



Response to the Independent Review of the Wildlife Act 1975

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.

It would seem that the act doesn't allow for significant consultation with contemporary stakeholders, the way current Victorian license holders interact with wildlife has significantly changed since this act was first created. An example is the keeping of native wildlife (Licensed or otherwise). The current system, whilst it could be improved is a far cry from the days when birds were just taken from the wild. It has been in place long enough now, that the population of native birds in captivity is self-sustaining, as such an opportunity exists to revisit the licencing system to determine which species need to remain on licence and which species may be declared as domestic such as the budgie, or cockatiel. Either way it could be possible to set up a periodic review of the licencing system and those birds that need to remain licenced.

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

There are certainly conflicts between the various stakeholders and simplistically it could be described as conservation verses preservation. Conservation is the managed use of a natural resource whereas preservation is the total protection of said resource. If you are serious about conserving Victoria's natural environment then conservation is the means to do this and that does include the control of wildlife through various methods, the reality is sometime lethal methods are necessary to achieve a balanced ecology.

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?

Not relevant to VAC.

1.2.1 Are the current purposes of the Act satisfactory? What should the 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?

Not relevant to VAC.

1.2.2 If objectives and purposes are likely to be competing, how could the tensions be resolved?

Not relevant to VAC.

1.2.3 Are there examples of well designed legislation from other jurisdictions (both in Australia and internationally) with clearly stated objectives and purposes that could inform Victorian law?

US law regarding its use of wildlife.

1.3.1 Is the Act a barrier to self-determination for Traditional Owners or Aboriginal Victorians? If so, what specific elements give rise to barriers and how might these barriers be reduced or eliminated?

Not relevant to VAC.

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?

This is only acceptable if it doesn't infringe the rights of other Victorians' access.

1.3.3 Should the Act prescribe a role for Traditional Owners and Aboriginal Victorians as key partners in decision making about conserving wildlife? What could that role look like?

If the act allows for Traditional Owners a role as a key partner in decision making the other key interest groups must also have equal say, otherwise you run the risk of an individual group enforcing their will, often contradictory to the broader community interests.

1.3.4 Should the Act afford additional protection and the ability to return species to country because of their cultural significance?

There is suitable protection in the act as it stands, however to aid in the re-introduction of an animal to an area due to cultural significance, provision could be made to limit activities within that are for a period of time to ensure a successful outcome.

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?

Not relevant to VAC.

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?

Not relevant to VAC.

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?

Differentiate between wildlife to include indigenous native species of Victoria and game species to include non-indigenous species.

Define the difference between wild native birds and domestically bred native birds

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?

As most native birds kept under licence in Victoria are of a self-sustaining population, it should be possible to declare this population as domestically bred birds, whilst still affording the protection of the act to those in the wild.

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

Non-indigenous game animals (Deer, Duck, Pheasant, etc) should be excluded from the definition of wildlife as prescribed by the act and be managed by a separate section of legislation with regards to hunting them. The only exception that could apply is if the animal is considered to be under threat of extinction in its native habitat.

2.1.1 Do you have any comments on the interactions between the Wildlife Act and other legislation?

The wildlife act will obviously interact with the animal welfare act and therefore any welfare issues to wildlife will be covered by this act

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

Not relevant to VAC.

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

Not relevant to VAC.

2.2.1 How do regulatory differences between states help or hinder wildlife management? Please provide examples from your own experiences.

Wildlife licencing laws between the various state means that a licenced bird needs Import approval when bringing it into Victoria, a complex process with an associated administrative burden. Import approval could be changed to exclude non-indigenous native bird species.

2.2.2 How can the review of the Act address differences in regulation across land tenure regimes?

Not relevant to VAC.

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.

Not relevant to VAC.

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

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?

Not relevant to VAC.

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

The act should clearly identify that domestically bred populations of native birds should be considered as property of the owner / licence holder.

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

Not relevant to VAC.

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?

This should not be necessary as the Animal welfare act is currently reviewing this, the Wildlife act could simply refer to the relevant portion of the animal welfare act.

2.4.4 What rights and responsibilities should Traditional Owners and Aboriginal Victorians have related to wildlife?

Not relevant to VAC.

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?

Not relevant to VAC.

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

The act should include provision for consultation with the community (stakeholders / interest groups) especially with regards to the various legal uses currently allowed under the act.

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

By recognising the expert opinions of various interest groups (stakeholders) that currently exist and understanding that years of practical experience is just as important as academic expertise.

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?

The main barrier is that the government fails to recognise the expertise of stakeholders / interest groups / Individuals.

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

Wildlife management plans should include access to recognised private interest groups expertise, either as a consultancy role or as a hands-on practitioner. Individuals should be able to register to assist in the management of wildlife (such as the Stone Curlew program), subject to government approval.

3.4.1 Should the Act simplify and clarify the provisions relating to the various licences, permits and authorities? Is there scope to reduce regulatory burden without undermining the intended outcomes of the Act?

The proposed OWLS licencing system for the keeping of wildlife in Victoria will reduce the regulatory burden. Shift low risk species of licence, then the government is only burden with managing the high-risk species

3.5.1 Is the Act transparent about who pays for regulatory services?

Not relevant to VAC.

3.5.2 Is full cost recovery appropriate, or should fees for some licences and activities be subsidised? What role is there for user pays or beneficiary pays principles? What, if any changes, should be made and why?

Not relevant to VAC.

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

The act should refer to codes of practice. These codes will reside in the various regulations as they pertain to various wildlife activities. These mandatory codes of practice, standards or guidelines; need to be developed in consultation with the various subject matter experts (be that academic's or special interest/ stakeholder groups).

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

Subject to the necessity of developing these mandatory codes or standards; then any wildlife activities could benefit.

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?

Not relevant to VAC.

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?

If this becomes necessary, then any expert panel should include the appropriate expertise not just scientific, but also the expertise of individuals or special interest groups / stakeholders, some of whom have had a lifetime of expertise in the field.

5.1.1 Should the Act include other offences?

Not relevant to VAC.

5.1.2 Should any offences be repealed?

Not relevant to VAC.

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

Not relevant to VAC.

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

Not relevant to VAC.

5.4.1 Should the Act contain provisions to permit community impact statements relating to the harm caused to wildlife?

NO. This allows emotion to come into the equation thus influencing legal proceedings. The act itself should be sufficient enough to guide judges.

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

Not relevant to VAC.

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?

Not relevant to VAC.

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?

Not relevant to VAC.

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?

Not relevant to VAC.

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, if the individual is found guilty, however if they are found to be not guilty, they should be compensated for any losses and costs they incur.

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?

Not relevant to VAC.

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?

Not relevant to VAC.

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?

Authorising Officers may only enter premises with the appropriate authority (for example a warrant), and the authorising officers / department must prove an offence has occurred before action is taken.

A record of any seized birds must be made to protect the owners' rights with the potential for compensations for birds not returned.

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

Not relevant to VAC.

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?

Not relevant to VAC.