to override the public interest. We will address these failures in further detail, later in this submission.

## **2. Coalition Against Duck Shooting: Who we are and what we do**

Our work in duck rescue commenced in 1986 when 15 rescuers ventured onto Victoria's wetlands to provide first aid to Australia's native waterbirds – at a time when there were 100,000 duck shooters in this state<sup>4</sup>.

TV news crews and other media accompanied the rescue team and for the first time, images and stories depicting the violence and cruelty duck shooters inflicted on Australia's native waterbirds went national for all Australians to see.

We also provided the first mobile veterinary clinics where wounded waterbirds were treated on the wetlands – a totally new concept in those days and one that still continues some 30 years later.

Media crews inside the vet clinics captured the images of dedicated veterinarians and their staff working tirelessly to mend the small broken bodies of our native waterbirds. It didn't take public opinion long to change.

**Rescuers also recovered illegally shot protected, threatened and endangered species.** Because politicians refused to attend the wetlands to witness the carnage they had sanctioned, we took the carnage to them. Hundreds of illegally shot

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<sup>3</sup> Game Management Authority, Media release dated 22.3.17, accessed 23.3.17: [http://www.gma.vic.gov.au/\\_data/assets/pdf\\_file/0006/329091/Unlawful-and-unethical-duck-hunting-will-not-be-tolerated-.pdf](http://www.gma.vic.gov.au/_data/assets/pdf_file/0006/329091/Unlawful-and-unethical-duck-hunting-will-not-be-tolerated-.pdf)

<sup>4</sup> RH Loyn, *The Management of Duck Hunting in Victoria – A Review*, Department of Conservation, Forests & Lands, Victoria, 1989, page 1.

protected and threatened species were displayed outside the Premier's office on the Monday morning after the opening weekend. Again, images of the dead bird display would be on the nightly news for all of Australia to see. This became an annual event.

People in other states, shocked at the images from Victoria's wetlands, took up the cause and established volunteer rescue teams in their own states. From 1986 duck shooting seasons would also become duck rescue seasons.

**No Victorian government department or agency has ever provided rescue or care for Australia's native waterbirds. Instead they still continue to turn a blind eye to the unacceptable violence and cruelty that duck shooters inflict on Australia's native waterbirds, and the fact that the law protecting vulnerable species is regularly flouted.**

The job of providing help for the birds has been left to volunteer members of the public. Compassion and kindness usually resulted in their arrests, fines and court appearances with many even receiving criminal records. Despite the trauma of witnessing appalling animal cruelty and facing fines of close to \$1,000 for entering the water in a State Game Reserve, and even after a rescuer was shot in the face in 2011, courageous and committed members of the Victorian public still volunteer to help our waterbirds.

It is of interest that in Table 16 of your consultation paper, there is a proposal to *'improve the powers of authorised officers to enable them to... release seized plants or animals back to the wild.'* In the case of wounded waterbirds, there is no point in releasing them to the wild, because they are in pain and need to be humanely euthanised or treated by a vet. Remediation notices won't fix the problem either. It also suggests introducing imprisonment as a penalty for the most serious breaches, consistent with the Wildlife Act. Yet this penalty has never been applied to a shooter who is cruel to native waterbirds. Table 16 doesn't seem to fit the reality of duck shooting at wetlands. It does, though, highlight the gaps – no one but volunteer duck rescuers will be there to assist the wounded waterbirds.

**In terms of the collaborations with community groups as envisaged by your consultation paper, CADS believes that it serves a unique purpose in the rescue and potential rehabilitation of native ducks wounded by shooters; reporting of the numbers of illegally shot species; and removal of litter left behind by shooters. If there is funding available for such community contributions, then CADS would be interested to hear more about the terms and conditions for eligibility.**

### 3. What Victorians expect from conservation

Our organisation (CADS) is entirely funded by community donations. Victorians overwhelmingly oppose duck shooting, in both rural and metro areas<sup>5</sup>:

- A Roy Morgan poll in 2007 found 87% of Victorians across the state wanted duck shooting banned.
- In rural areas, 77% wanted duck shooting banned; in metro areas this figure jumped to 91%.
- In rural areas, growing community opposition to duck shooting is demonstrated by anti-duck-shooting groups independently forming at Cairn Curran, Connewarre/Geelong, East Gippsland, Lake Bolac, Boort, Richardson's Lagoon, Shepparton and Warrnambool. These groups are unrelated to CADS.
- There is also a recently-formed group of professionals called Regional Victorians Opposed to Duck Shooting, who are concerned that regional areas miss out on non-hunting tourism as a result of duck shooting.

In this respect, Victorians are similar to their fellow Australians in NSW, Qld, WA and the ACT whose governments do not permit the recreational shooting of native waterbirds because their communities are opposed to it.

The Hamilton Field Naturalists Club sent a telling submission to your Biodiversity Plan 2036 consultation, focusing in part on the lack of protection for waterbirds species at risk:

6. **Duck hunting – there is an entrenched hunting ethic in DELWP, with vulnerable species affected by DELWP's refusal to prevent hunting on wetlands where large numbers of those species were found. Thus, in 2015, 60 Brolga were roosting on Lake Bullrush but that lake was not exempted from duck hunting and, despite a claim by DELWP, no wetland in the district had water where they might go. Another strange action is to allow shooting on wetlands where fewer than 50 birds of an endangered species (such as Speckled Duck or Blue-billed Duck) were found – i.e. the rarer the species the better the odds to eliminate it! Each year hunters shoot non-target species ranging from Black Swan to Eurasian Coots. Another issue is the major disturbance offered to migratory wader such as Red-necked Stint and Sharp-tailed Sandpipers which are preparing for their long flight to Siberia. Delaying the shooting season for a month would prevent most of that disturbance.**
7. **Restoration of sanctuary status to wetlands – the revision of the Wildlife Act in 1975 resulted in the inadvertent loss of long-held sanctuary status for Lakes Linlithgow and Bullrush. DELWP has steadfastly refused to restore that status, which would give protection to waterbirds, including reducing disturbance to large flocks of Red-necked Stint and Sharp-tailed Sandpipers.**

Victoria persists in targeting native waterbirds, despite its inability to enforce the law, because shooter groups have exerted disproportionate pressure on governments and oppositions.

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<sup>5</sup> Roy Morgan poll, 2007 <http://www.roymorgan.com/findings/finding-4239-201302262309> accessed on 1.10.2016

**Duck shooters represent less than one per cent of voters in most electorates. Even the most shooter-friendly electorate (East Gippsland) has less than three per cent of duck shooters among its voting population.**

*Source: RSPCA analysis of licensed duck shooter numbers by postcode (obtained under FOI), published online in 2014.*

**The tactic of preference-sharing agreements has meant that political parties with minor followings can end up with undue influence on the cross-bench.**

For example, the Animal Justice Party (AJP) received more primary votes than the Shooters, Fishers and farmers Party (SFFP) in 2014, yet the AJP won no seats and the SFFP won 2 seats in the Upper House. Even so, as there are actually five cross-bench MPs, there is scope for the government to avoid the temptation to pander to the SFFP.

Your consultation paper rightly points out that the current system of legislation relating to conservation and wildlife is a patchwork with gaps, inadequacies, duplications and contradictions.

**Victorians would expect revised flora and fauna legislation to protect species in terms of numbers, but also in terms of harm. It is of concern that your consultation paper does not mention animal welfare at all.**

Finally, an excellent submission for your Biodiversity Plan 2036 consultation from a group named Doctors for the Environment draws attention to the well-being that we all derive from biodiversity, and makes a strong conservation case as to why the elimination of duck shooting should be expedited:

“Destruction of native species for sport such as allowing the annual duck hunt in Victoria sends the wrong message about valuing our wildlife and should be ceased. Given the enormous threats facing our water birds with climate change and habitat loss, the addition of duck hunting is simply nonsensical.”

**State sanctioned duck shooting sends the wrong message about the value of wildlife.**

#### **4. Review of the Flora and Fauna Guarantee Act: Your process**

According to the Timeline below (from your website) we were not included in your ‘targeted consultation’ that provided workshops for non-government stakeholders.

Yet as we are the only organisation that organises the rescue of wounded waterbirds during duck shooting season, we have unique first-hand knowledge about the illegal shooting of protected and threatened species, and the scarcity of waterbirds in recent dry years. In 2015 and 2016, when conditions were so dry that the season should have been cancelled on environmental grounds, duck rescuers often outnumbered shooters on a wetland. 'Official' reports from the 'regulator' and shooter groups never admitted this, of course.

Has DELWP succumbed to the popular spin from shooter groups and a compliant media, that we are simply 'protestors'? It's true that we protest as effectively as we can about the cruelty to native waterbirds and the threat to their survival given the increasing prevalence of dry periods with climate change and Murray-Darling water interventions. But we are routinely out on the ground, in the wetlands, both before, during and after the annual duck shooting season. We study the waterbirds and the environment, we assist wounded birds and we collect the bodies of native waterbirds that were killed and abandoned by shooters. The former Department of Primary Industries (DPI) acknowledged in 2012 that it did not attempt to measure how many protected, rare and threatened birds are shot each year, but that dead birds brought in by duck rescuers gives some idea of the trend over time<sup>6</sup>.

**We are an independent voice that needs to be at your table. Most importantly, we do not profit from our work.** There are no vested interests that fund our work; we operate purely on community donations from voters who abhor state-sanctioned cruelty. We would love to go out of business – when Victoria eventually catches up with NSW, Qld, WA and the ACT and outlaws duck shooting!

On the other hand, the gun and ammunition industries benefit from the promotion of hunting (RIS, 2012) and shooters have acknowledged the direct support of a USA firearms manufacturer (Winchester) in development of their 'conservation' wetland projects<sup>7</sup>. Shooter groups, and in particular, Field and Game Australia (FGA), have become increasingly pro-active and vocal in lobbying. They are well-organised and well-funded; the shooting and hunting 'sports' receive tens of millions of dollars in state and federal funding (refer section 12 of this submission) as well as corporate support.

**If your goal is to protect biodiversity, then you need to be aware that the playing field is not level; FGA will out-talk and out-submit the community-funded groups whose purpose is simply to protect wildlife for its own sake.** Shooter groups exist to protect enough wildlife to ensure future 'harvests' (meaning the animals they kill). They want to protect wildlife, but for their own benefit. In this submission, we will attempt to correct some of the claims made repeatedly by FGA in recent submissions.

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<sup>6</sup> DPI, Regulatory Impact Statement (RIS) for the Wildlife (Game) Regulation 2012, p38

<sup>7</sup> FGA submission to DELWP, p

# Timeline



## 5. The economic value of hunting

Your consultation paper notes (p14) that :

*‘Decision makers need to consider environmental, economic, cultural and equity considerations over the long term.’*

**We are concerned that your proposed legislative framework will permit trade-offs between the protection of native waterbirds and the claimed ‘economic benefits’ of duck shooting.**

**In its submission on the Biodiversity Plan 2036, the FGA repeats its claim (in five different parts of its submission) that hunters contribute \$439m to the Victorian economy.** The figure comes from a government report<sup>8</sup> based on a survey of hunters in 2013. Even if the figure were accurate (which we strongly dispute), most of that expenditure related to hunting for pest control and deer (all introduced species) so it’s irrelevant to quote it even once, let alone five times, for a review of native flora and fauna legislation.

That \$439m figure has become a ‘factoid’: an inaccurate piece of information that has been repeated so often it refuses to die out in the public discourse. Let us explain why this figure is spurious.

The economic survey report, released by the former Department of Environment and Primary Industries (DEPI), is quoted selectively by pro-hunting voices. **The report stated that it is not a cost-benefit analysis, and hence should not be relied on to justify hunting versus any alternative activity.**

*“Techniques such as cost benefit analysis, which express the relationship between the benefits to society and the costs incurred as a result of the action, are more appropriate for providing information about ... net benefit to society.”(p14)*

**In particular, the report ignored the economic costs of destroying wildlife.** One of those costs is the economic detriment to non-hunting tourism, which is far more valuable to Victoria (\$22 billion annually) than hunting. Non-hunting tourists in regional areas seek peace to enjoy nature; hunting shatters that peace and also presents potential dangers.

Economic research<sup>9</sup> has shown that non-shooting tourists prefer to avoid duck shooting areas. As one motel owner commented to us: *“What family likes to think there are shooters in the room next door, especially if there’s alcohol involved?”*

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<sup>8</sup> *Estimating the economic impact of hunting in Victoria in 2013*, Department of Environment and Primary Industries, 2014

<sup>9</sup> The Australia Institute, *Out for a duck: An analysis of the economics of duck hunting in Victoria*, pp 2-3, <http://www.rspcavic.org/documents/Campaigns/duck/RSPCA-Out-for-a-duck-Dec-2012.pdf> accessed on 1.10.16

The \$439m claim was merely based on a survey, a survey that stretched hunter memories to the limit – asking them to recall detailed expenditures for 20 different categories, that took place up to 12 months earlier. **None of the claimed expenditures were verified or audited. It was all guesstimates – not evidence-based.** Only hunters took part in the survey; no information was sought, say, from regional shopkeepers and cafes.

An independent review of the survey by economist, Dr Kristy Jones, reported that such survey techniques are known to be biased towards over-estimation<sup>10</sup>. And many of the claimed expenditures (such as food, drinks, vehicle costs) would have been incurred whether hunting or not. Dr Jones exposed multiple reasons why the claim of \$439m economic benefit is unreliable. In particular, she states (pp3-4):

“The survey found that almost all (98.9%) of hunters participate in at least one other outdoor recreation activity including: camping, 4WD, bushwalking, outdoor photography, etc. Three outdoor recreation activities, including camping; fishing; and bird and animal watching were rated ‘just as’ or ‘more’ important than hunting by survey respondents. It is highly likely that a change in the availability of hunting options, such as a blanket ban on hunting, would only result in a switch in the type of activity undertaken and have little impact on the Victorian economy.”

An independent review by a mathematician has further pointed out that the survey results simply fail the ‘reasonableness’ test:

- Duck shooters in 2013 were claimed to spend \$99m on their ‘sport’. That equates to a very expensive \$235 for each of the 422,294 ducks reported as killed that year. It would be much cheaper to eat duck at a five-star restaurant.
- Government and shooters continue to quote the \$439m economic value from 2013. If that level of expenditure is claimed for subsequent years, then it represents an even more incredible expenditure of \$365 per duck for each of the 271,576 ducks reported as killed during the 2016 season.
- These expenditure figures are even less believable when it’s considered that almost a quarter of hunters are either pensioners or under the age of 18<sup>11</sup>.

As part of the government’s new \$5.3m Sustainable Hunting Action Plan (SHAP) announced in December 2016, there will be regular updates to the assessment of economic value from hunting. Presumably it would be embarrassing if the new estimates were to dip below this dubious benchmark of a ludicrously high \$439m

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<sup>10</sup> A Review of ‘Estimating the economic impact of hunting in Victoria in 2013’, Dr Kristy Jones, 2016, p7

<sup>11</sup> Estimate based on data from the GMA’s *Game Licence Statistics – Summary Report 2016*

contribution. We can expect future estimates of economic benefit from hunting to rise to stratospheric levels.

## **6. The economic value of NOT hunting native waterbirds**

China is now the main source of tourists coming to Australia. Asian tourists have recently discovered Lake Tyrrell near Sea Lake, and Instagram displays their amazing photographs of it. Visitors from crowded and polluted cities will love our wetlands: fresh air and unique photo opportunities. If the government would build a few eco-centres to demonstrate nature's cycles, these wide Australian spaces could fascinate visitors all year round, every year.

By contrast, DEPI's 2013 economic survey report noted (p2) that 'duck hunting is particularly sensitive to climatic fluctuations' and that since the year 2000, eleven of the fourteen duck seasons had been 'modified'; three of these were completely cancelled, with negative impact on hunter expenditure.

Indigenous and rural groups have advocated for nature-based wetlands tourism in their regions. Our wetland areas will be of enormous interest to Chinese tourists, across the full cycle from flooding wet to parched dry. There is a unique story to tell about the power of nature and its birdlife. Environmental flows to selected wetlands, including RAMSAR sites, could ensure a thriving tourism trade despite climatic conditions.

- The Winton Wetlands development (near Wangaratta) is a good example of a collaborative effort in which nature-based wetlands tourism can help support rural communities, the environment and wildlife. Wetland tourism will flourish in Victoria once local and overseas advertising campaigns are implemented.
- The Parks Victoria management plan for Lake Boort is forward thinking by acknowledging the important cultural heritage of Lake Boort and Australia's native waterbirds. The management plan also acknowledges the role this wetland could play in revitalizing the town of Boort by establishing a thriving nature-based wetlands tourism industry that would see hundreds of thousands of interstate and international visitors flock to Boort and other towns in the northwest and other regions throughout Victoria.

A vision for wildlife tourism is not new in Victoria. The Phillip Island penguin parade was the brilliant and inspiring idea of former Labor Premier John Cain in the early 1980s, to protect the Little Penguin, and to generate much needed tourist dollars for Phillip Island and also boost Victoria's economy.

Today, some 650,000 tourists (including 150,000 Chinese travellers) visit the Phillip Island penguins annually, generating some \$655 million. Using John Cain's tourism vision, even more tourists could be visiting Boort, Hird & Johnson Swamps, the Winton Wetlands and other wetland regions across Victoria.

The interest in Lake Boort's indigenous cultural heritage that dates back some 50,000 years, combined with Australia's native waterbirds and other wildlife, creates the potential for another unique popular overseas tourist destination. This would require Tourism Victoria running a strong interstate and overseas advertising campaign, to take the incredible Lake Boort wetland experience to the world.

However, if recreational duck shooting (an activity that belongs in the 1950s) proceeds at Lake Boort, a nature based tourism industry would be doomed from the outset. Duck shooting destroys and/or scares away one of the very important assets the public will be attracted to Boort to observe – Australia's beautiful native waterbirds, including protected, threatened and endangered species that duck shooters illegally target.

The few birds remaining on Lake Boort after the shooting finishes would then keep well away from any human activity, including tourists. For example, if shooting penguins at Phillip Island were allowed, the island would not only lose its world famous penguin parade, it would also lose the 650,000 visitors and the \$655 million this wonderful tourist attraction generates annually.

Tourism relies on respecting and protecting the indigenous cultural heritage of Victoria's wetlands as well as respecting and protecting the environment and Australia's unique waterbirds and wildlife.

An important Case Study is included in the box on the following page.

**Case Study:**

**Kerang Wetlands – Listed as Internationally Significant under the Ramsar Convention**

- This Ramsar site consists of a system of 23 freshwater and saline wetlands on the lower floodplain of the Loddon and Avoca rivers and is recognised for its diversity of wetland types. The wetlands in the Ramsar site form part of a much larger system of over 100 wetlands.
- Kerang Wetlands regularly supports over 20,000 waterbirds and is an important area for waterbird breeding with 28 different species recorded as nesting in the site.
  - Middle Reedy Lake and Hird Swamp in the site support large breeding colonies of straw-necked ibis (*Threskiornis spinicollis*) and Australian white ibis (*Threskiornis molucca*)
  - Third Marsh support breeding colonies of cormorants and spoonbills.
- Threatened species also occur in the Ramsar site such as the nationally endangered Australian painted snipe (*Rostratula australis*) and the nationally vulnerable growling grass frog (*Litoria raniformis*).

Current Situation:

- Poorly signposted, and virtually unknown to tourists.
- Popular with duck shooters.
- Site of an illegal and unethical massacre of waterbirds on opening weekend of duck shooting season 2017.
- Closed a week later by GMA, as a result of irresponsible and illegal behaviour by an unspecified number of shooters.
- CADS collected 1,200 dead waterbirds, including 262 from protected and threatened species, all from the weekend's shooting.

Future Scenario:

- The Kerang Ramsar wetlands could become Victoria's equivalent of the Kakadu wetlands - attracting hundreds of thousands of tourists from around the world.
- Hird and Johnson Swamps are just two of these 23 listed wetlands of international importance in Kerang's backyard. CADS spoke to the Gannawarra Shire Mayor last month about the potential for these wetlands to become a major tourist attraction instead of sitting there for a dwindling number of duck shooters who make up only 0.4 per cent of Victoria's population.
- These Ramsar wetlands are sitting in Kerang's backyard, waiting for someone with a little vision to turn them into a major million dollar tourism attraction. This is the economic future for Kerang.

## 7. Working collaboratively with community groups

There are frequent references in your consultation paper about the value of working collaboratively with community groups interested in conservation to improve biodiversity outcomes. As mentioned above, this is working well in some areas, such as the Winton and Boort wetlands developments, but **collaborative efforts tend not to work when animal welfare groups are trying to protect and rescue native waterbirds, while the 'other side' (namely, the gun lobby) wants to maintain their 'right' to shoot them.**

While shooter groups such as the FGA have become very adept at promoting their 'conservation' work, it should be noted that any positive measures (such as building nest-boxes) are negated by the ultimate purpose: to breed new stock for gun fodder. FGA has engaged in 'soft' journalism (eg in the RACV magazine) to promote themselves as 'conservationists' through their Heart Morass reserve in Gippsland. However there is another side to that.

Duck shooters are driven by an obsession to shoot birds. During the long 13-year 'millennial drought' across eastern Australia, FGA even resorted to stealing water. In 2009, one week before the opening of the duck shooting season, we caught FGA siphoning water from the Latrobe River to fill their private shooting wetland, Heart Morass, near Sale. Water was urgently required to attract some of the low numbers of waterbirds in Victoria at that time onto their wetland, to shoot on the opening weekend. This was at a time when farmers were walking off their land through lack of water.

Southern Rural Water investigated the theft and prosecuted. On 23 June 2009, FGA's wetland manager Gary Howard pleaded guilty in the Sale Magistrates' Court to illegally diverting water from the Latrobe River and interfering with the flow in a river (see Attachment A).

The FGA works closely with the Australian Deer Association (ADA), eg in preparing submissions to the GMA and other bodies. Deer hunters claim credit for removing deer; it is well known that this introduced species destroys habitat and biodiversity. Yet hunters adamantly oppose any moves to have deer listed as pest species and culled in a professionally supervised 'humane' operation. In fact, hunters have illegally released deer in the past so as to maintain the numbers for their 'sport'. Deer numbers are excessive at present, yet some hunters will target a trophy male, leaving females to breed again for 'next year'. Their main objective is their own entertainment, rather than the conservation of the natural environment and biodiversity.

## 8. Legislative framework

Although the *Flora and Fauna Guarantee Act 1988* (FFGA) aims to guarantee all species (flora and fauna), it relies on the even more dated *Wildlife Act 1975* (the

Wildlife Act) to address key matters that affect native waterbirds. We agree with your observations that the overall legislative framework is complex and poorly understood.

We also note that your diagram (Fig 2 on p17 of the consultation paper) provides examples of 'other legislation relevant to biodiversity' but importantly omits the Game Management Authority Act 2014 and the new Victorian Fisheries Authority Act 2016. We do not believe that the GMA Act is being properly implemented by the GMA (see our comments in the following sections) but it is having a huge detrimental impact on native waterbirds. This is partly because the GMA Act lacks teeth to ensure accountability and transparency. Although the VFA Act is new, it may well lead to similar detrimental impacts on native fisheries.

Your consultation paper acknowledges that one of the drivers for the review of the FFGA is climate change. **The main legislation that impacts on native waterbirds is all decades old – before climate change entered the public consciousness. The Wildlife Act 1975 is the oldest, but the Prevention of Cruelty to Animals Act 1986 and the FFGA 1988 are also decades old. But community attitudes have also evolved during that time.** Our comments in Section 2 above demonstrate the dramatic decline since the 1980s in public support for duck shooting. Supermarkets are increasingly providing 'humane food' such as free-range eggs because customers do not wish to support cruelty to animals.

**Reform of the biodiversity and conservation regime affecting native waterbirds is impossible unless the Wildlife Act 1975, the Prevention of Cruelty to Animals Act 1986 and the Flora and Fauna Guarantee Act 1988 are all reviewed. The existing legislation dates from a time when recreational hunting was more widely accepted by the community, and before the impact of climate change and loss of habitat for native waterbirds was clearly understood. This framework is inappropriate for 2017 and beyond. Native waterbird populations were at record lows last year. It is unclear from your consultation paper how the proposed reforms of FFGA alone will help these birds.**

We would support a wider and more comprehensive review of the legislative framework.

- It is of concern that your consultation paper doesn't even mention the *Prevention of Cruelty to Animals Act 1986* (POCTAA). POCTAA has important implications for the protection of native waterbirds (see next section).
- **We are concerned that there has been no stated intention or timeframe for a review of the Wildlife Act.** Are native waterbirds of less importance than flora and habitat? (We don't dispute the importance of *habitat* for

waterbirds.)

- Will the draft legislation for the successor to FFGA be subject to public consultation?

There are important lessons to be learned from the devious process followed by the former state government in reviewing the *Wildlife (Game) Regulations* in 2012. The mandatory 'consultation' process was never conveyed to the public – no media release was issued. The consultation period was the minimum allowed (4 weeks). A key part of the new regulations was quietly slipped in during the 3 weeks between closure of 'consultation' and the deadline for the new regulations taking effect. It was the most controversial element of all – a blanket prohibition on non-shooters from coming within 25m of the water's edge during the duck shooting season.

That blanket ban was justified in the name of 'public safety' but it effectively removes duck rescuers, media, and RSPCA investigators (should they decide to attend as part of their POCTAA role). Duck rescuers still go in to the water to assist wounded birds, but now they pay heavy fines for doing so. This blanket ban has been a huge win for the pro-hunting lobby, and it was achieved by the most underhand of methods. **The devil is in the detail of the drafting for new legislation, and adequate public consultation should be encouraged.**

## 9. Prevention of cruelty

The POCTAA legislation is a classic case of legislation failing to meet its purpose, namely:

“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.”

This very old piece of legislation then excises hunters from its jurisdiction provided they are following a Code of Practice. **The Wildlife Act is more than 40 years old and completely out of step with community expectations.** When the community sees cruelty to a duck in the suburbs, there is outrage; they would react similarly if they could see what happens in the wetlands.

When CADS is out in the field, we routinely see shooters flouting the relevant Code of Practice (eg by twirling wounded ducks by the neck in an attempt to kill them with one hand because the other hand is carrying a gun; shoving live ducks into their bags; not stopping to retrieve wounded ducks before firing again.) The correct title of

the Code is somewhat of an oxymoron: *Code of Practice for the Welfare of Animals in Hunting (revision no. 1)*.

You may ask why we are raising cruelty as an issue when your topic is biodiversity and conservation. **We believe that the community of Victoria wants its wildlife protected, and it doesn't want that protected wildlife to suffer.** The two should be interconnected, where hunting (or culling) is involved.

**Animal welfare should be an important part of your revised legislation – at least cited as one of the new Principles. Your new legislation for flora and fauna should explicitly mesh in with POCTAA to facilitate prosecution when protected wildlife is treated cruelly.** Another example springs to mind: the destruction of koalas during land clearing. The community (and our tourists) love this species and want it protected through strong sanctions against those responsible for the excruciating tearing of limbs from these bears when machines come in for tree-felling and land-clearing.

**Many of the activities of duck shooters are actually in breach of the Code and hence of POCTAA, but no action is taken against them. No government agency intervenes. No police action is taken. These officials mainly target duck rescuers.**

The long-serving, previous CEO of RSPCA Victoria refused to send inspectors to wetlands, due to health and safety concerns for her staff. The current CEO has sent a mobile veterinary van to assist wounded waterbirds, but still no inspectors to prosecute for POCTAA offences.

**Back in the 1980s, departmental reports on duck shooting routinely acknowledged, and tabulated, the 'cripple rate'.** These were the abandoned ducks that were shot – either wounded or dead - but not bagged. These numbers were crudely estimated and added to the total 'harvest' for the year.<sup>12</sup> But as community attitudes changed over the next three decades, the topic of wounding became very sensitive for shooters. **We no longer hear about the 'cripple rate' and these casualties are ignored, so the annual 'harvest' or official slaughter count is a serious underestimate of the toll on native waterbirds.**

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<sup>12</sup> RH Loyn, *The Management of Duck Hunting in Victoria – A Review*, Department of Conservation, Forests & Lands, Victoria, 1989, pp 4-5.

While duck shooting remains legal in this state (unlike NSW, Qld, WA and the ACT) there will be wounded birds that are not recovered. Some suffer a slow death while others will survive but live with impairment that causes pain, and may inhibit breeding, reduce natural resilience and shorten lifespan.

**With native waterbird populations trending markedly downwards over the last three decades, it is particularly worrying that the significant, additional loss from wounded birds is neither monitored nor reported.**

## **10. Strengthening the transparency, accountability and duty for public authorities**

The consultation paper makes frequent references to the need for greater transparency and accountability from public authorities, and proposes (p41) the imposition of a specific ‘duty’ requiring such authorities to act consistently with the objectives and principles of the Act. We strongly support such measures and tougher enforcement powers to bring public authorities into line. We offer the following comments from our experience with the GMA.

The Game Management Authority (GMA) is responsible for recommending whether or not a duck shooting season is appropriate in the coming year. It is also responsible for ‘regulating’ hunting.

The origins of the GMA are entirely political. The Coalition made an election promise in 2010 to set up an independent statutory authority to manage hunting. When elected, the Coalition hesitated: it first set up a separate unit (Game Victoria) inside the Dept of Primary Industries (DPI). Shooters weren’t satisfied.

When an embarrassing illegal massacre of ducks took place on the opening day of the 2013 duck shooting season at Box Flat in the then Minister’s electorate, he needed to save face with the public, so he set up an expensive (\$8.2m) new regulator, the GMA, which opened on 1 July 2014. This was despite the fact that a similar body was being disbanded in NSW at that time. The independent Dunn Report in 2013 found the NSW Game Council had unsustainable conflicts of interest, both representing the interests of hunters, and trying to regulate their behaviour.

Labor defeated the Coalition in December 2014 but has vied with its predecessor to match promises to shooters – funding for clubrooms, funding for hunting, refusal to cancel duck shooting despite desperately dry conditions and the lowest ever recorded numbers of native waterbirds, etc.

**GMA has so far failed on basic issues of transparency and accountability.**

Various parties concerned about its actions and decision-making have had to resort

to using the freedom of information (FOI) process to try to extract basic information that is of public interest and should be freely available (see below).

**But the FOI process appears to be broken in Victoria.** When GMA failed to meet statutory deadlines for FOI, one party lodged a complaint to the FOI Commissioner in February 2017. Little if anything has changed as a result. The complaint's allocated reference number suggests it was one of more than 700 such complaints received in Jan/Feb by that Commissioner. GMA plays for time by hand-balling FOI requests to and from DEDJTR, an agency which shares the same mailing address as the GMA.

**As part of your efforts to address transparency and accountability through the new legislation, you should also target the failure of this government's FOI processes.**

Your consultation paper states that public authorities will be required to comply with conservation of flora, fauna and habitat to the extent compatible with their statutory duties. This is particularly problematic in the case of the GMA, which has so far shown itself to be closely aligned with hunters and unwilling to even share information of key public interest. Sought-after information includes the following:

- Reasons for GMA's recommendations to government, supporting a 2016 and 2017 duck shooting season, despite the severely adverse environmental situation for waterbirds at the time;
- Participation rates for their Shotgunning Education program, touted as a responsible program to improve the accuracy of duck shooters and reduce wounding;
- The revenue obtained from hunting licence fees;
- Clarification of the circumstances surrounding GMA's 40% error in the duck 'harvest' figures that they originally published for the 2015 season.

**Your new legislation should mandate that staff involved in policy and decision-making at public authorities must publicly disclose any conflict of interest.**

Some GMA personnel are game hunters, but this is not publicly disclosed. It is difficult for the public to have confidence in the impartiality and professionalism of such an organisation.

The GMA is failing to meet the objectives of its own legislation (the GMA Act 2014), namely 'to promote sustainability and responsibility in game hunting in Victoria' and to perform all its prescribed functions. GMA's media release ( 22.3.17) documents the stunning extent of its failure.

**The GMA has never referred to climate change in its published ‘considerations’ leading up to a forthcoming duck season. Neither do the words ‘climate change’ feature in its Annual Reports. GMA has never mentioned the reasons for the serious long-term decline in native waterbird populations since aerial surveys commenced in the 1980s.**

Rather, the GMA seems more focused on promoting hunting and hunters’ interests. An example of this was disclosed through FOI to Greens MP, Greg Barber. He stated in Hansard that GMA had intervened with Victoria Police, asking them to ‘go easy’ on hunters<sup>13</sup>.

GMA is required under its Act to perform a list of functions which include:

- **Promotion, monitoring and investigation of compliance with relevant law (that includes POCTAA!)**
- developing operational plans and procedures addressing—
  - (i) the **sustainable** hunting of game animals; and
  - (ii) **the humane treatment of animals** that are hunted or used in hunting; and
  - (iii) strategies to **minimise any negative impact on non-game wildlife, including protected and threatened wildlife**; and
  - (iv) the conservation of wildlife habitats.

**In 2017, duck rescuers retrieved a record number of waterbirds that were shot on opening weekend, then abandoned. 262 were protected species. Some of the ‘bodies’ were still alive, days later. So much for GMA’s achievement towards ‘humane treatment of animals’ and ‘strategies to minimise any negative impacts on non-game wildlife...’**

**As you would be aware, penalties under the Wildlife Act for shooting protected or threatened species involve severe fines and/or imprisonment. But it seems GMA has not identified any culprits** (see section on Enforcement, below).

To date, we have found the following as a result of the opening weekend’s shooting, for one region only of this state (wetlands near Kerang):

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<sup>13</sup> *Victorian Hansard, Legislative Council, 25.10.16, p 5546.*

<b>TOTAL = 175 protected birds</b>	<b>Collected during opening weekend</b>
68	Freckled Duck
21	Blue-billed Duck
24	Blue-winged Shovelers
34	Eurasian Coot
25	Grebe
1	Seagull
2	Swallows

<b>TOTAL = 87 protected birds</b>	<b>Collected on Mon/Tues following opening weekend</b>
44	Freckled Duck
15	Blue-billed Duck
9	Blue-winged Shovelers
2	Grebe
16	Eurasian Coot
1	Cormorant

A total of 262 protected birds killed by shooters during the weekend suggests that scores of shooters would have been involved in this illegal massacre. Altogether some 1,200 waterbirds were shot and left for dead; CADS retrieved them.

To break through the political stalemate (where governments refuse to listen to the majority of Victorians who consider duck shooting cruel, unnecessary, and a potential threat to law and order), and consistent with the 'duty' requirements that you propose to impose on public authorities like GMA, we suggest that an independent panel of experts (such as the Scientific Advisory Committee) be required to spend a morning at a key wetland at the opening of the next duck

shooting season. (Assuming they are not duck shooters, they would first have to obtain permission from GMA to be allowed within 25m of the water's edge.)

The current Minister for Agriculture dismisses serious concerns by saying 'Duck shooting is not everyone's cup of tea' and the media tend to discount duck rescuers as simply 'protestors'.

**We need fearless, impartial, well-qualified eyes to take a cold hard look at what really happens on wetlands – the wounded waterbirds left to suffer; the breaches of the law; breaches of the Code (and hence of POCTAA); the illegal shooting of protected species; how game officers spend their time; why duck rescuers are targeted for trying to alleviate suffering; shooter behaviour in general; and the shooters' litter left at wetlands (spent cartridges, bottles, cans, toilet waste, feathers, bird parts, and assorted camping rubbish).**

**There are a number of practical steps that could be taken by GMA to reduce the cripple rate and the loss of protected and threatened species that are shot illegally.** However, the GMA fails to address the following reasons why the wounding rate and the illegal shooting of protected and threatened waterbirds is particularly high at present:

- a. the new generations of young birds have no sense of danger and no skills in evasion (a later season start would give the young birds a better chance);
- b. shooters are not tested for accuracy as a condition of their licence;
- c. shooting is permitted in poor light because the official start time is too early and the official finish time is too late;
- d. shooting is permitted in poor conditions, such as rain, mist and windy weather, when it is difficult to fire with accuracy, and difficult to distinguish between a game duck and a protected species;
- e. children from age 12 are allowed to shoot ducks without passing the Waterfowl Identification Test (WIT) to demonstrate an ability to distinguish game species from protected species;
- f. adults need only pass the WIT once in their lifetime;
- g. more than 1 in 6 duck shooters are ageing (aged 68 years and over) but no check of health or eyesight is required;
- h. there are no checks on alcohol consumption; and
- i. the 5-shot Adler lever-action gun is freely available for duck shooters, and its popularity suggests that shooters will keep firing their 5 shots, rather than stopping to humanely kill a wounded duck.[Only the 7-shot Adler is heavily restricted.]

A new independent authority, the Victorian Fisheries Authority (VFA) is currently being established to manage and regulate fishing. **The failures of the GMA and the**

**NSW Game Council suggest that regulatory functions should be kept within a government department.** The Dunn Report reached that conclusion for NSW. However, Victoria has not learned that lesson yet. Already there are anecdotal reports that the GMA is bullying officials at other departments, to promote a strongly pro-hunting agenda.

**Your new legislation will need to be particularly robust if the GMA and the new VFA, fuelled by the self-interest of vocal lobby groups and the SFFP, are to be managed and restrained for the good of our environment and biodiversity.**

## **11. Enforcement**

We will confine our comments to the public authority of most interest to us, the GMA.

### **A – The massacre of 2013**

On the opening weekend of the duck shooting season in March 2013, about 150 shooters gathered at a private wetland near Boort in the electorate of then Minister for Agriculture, Mr Peter Walsh. Days later, it was discovered the men had illegally massacred hundreds of game ducks and protected and threatened species, leaving the bodies to rot. Compliance officers had been present at the wetland, but failed to report any concerns. We do not know if they were shooters themselves.

Weekly Times journalist Chris McLennan wrote: “It was an orgy of killing, one of the worst wildlife massacres Victoria had seen.” (See full article at Attachment B.)

The then Minister for Agriculture Peter Walsh knew both Box Flat landowners. It was reported that he went to school and played football with both landowners and that most of the 150 shooters were locals and from his electorate. Members of the Bendigo branch of Field and Game Australia were reported to also be shooting at Box Flat as well as employees from gun manufacturer Winchester, who it has been said were on a promotional drive taking crates of ammunition along for the shoot. The Minister closed the wetland and launched an investigation.

That investigation ran for two years but was unable to hold anyone accountable because none of the multitude of witnesses would co-operate with police by identifying those who participated in the massacre. The Deputy Secretary of Regulation and Compliance at the Department of Environment and Primary Industries (DEPI), Luke Wilson, reported that **it is not possible to identify from**

**shotgun ballistics, which shooter has shot which bird<sup>14</sup>. In other words, the existing laws are unenforceable.**

After the Game Management Authority was set up, it collaborated with the shooting groups to launch a program called 'RESPECT' to encourage shooters to respect the law, the animals, fellow citizens, the environment, etc. However the continuing refusal of more than 150 Box Flat shooters to co-operate with a police investigation suggests that the 'RESPECT' program is more of a thought bubble than a reality. (In terms of respecting the environment, CADS continued to find piles of rubbish from shooters' camps left behind at wetlands.)

This scandalous event at Box Flat proves that for duck shooters, compliance with the law is largely voluntary. While the evidence suggests that the shooters at Box Flat shot anything that flew, it is also true that the current regime of only having to pass a Waterbird Identification Test (WIT) once in a lifetime is no safeguard against shooting protected and threatened species. When the WIT was first introduced, FGA ran the tests, and corruption flourished with someone standing at the back of the class calling out the names of birds (especially the Freckled Duck).

## **B – The massacre of 2017**

The GMA's 22.3.17 media release came out too late (and so avoided media attention), but it lists scandalous behaviours of duck shooters during opening weekend at Koorangie Marshes near Kerang:

- Firing 30 minutes too early (which means firing in the dark, wounding birds and hitting protected species because shooters can't see properly);
- Firing before correctly identifying the target (again, this increases wounding and loss of protected species);
- Failing to pick up spent cartridges which are left littering the wetland;
- Leaving birds in the water (they could be dead or still alive – shooters didn't bother to retrieve them);
- Significant numbers of protected species such as Freckled Ducks and Blue-Billed Ducks were left in the water (shooters would not want to be caught with the evidence, so these birds were left to suffer if wounded);
- Taking excessively long shots, well outside their shooting skills distance, resulting in wounding and lost birds;
- Keeping on shooting rather than attempting to retrieve downed birds.

South Australia also reported that shooters broke the law by starting early when the season opened there the previous week.

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<sup>14</sup> [http://blogs.abc.net.au/victoria/2013/12/?site=sydney&program=702\\_breakfast](http://blogs.abc.net.au/victoria/2013/12/?site=sydney&program=702_breakfast) Scroll down to *Listen: No charges over duck season 'massacre'* and click to hear recording of Luke Wilson's explanation in December 2013. Accessed on 5.10.16

Massacres of waterbirds take place regularly, usually on wetlands out of sight of the authorities, and are never reported. However, this year's massacre at the Koorangie Marshes took place under Labor Minister Jaala Pulford's watch, and in front of the Game Management Authority and Victoria Police, who were powerless to prevent it.

**While duck shooting remains legal, politicians must accept that it is impossible to regulate the activity in any meaningful way. They must take responsibility for the environmental carnage that follows. Future generations will judge them as hastening the demise of precious species.**

## 12. Resisting the propaganda from the FGA

Shooter groups such as the FGA are relentless in pushing their agenda, which is to retain their favoured pastime (hunting) at all costs, even environmental costs, against the wishes of their fellow voters and taxpayers.

There are around six million Victorians. GMA says there are about 26,000 duck shooters.

**There are 5,974,000 Victorians who don't shoot native waterbirds for recreation. Victoria's wildlife belongs to us all.**

Non-shooters deserve more consideration by government. Against our will, we heavily subsidise shooters and their pastime.

FGA's submission to the Biodiversity Plan 2036 proudly boasts that when hunters started paying licence fees back in the 1950s, the money went towards purchase of some state game reserves. As a result, it seems FGA feels some sort of 'ownership' of state game reserves. But prior to that, hunters had been helping themselves to the state's wildlife, for free. Even today, hunter licence fees only cover about half the budget of the GMA; the taxpayer subsidises the rest.

When the Wildlife (Hunting) Regulations were liberalised in 2012, licence fees were reviewed. It's curious that the GMA does not divulge the revenue from licence fees.

- The Regulatory Impact Statement at the time estimated that licence fees would raise an average of \$1.9m annually from the then number of 41,500 licensed hunters.
- By 2016, licence fees had risen 8.5% with CPI, and the number of licensed hunters rose 15.7% to 48,023.
- That suggests licence revenue has risen by 26% to \$2.4m annually; so **licence revenue only covers about half of the annual budget for GMA.**

Victorian shooters do very well from the public purse. Recently the government allocated \$5.3m to the new SHAP program. Shooters have benefited from the \$12m Shooting Sports Facilities Program to renovate clubrooms; and a further \$1m has been allocated this year to secure clubrooms for the Sporting Shooters Association of Australia next to Springvale cemetery in the Premier's electorate of Mulgrave. Then there is the free Firearms Safety Course which all new gun owners must complete before obtaining a licence; this is funded by state and federal governments. *[People learning to use a car must pay for their own lessons before gaining their licence.]* It's hard to keep track of all the ways in which taxpayers subsidise hunting and shooting.

### **13. Resisting the propaganda from the GMA**

Last weekend the GMA said 26,000 duck shooters would be out on the wetlands for the opening weekend. In fact, DEPI's economic survey report (p19) acknowledged more than one-third (37%) of licensed game hunters are 'inactive' – they don't go hunting.

Then we are led to believe that duck shooting is growing in popularity. In fact, duck hunting is waning – duck shooters represented a tiny 0.46% of Victoria's population in 2011 and an even smaller 0.42% in 2016.

### **14. 'Modern approaches' to conservation being promoted by the gun lobby**

FGA has provided extensive submissions to GMA regarding its views on sustainability of proposed duck seasons. Quoting 'research' from the northern hemisphere, it claims that habitat, not hunting, determines populations for native ducks.

Thus FGA advocates for a 5 year period of unrestricted duck shooting seasons, without consideration of environmental conditions such as drought. It believes that the overall scientific experiment and the data gained would outweigh any risks to waterbird populations being shot during drought. This seems similar to the Japanese defence of whaling for 'scientific purposes'. As a bonus, this approach also offers advantages for hunting suppliers and hunters themselves (eg planning ahead for leave from work).

However, it is important to be aware that this 'modern research' is not necessarily relevant to the Australian situation; it has been done in another country with different wildlife **and a very different gun culture**. In particular, the research may not be independent research. A key example is Delta Waterfowl, a non-profit group in the USA and Canada; it calls itself 'the voice of the hunter'.

In the October 2016 edition of the magazine “Conservation and hunting”, FGA compares Delta Waterfowl to itself: “a conservation based organisation with members investing time in conservation, nesting support and predator management.” According to FGA, Delta Waterfowl invests in applied scientific research that underpins policy work and conservation outcomes. It has produced 600 research papers and supported the work of 300 research students. Its view of conservation for native waterbirds (which they call ‘waterfowl’) is that water and predation drive populations; shooting has little impact.

On a visit to Australia last year, the CEO of Delta Waterfowl was “struck by the aggressive tactics used by opponents of duck hunting in Australia.” “It’s a very different world for waterfowl hunters in Australia,” he said. “Anti-waterfowl hunting sentiment is strong there. It’s amazing how much influence they have. They can often close down wetlands for the season.”

If only more wetlands had been closed for duck seasons, the Freckled Duck and the Blue-billed Duck might not be facing the prospect of extinction (see next section, below).

When we perused the website of Delta Waterfowl we discovered that its funding comes from 21 different companies or ‘partners’ with vested interests in hunting: providers of ammunition, firearms, outdoor equipment and clothing, duck decoys, boats and vehicles.

Your proposals regarding a move to a landscape-based approach to conservation and biodiversity may well suit the shooter lobby groups, as they invariably find it inconvenient if a wetland is closed due to presence of, say, Freckled Duck or Blue-billed Duck.

**We would vehemently oppose any move to sacrifice threatened species of native waterbird at particular locations, simply because there may be diversity of other species in the landscape. Whether or not such area-based approaches are ‘modern’ or cost-saving, they are inappropriate for native waterbirds.**

## **15. Dangers inherent in changing the listing process**

We understand that the overall numbers of species in Victoria may be as high as 100,000 (VNPA estimate) so there may be a need to rationalise the use of resources in the listing process. However, this should not be a one-size-fits-all change. **For native waterbirds, which account for a small portion of the total species, it**

**remains incredibly important to retain the FFGA listing process and the Action Statements (AS).**

It would be a tragedy if all the good work that has been put into these AS were to be lost in the costly and slow process of transitioning to an alternative scheme. Let us give you a practical example from a recent situation.

**Last weekend at the opening of duck shooting season, 68 Freckled Ducks and 21 Blue-bill ducks were recovered by our duck rescuers.** These threatened species had been illegally shot on the Marshes near Kerang over the weekend. Each of these waterbirds is currently listed by DELWP and has its own AS. These Action Statements are invaluable, describing the bird, its scarcity and listings, tracing the type and area of preferred habitat, the history of shrinkage of that habitat, threats to the species and measures that could mitigate those threats.

From AS 105, it can be seen that:

“While Freckled Duck have a widespread distribution and may be locally abundant at times, **it is the least common of Australia's native duck species and may be one of the world's rarest ducks** (Martindale 1986). Martindale (1983) estimated the total number of Freckled Ducks in eastern Australia to be between 8 000 and 19 000 - only 2% of the number of ducks of all species counted at that time. Flocks of up to 400 birds have been located during intensive searches for Freckled Duck in late summer in Victoria (Loyn and Timms 1991).”

**“Freckled Duck are vulnerable to shooting...** because flocks, when disturbed, are often reluctant to leave a favoured wetland...and because of misidentification... Wetland closure provides the best protection for Freckled Duck...”

AS 105 lists some excellent measures that could contribute to the conservation of this native waterbird which is variously described as ‘threatened’, ‘endangered’, ‘protected’, ‘vulnerable and rare’ and ‘likely to become extinct, or rare’ in various state jurisdictions. Nationally, the species is listed as ‘rare and threatened’. **It seems the GMA has ignored the advice of AS105. In our view, that is not a reason to scrap the good work that has been put into AS105. Rather it is reason to educate agencies such as GMA and then toughen your sanctions on them.** Removal of their Board members could be a strong sanction if needed.

From AS174 it can be seen that:

- Blue-billed Duck has not been listed under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBCA).

- However, Blue-billed Duck has been listed as threatened under FFGA. Blue-billed Duck is considered endangered in Victoria according to 'The Advisory List of Threatened Vertebrate Fauna in Victoria – 2003' (DSE 2003). In its final recommendations, the Scientific Advisory Committee (SAC 1995) determined that the Blue-billed Duck is significantly prone to future threats which are likely to result in extinction.
- **The Blue-Billed Duck has been protected under Victorian legislation since 1928. Clearly these measures have not been working, or the bird would not still be in danger of extinction!**
- **Even though the species is rare, it has regularly featured in the list of most frequently shot non-game species.** It seems that hunters easily confuse the Blue-billed Duck with game ducks. The WIT was introduced in 1990 but based on our evidence from last weekend, it has not solved the problem of the impact of hunting on this threatened species.

**Before the FFGA becomes obsolete, we would like to apply for a listing of the Blue-winged Shoveler, which is so depleted that even the GMA has banned it from shooters for the last two seasons.** As noted above, CADS collected the bodies of 33 Blue-winged Shovelers abandoned by their executioners on opening weekend this year.

A final note of caution and concern: most governments will squeeze the budgets of 'soft' areas like environment when funds are short. **It is too easy to abandon important work when broad-brush approaches become available. Individual species of waterbird still need full study, documentation and protection if their numbers are declining.**

## **16. Role of Traditional Owners**

CADS works with Indigenous groups to protect native waterbirds. In general, they are opposed to duck shooting. There are, of course, some exceptions, and one of these is Rodney Carter, a high-profile former Game Manager employed by Game Victoria, the GMA's predecessor organisation, and later the GMA. Mr Carter is a former office bearer at the Swan Hill Branch of FGA and is a keen proponent of duck shooting, albeit with modern firearms, not traditional indigenous methods.

During his time as a Game Manager, Mr Carter earned great resentment from duck rescuers for his attitude to them and to their work of assisting wounded birds. One of his bio's states that he has 'a particular interest in linking people to landscape through the integration of biodiversity and cultural heritage projects.'

Since leaving his role with the hunting regulator, Mr Carter has achieved considerable prominence in positions of influence, building on the fact that he has Indigenous heritage. However, if he were to become involved in conservation and

biodiversity work affecting native waterbirds, he would be primarily an ardent shooter-advocate (whether or not he contributes Indigenous knowledge).

Because of the risk that the few high-profile Indigenous candidates available may adopt polarising attitudes, we believe that **it is inappropriate to set as an Objective of the new Act, the inclusion of traditional owners. This is an appropriate matter to include a little lower down the hierarchy, among methods to be followed when implementing the new legislative regime.** However, even there, the inclusion of any particular person who is a traditional owner should be qualified according to the aptitude and knowledge that they can bring to the role. Not every person (Indigenous or non-Indigenous) will have suitable knowledge/understanding to make a useful contribution in that area.

GMA's website advises that traditional owners acting in accordance with a Natural Resource Agreement or other authorisation are exempt from the requirement to hold a Game Licence. In terms of legislative change, we believe that **from a conservation point of view, traditional owners who gain special privileges for hunting should be restricted to the use of traditional hunting methods.** Use of modern technology such as the Adler 5-shot (whether fired by an Indigenous person or a non-Indigenous person) will unduly tip the balance against the native waterbirds.

Late last year, the state government quietly signed a 'recognition and settlement agreement' with the Dja Dja Warrung Clans Aboriginal Corporation (DDWCAC) – covering a large area bordered by Boort, Donald, Rochester and Woodend. It was the first such agreement in Victoria and gave **rights for Dja Dja Warrung people to hunt and fish on their own land without a licence** but without affecting existing users. The chief executive of the clans corporation is Rodney Carter.

## 17. National versus State Listings

We acknowledge the potential for duplication of effort if listings are prepared under various jurisdictional legislation. If a species is listed nationally, then it would automatically deserve protection in Victoria.

However, we do not believe that the reverse is appropriate. **If a species is not considered threatened on a national scale (eg because it can be found in northern WA) then that is no excuse for failing to assess and list the species at Victorian state level (if appropriate).**

**The Victorian community has a right to retain the amazing variety of native waterbirds that have been found in our region. It is of little comfort to us if we are told that the bird is no longer found here, but that there are still some in WA.**

Duck shooting has particular implications for state-federal relations, which are not covered in your consultation paper. As mentioned at the start of this submission, native waterbirds have steadily declined in abundance over the last 3-4 decades. These birds migrate across the eastern states (Qld, NSW, ACT, VIC, SA) according to environmental conditions, so they are in a real sense 'shared natural capital'. Yet Vic and SA are the only states which permit recreational duck shooting.

**Victoria's government is not only sanctioning the destruction of native waterbirds in this state, but also the birds which migrate to and from other states which are struggling to maintain their wildlife populations. This 'interstate' aspect has not been mentioned in your consultation paper, and is never mentioned by the GMA.**

## **18. CONCLUSION**

This submission has outlined strong concerns about the demonstrated failure of the existing regulatory system to protect native waterbirds. Last year they were at their lowest ebb ever. We support the following reforms (as a minimum), to help remedy the situation:

- Full review of all legislation that impacts native waterbirds (as discussed in our section 8 above);
- Public authorities (eg GMA and VFA) must be required to take account of biodiversity in decision making, and to be transparent and accountable for this;
- A clear obligation around when critical habitat must be declared and protected (wetland habitat is critical for native waterbirds but it has steadily declined in recent decades due to climate change and Murray-Darling water interventions);
- A stronger standard of protection for all threatened species, and for species in consistent decline over decades (including all 8 'game species' of native waterbirds in Victoria). Landscape-based conservation approaches must not sacrifice individual species of native waterbirds;
- A 'fair go' for threatened species, with no exemptions or special treatments for government agencies or certain industries (eg for GMA and hunters);
- Stronger enforcement powers; increased penalties and improved range of enforcement tools (possibly civil as well as criminal penalties) for individuals, corporations and public authorities, and penalties for Board members of such authorities;
- Recreational shooting to be considered as a 'threatening process' under legislation;

- An independent authority to monitor and enforce the conservation and biodiversity regulatory regime (including the Wildlife Act and POCTAA). Hunting and fishing have independent authorities to fight their causes; they will prevail unless there is a strong independent authority to defend wildlife;
- Stronger 'stop and protect' powers so the Minister can intervene when species or habitats are under threat;
- Community power to act, including the ability to initiate legal action to protect threatened species.



**Coalition Against Duck Shooting**  
[info@duck.org.au](mailto:info@duck.org.au)



**Assistant Director**  
**Coalition Against Duck Shooting**

27.3.17

Media report (i) – 20.3.09

Gippsland Times & Maffra Spectator  
20/03/2009  
Page: 1  
General News  
Region: Sale VIC  
Circulation: 5410  
Type: Regional  
Size: 459.93 sq.cms  
-T----

# Diversions to morass

## Allegations of illegal water transfer

**Jessica Bennett**

**WATER** has been diverted from the Latrobe River into the Heart Morass in an attempt to prevent the wetland from becoming acidic.

Southern Rural Water has confirmed water was diverted from the Latrobe River into the Heart Morass, and is now investigating whether or not it was done illegally.

The Coalition Against Duck Shooting alleges water was illegally diverted from the river into the morass by Sale Field and Game Association, which owns the wetland.

According to coalition campaign director Laurie Levy, CADS members had entered the morass and they believed two water locks were diverting water from the Latrobe River into the wetland.

"At a time when the numbers of native waterbirds in Victoria are down by 60 per cent from last year, and when the vast majority of wetlands in the state are dry, over 1000 native waterbirds ... have

already sought refuge on this private wetland," Mr Levy said.

"These birds will become the proverbial 'sitting ducks' for Field and Game Australia members on the opening of the duck shooting season."

However Sale Field and Game Association has defended the diversion, saying it was in the interest of protecting and maintaining the health of the Heart Morass.

Association spokesman Gary Howard said the residual water at the morass was of "very poor quality" and detrimental to the wetland's ecosystem.

"The issue is the wetland was drying out," he said.

"Salinity is skyrocketing and the PH level was below three — which makes the water almost like acid."

According to Mr Howard, association members had spent three years rehabilitating the morass and if fresh water did not flow into it, their work would have been ruined.

"(The association) has been working tirelessly down there over the last three years," he said.

"A lot of planning and work was involved in the rehabilitation and it was all going to be destroyed."

"We would have gone backwards in our attempts to dilute the salinity of the water and elevate the PH level (if nothing was done)."

Mr Howard said while the total effects of the water diversion were not yet known, it would no doubt have a "beneficial bearing".

"We were monitoring the quality of the water going in (to the morass) for the five days," he said.

Southern Rural Water's Groundwater and Rivers manager Craig Parker said SRW was currently investigating the allegation.

"(Which includes) interviewing the land owner and inspecting the land for evidence," he said.

"We will then make a decision about whether or not an offence has been committed."

Mr Parker said if water had been diverted illegally, one of Southern Rural Water's options would be to prosecute under the Victorian Water Act 1989, which could include a penalty of \$1000 and gaol.



Continued next page...

## **Media report (ii) – 25. 6.09**

### **Morass water fine**

#### **Gippsland Times**

**25/06/2009 1:26:00 PM**

A SALE man has been prosecuted for taking and using water without authority, and with interfering with the flow in a waterway.

Gary Howard was fined \$1500 without conviction by the Sale Magistrates Court, and ordered to pay costs to Southern Rural Water of \$1500.

SRW's manager groundwater and rivers Craig Parker said the charges followed an investigation into an incident on the Latrobe River in March, where water was released from the river into Heart Morass.

Mr Parker said investigation showed Mr Howard had released the water onto the property, owned by the Field and Game Association.

"This prosecution is a timely reminder for landowners that they must have a valid licence to take and use water, and that they must comply with their licence conditions at all times," Mr Parker said.

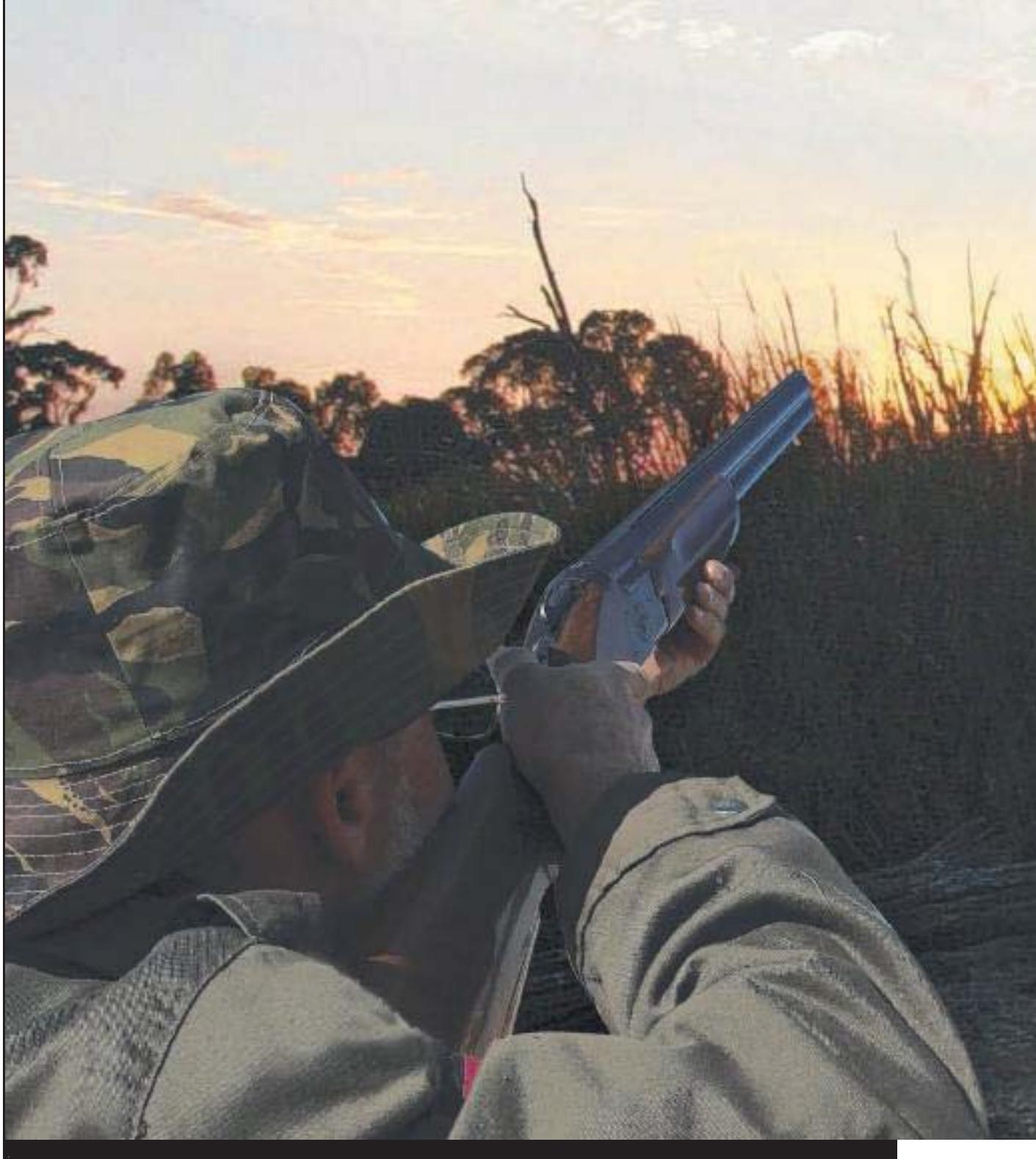
"Simply taking water from a river, without any authority, is not acceptable and is unfair to other users, including the environment."

At the time Mr Howard said the diversion was an attempt to prevent the wetland from becoming acidic.

He said the diversion was in the interest of protecting and maintaining the health of the Heart Morass.

**ATTACHMENT B – Box Flat massacre of native waterbirds**

**Article from The Weekly Times, 3 July 2015**



# Secret report into Box Flat wildlife massacre itself runs foul of secrets

CHRIS McLENNAN, The Weekly Times  
July 3, 2015 12:00am

IT WAS an orgy of killing, one of the worst wildlife massacres Victoria had seen.

Many, if not most, of 150 normally law abiding citizens, appear to have collectively lost the plot.

On the opening morning of duck hunting season in March 2013, at a little-known small swamp near Boort, these shooters went feral and shot everything.

Swans, coot, grebe — rare and defenceless birds, game fowl — between 1000 and 2000 water birds.

Once the Saturday dawn had become day, the cannonade was finished and people came to their senses.

READ MORE: [No charges over slaying](#)

There was apparently some guilt. Ducks — legal game birds — were left floating in the water along with protected native species.

No effort was made to pick them up for stocking the freezer — it seemed people didn't want any reminder of what had happened at Box Flat that morning.

Three hidden "caches" of "purposely hidden" birds were later found under lignum and shrubs at the swamp. Some of the shooters had made an effort to hide evidence of the killing.

Game officers and police visited the swamp twice that day but failed to see the atrocity that had just taken place.

It was only the next day, after a night-time wind had blown thick clumps of dead birds on to the shore, that the alarm sounded and authorities were alerted.

Nearby landowner and local MP, Peter Walsh, then Agriculture Minister, was said to be furious about Box Flat and immediately ordered that hunting there be stopped.

“These individuals should have the maximum penalties applied to them, and they should not have the privilege of hunting again,” Mr Walsh said.

The main hunters’ group, Field and Game Australia, saw its hard work to legitimise duck shooting as a sport set back a decade.

“It’s absolutely disgraceful,” FGA police director Rod Drew said at the time.

The group called on shooters to tell the truth to police.

That Sunday, the day after the shootings, Mr Walsh launched an investigation which was to take seven months and involve many members of his department, as well as Victoria Police.

Investigators managed to track down some of the Box Flat shooters.

Animal activists have long believed, because it was a privately owned wetland, the majority of the shooters were from the nearby Boort area. But locals blamed city shooters.

Investigators took 23 statements from hunters and landowners, and nine interviews were conducted.

“Eight additional people were spoken to and a large number of people were informally spoken to,” the investigation report said.

“Most hunters spoken to admitted to being present and hunting at Box Flat swamp at the relevant times.

“However, all persons questioned denied involvement in or knowledge of the offences.

“No person could identify any offenders,” the report said.

With no physical evidence and no one prepared to do so, the case was closed.

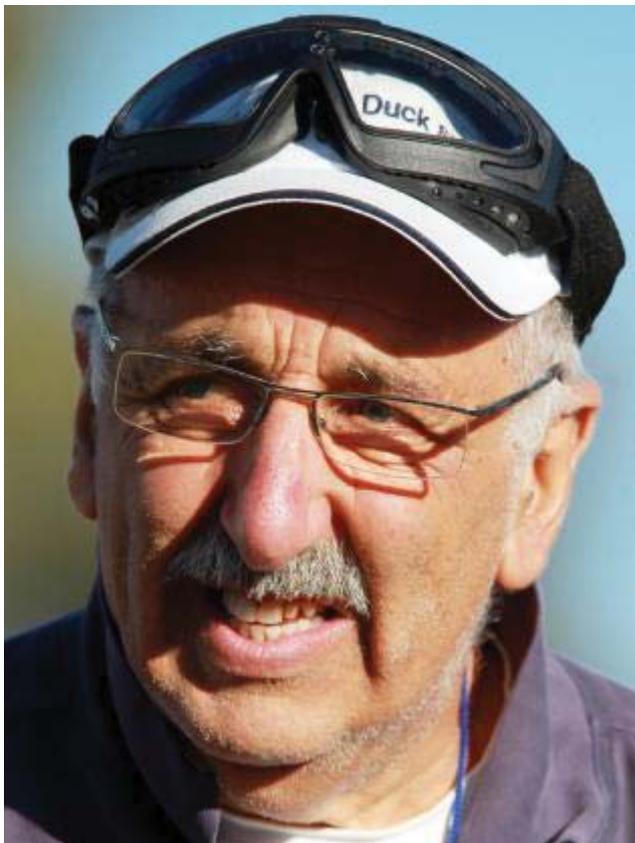
It was a sad day for the hunting fraternity.

It was also an inglorious outing for the government's game officers, who the report says were actually tipped off on the Wednesday before the opening that "something might happen" at Box Flat.

Minister Walsh held back the report in the hope someone would speak up.

When *The Weekly Times* asked to see the DPI report in January last year and again in May, Freedom of Information Commissioner Lynne Bertolini said releasing the report could "prejudice the investigation".

*The Weekly Times* was advised to try again after the statute of limitations of successful prosecutions from Box Flat expired in March this year.



Laurie Levy

When *The Weekly Times* finally saw the report, almost half of it was deleted as it contained "exempt documents" and personal information.

The Coalition Against Duck Shooting has long called for the release of the report, with its spokesman, Laurie Levy, claiming the failure to prosecute hunters was a cover-up.

Last year duck activists offered a \$10,000 reward for information leading to charges over the Box Flat shooting.

Now no one can ever be charged for what happened there.

Box Flat swamp was dry this year and the 12-week Victorian duck hunting season was a middling success.

Box Flat is now a sorry part of hunting history. Perhaps there was never anything the Government could do to ensure it will not happen again.