

Wildlife Act Review

Issues Paper questions – Response 30:

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Primary interests:

- Protection and conservation of wildlife and habitat
- Management and control of wildlife causing problems or damage
- Rehabilitation of sick, injured and orphaned wildlife
- Wildlife welfare
- Compliance and enforcement
- Offences and penalties relating to wildlife
- Research relating to wildlife

Question responses

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

The Act fails to consider biodiversity loss and the threats to flora and fauna that exist today, due to rapid and often unregulated land clearing for development and farming, climate change, impact of domestic and pest animals on wildlife. As a wildlife rescuer and carer, I regularly rescue wildlife that has been injured and displaced due to land clearing. I get called to constant rescues for wildlife hit by vehicles, mostly resulting in euthanasia and I occasionally attend to wildlife who have been subjected to intentional human cruelty. Having been a carer and a wildlife shelter for over 25 years, I am regulated by DEWLP and required to report on all animals that come into care. I see the situation getting worse day by day and have not seen any significant changes to protection of wildlife as a consequence of my reporting or any preventative action taken. Over the past four months I've had 285 animals come into my shelter for care in Ballarat, including four Koalas. By the time wildlife get to me, a vast majority either die or need to be euthanised due to the extent of their injuries or disease. The many risks that wildlife face is increasing and the Act, as it is, is failing to protect them. In my 25 years of reporting on wildlife, I have not seen any responsive action from government as the regulatory body. I have reported intentional acts of cruelty and there has been very little recourse. I refer to an incident in 2021 where I rescued three sugar gliders who were intentionally poisoned. I reported this to DEWLP, yet nothing was followed up to my knowledge. The poisoning of wildlife is common but often we're not able to find the evidence necessary to report it. As a wildlife rescuer and Carer, I see the full extent of illnesses and injuries to wildlife and sometimes, feel helpless to help them, other than to help end their suffering. Australian wildlife is under enormous amount of stress. The Act must be updated to reflect and act on contemporary issues by updating laws and making penalties for wildlife crime more appropriate. There needs to be more accountability for landowners and government when it comes to clearing land and destroying wildlife habitats, one of the biggest risks to wildlife currently.

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.

As a wildlife rescuer and carer, I have witnessed cruelty and displacement of wildlife due to conflicting interests of game hunters, councils, landowners, and irresponsible pet owners.

- Fisherman: leaving tackle, hooks and lines, entangling wildlife mostly resulting in euthanasia of a variety of swans and protected sea birds.
- Rescued, cared for and humanely euthanised ducks that have been injured but not killed by duck shooters.
- A large variety of animals have needed care, rehabilitation and human euthanasia after dog and cat attacks. The attitude of domestic animal owners is mostly aggressive and defensive with no consideration for the threat the domestic animals have on wildlife.
- The interests of state and local government and landowners to sell off land to developers without any consideration for how this will impact wildlife is causing many of the contemporary problems for wildlife. In fact, I would go so far to say that it is the main cause. The ripple effects from habitat loss include, wildlife moving further into urban areas, causing them to be victims of road accidents, attacked by foxes, domestic dogs and cats and left without appropriate food to survive, which is causing new diseases and illnesses. The stress caused to wildlife from living in urban areas is also killing them.

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?

The Act must tighten the laws to restrict habitat destruction, making mandatory green spaces, the planting of wildlife corridors and native tree planting a conditional requirement of infrastructure and housing developments. Up until now, there hasn't been much balance between the needs of wildlife and needs of other stakeholders. Wildlife have been at the losing end. There now needs to be better protection and consideration for protecting our wildlife and tightening of laws for other stakeholders who have been largely exploiting wildlife.

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

The purposes of the Act are not satisfactory because it doesn't have clear objectives or any clear outcomes. The main objectives should be to drive initiatives and strategies that preserve native flora and fauna, protect wildlife from danger, intentional and unintentional. It should consider the impacts of contemporary life and practices such as farmers using insecticides and poisons, clearing of land for developments, pet ownership, introduced species and how these practices impact the health and conservation of wildlife. It also needs to address and establish legislation that helps to guide strategies to prevent roadkill. Another important objective is to establish strict legislation that ensures that penalties are fit for the crime. Crimes might consist of the following: poisoning wildlife, polluting waterways and bushland, intentional harm and killing of wildlife, unregulated caring for wildlife. There should be a tightening of laws on cat curfews to reduce the alarming statistics of wildlife deaths from pet cats. Pet cats kill 83 million native reptiles and 80 million native birds in Australia every year.

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

The objectives and purpose will have many competing tensions, but the focus should always be on the protection and conservation of native wildlife. For example: Duck shooting is listed as a recreational activity and is an incredibly cruel activity. Many native duck species are under threat,

yet duck shooting is allowed continue and shooters are not made accountable for the unacceptable behaviour such as injuring ducks then leaving them to suffer, shooting native birds and allowing their dogs to mutilate injured ducks. To appease shooters, allow them to shoot non-native, invasive species such as foxes, pig, boar, and wild cats to reduce the negative impacts they are having on native 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?

Yes, this act is a barrier to self – determination for traditional owners and first nation Victorians. First nation Australians have a spiritual connection with their land. They have effectively managed native land and resources through applying traditional knowledge and techniques that have been used and carried down for thousands of years. Pre colonisation, their traditions and practices sustained the environment and kept it healthy. For this reason, the act must explicitly recognise traditional owners and aboriginal Victorians and the value of indigenous Ecological knowledge they bring to care for the land and ensure conservation of wildlife.

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?

Absolutely! The knowledge and practices of first nation peoples are invaluable to conserving wildlife. The spiritual connection they have with different wildlife species and the obligation to protect country are values inherent in their culture. They never killed more than was needed for survival, they understood the place of different species in the ecosystem and honoured wildlife in cultural practices. Their practices are grounded in sustainability.

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?

The act should prescribe a duty of care related to wildlife conservation and biodiversity protection more broadly, by ensuring that government bodies at all levels adhere to the legislation and work with stakeholders knowledgeable in conservation and biodiversity at both a local and state level. Government departments must refer to evidence-based research of threats to wildlife and biodiversity and respond swiftly to prevent further losses. There are many not for profit and community volunteer groups with extensive knowledge about, wildlife behaviours and the issues threatening wildlife, both locally and state-wide. This knowledge is critical and there should be more collaboration between community groups and government to work together to ensure wildlife conservation.

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?

All definitions in this Act are unclear and confusing and the outcomes and objectives are unclear, which is probably why it's not working and why there is so much destruction to our natural environment. The term "Protected" must ensure permanent protection of native wildlife, not something that can be overturned or reversed at someone's will. Protection orders also allow for no transparency of the conditions of these orders.

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?

Native eels, freshwater bony fish, cartilaginous fish such as rays and sharks need to be added and must be protected. They are crucial players in a complex ecosystem and if not protected this will further upset the balance to preserve other species. Snails and molluscs, aquatic crustaceans, echinoderms. need to be protected as they also contribute and have a role to play in a larger ecosystem. In addition, when snail is bated, this can have drastic ripple effects on other wildlife through secondary poisoning.

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

Understanding that planning for protection, conservation and management of wildlife varies between relevant legislation and associated regulations, achieving conservation and biodiversity protection objectives will require planning and operating at the ecosystem or landscape level, rather than developing plans for privately owned lands, state reserves or regions.

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

Yes. To be truly effective, it needs to be closely regulated by a more inclusive statute. One that cannot be undermined or weakened by other related Acts and one that serves the purpose of protection and conservation, including protection of wildlife habitat.

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

As the Act stands, game management should continue to be part of the Wildlife Act because the terms that define the legislation for the recreational hunting of game are unclear and are not properly regulated therefore place native and endangered species at risk. Contemporary values and research need to be considered to help define what species should be on the game list and if hunting continues, how will this be properly regulated to avoid native and endangered species being potential casualties.

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

If the ATCWs cannot account for cumulative losses to wildlife, then sustainability cannot be measured. If wildlife populations cannot be measured properly then these types of licences should not exist. ATCWs come with other negative flow-on effects. In the case of landowners applying for a ATCW to shoot Kangaroos, I have been called by landowners to rescue kangaroo joey's who have been orphaned after their mothers have been shot. When a kangaroo joey is orphaned, they need to be 'in care' for up to 18 months. This is 18 months of regular feeds and constant care by a registered carer at their own expense. Many orphaned Joey's will not even be found and will suffer immeasurably before dying after their mother is killed.

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.

The Act is currently failing to protect or conserve wildlife habitat. Wildlife habitat exists outside nature and state wildlife reserves and the Act is currently allowing government and private enterprise to clear land and wildlife habitats without little or no recourse. Bushland is being sold off and cleared in my district (Western Victoria) at an alarming rate. The local council is selling off land to developers without any consideration or laws to protect the wildlife who are then displaced. In my experience as a wildlife rescuer and carer the flow on effects of habitat destruction and land

clearing are enormous and creating most of the issues we see in our roles as emergency responders for wildlife. Wildlife without their habitat are displaced and disorientated and can move into heavily populated areas. This puts them at risk of being hit by cars on busy roads or stuck in urban areas where stress can be fatal. In Ballarat, we are often called to rescue Roo's and wallabies who have found themselves stuck in city areas where they cannot escape. Many are hit by cars before we can rescue them, some die of stress and others are able to be rescued and released but these are few and far between. Other flow on effects from habitat loss result in wildlife being pushed into urban areas where they are at constant risk of cat and dog attacks and where habitat is insufficient and degraded. Not all wildlife can adapt well to new environments and will struggle to survive. The increased stress that wildlife is subjected to lowers their immune systems, leaving them more susceptible to illness and disease.

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

The Act must tighten the laws to restrict habitat destruction, making the planting of native vegetation and trees a conditional requirement of any removal for vegetation by developers and landowners. The Act must consider the behaviours of native animals and encourage the planning of wildlife corridors, to allow the free movement of wildlife without being exposed to the many risks in urban centres. To prevent councils allowing developers permission to remove native vegetation, there must be proper risk assessments undertaken, factoring in the loss of habitat and flow on effects to wildlife. Wildlife that become displaced are exposed to a wide range of risks, such as car collisions, cat and dog attacks, starvation, disease, and stress. Native animals such as Koalas, echidnas, Kangaroos, and wallabies are now entering into urban areas, displaced due to unrelenting habitat destruction. When these animals are trapped in city centres, they are often hit by cars and attacked by dogs which often results in euthanasia. There are fewer and fewer carers with the skills and time available to care for these animals and most Vets are not trained to treat wildlife. Currently the Act doesn't consider the conservation of waterways and wetlands, which many species and migratory animals depend on for survival. Waterways are polluted and drained for commercial use and housing developments are built on wetlands. Weak regulations that permit development to take place are destroying sensitive wildlife habitat and this must be addressed to preserve the health and integrity 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?

Private land makes up a huge area of native vegetation so there must be strong laws in place to prevent clearing of native vegetation and trees. More and more private landowners are selling land off to developers for huge monetary gain. This must apply to all landowners to enable the conservation of wildlife corridors and bio-links. There have been two high profile cases where landowners have cleared native vegetation from their land with no consideration for Koalas or other native wildlife living in these trees. The careless massacre of Koalas could have been prevented if stronger laws were in place to prevent these landowners from clearing trees on their land. I have experienced this firsthand, when called to rescue and remove a koala from a private property in Buninyong, near Ballarat. A concerned neighbour of the landowner had called me because they had witnessed the landowner clearing gum trees on this property that contained Koalas. The landowner had no regard for the Koalas and wanted them removed from his trees so he could clear the land for development. When I arrived, I was instructed by the landowner to remove the Koala or he would fell the tree with the Koala in it. The blatant disregard for wildlife habitat was alarming and there was nothing I could do about it, except capture the Koala. Koalas are now in critically low numbers in Ballarat and this Koala needed to be removed away from Ballarat for its safety. The Act must

consider that private lands contain wildlife habitats, putting rules in place that will prevent tree and vegetation removal, within reason. Wildlife and nature reserves are not adequate spaces to support Australian wildlife, much of which are territorial and require large distances to survive. When removal of native vegetation is removed, this should always be offset with the expansion of new habitat that is suited to the wildlife of the area. When removal of native vegetation is unavoidable, the Act should enforce a suitable alternative for displaced wildlife and in situations where wildlife need to be removed, this must be done by people trained to do so, such as wildlife rescuers and carers, not government officials who do not have the expertise.

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

Property rights related to wildlife must be clarified. Currently there is no one taking responsibility for the protection of wildlife, despite this being the role of DEWLP. It is unclear to landowners what they can and cannot do on their own land and what could be done to help wildlife. In my experience as a wildlife rescuer, members of the public are not clear on who is responsible for wildlife. They call Wildlife Victoria, whom they think is government run and they often think that rescuers and carers are all paid workers. This is a common misunderstanding as rescuers are all volunteers.

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

No. Private landowners should not have greater rights to use of wildlife on their property as this would put wildlife at greater risk. In my experience there are some who care about wildlife but there are many who do not care and will only serve their own interests on their own land. Incentives to contribute to wildlife corridors might work but this would need to be managed and regulated closely for it to work. This would require a lot of collaboration and oversight and all relevant landowners would need to get on board.

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?

The wildlife Act should recognise sentience of wildlife and consider research studies that have been published in contemporary literature. If wildlife were rightfully recognised as sentient, they could be better protected under law and this would perhaps deter wildlife crime. This could have many other positive outcomes such as changing public perceptions about wildlife and what they require to thrive.

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

It's time that the wildlife experts such as wildlife vets and the rescue and caring community had more input into the decision making for Wildlife. It is this community who are confronted with and understand the issues that wildlife face day to day. Wildlife rescuers are all volunteers, yet they are relied upon by the public to respond to wildlife rescues and ensure that they get the adequate care. This responsibility does not fall with DEWLP. Volunteers are not recognised or supported by government at any level. In critical emergency situations like the recent bushfires in Gippsland, rescuers and carers were prevented from helping wildlife despite having the expertise and government regulated training to do so in fire ravaged areas. This was managed by DEWLP officers. This community collectively holds a wealth of knowledge and skill on wildlife issues, wildlife behaviour, common illnesses, and injuries and how to care for them. Vet's often work closely with carers to establish treatment options because most vets are not trained to understand or treat

wildlife. To this day, volunteer rescuers and carers are not recognised for the work they do or have any voice on wildlife decisions or policies.

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

The ACT should enable Wildlife Management Plans that involve active collaboration with local government and experts who are trained to understand wildlife and their unique needs – this may include rescuers and carers in the area who have a good understanding of wildlife numbers and unique issues. Through collaboration with a range of community members, wildlife management plans could be better aligned with wildlife issues at a local level, this could provide context on cultural significance of species, conservation data and issues in relation to wildlife that are unique to the area. The Act must provide criteria for management plans that are consistent with the objectives of the Act. Like the Fisheries Act 1995, criteria must be specific and consistent to prevent the authorised killing of wildlife before all possible impacts have been considered.

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

The Act should contain provisions that allow for issuing mandatory codes of practice standards or guidelines, to ensure that wildlife is treated appropriately and in a consistent manner. In Victoria, wildlife shelters are guided by DEWLP codes of practice, however these standards are not consistently regulated. As a wildlife carer and shelter for 25 years, I have witnessed other wildlife shelters who have mismanaged wildlife and who have provided an unsafe environment for them. I have witnessed the cohabitation of domestic animals with wildlife in shelters, the spread of disease, mixing of different species, in appropriate care and injury to animals while in care. On some occasions I have reported these shelters to DEWLP, who in response, have provided forewarning to these shelters, rather than spot checks. This has given the shelters in question much time to cover up any inhumane or prohibited practice. Therefore the inhumane care of wildlife continues.

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

If there are overarching codes of practice, they need to be explicit, based on contemporary science and knowledge about the needs and care of wildlife and strictly regulated. The activities they could influence are a consistent understanding of the responsibilities and duties of a shelter, consistent practice around euthanasia, care, rehabilitation, and mandatory reporting. Another important activity could include mandatory reporting of different species in care, types of injuries, survival, and locations, which could help with research and conservation. This could also help identify hot spots for wildlife dangers where interventions are needed.

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?

The ACT MUST enforce a high level of accountability to any holders of ATCWs. Currently, permit holders are killing Roo's indiscriminately and without any regard for the orphan Joeys that are left behind. Many of these are not found and die a slow and painful death, either from starvation, cold or are killed by predators. The Joeys who are found and rescued don't always live but if they do, they require up to 18 months of care by a professional wildlife carer. There needs to be total transparency about the decision making on matters related to wildlife, particularly when there are

so many species in decline and at risk of extinction. Without proper transparency, the management of protecting wildlife cannot be controlled. Currently, there are too many stakeholders who are not held accountable and who seek to undermine laws that protect our natural environment and wildlife. Parties that absolutely need to be held accountable are government, particularly those responsible for enforcing the ACT, local councils, property landowners and property developers.

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

Current penalties for wildlife crime in Victoria are completely disproportionate with the crimes committed. When individuals and corporations are not deterred by slap on the wrist type penalties, they will continue to commit such crimes. Weak laws and small punishments also set a precedence for others who may intend to commit future crimes. With what we now know about biodiversity loss in Australia and the many risks wildlife already face, we must protect them with punitive and heavy-handed penalties. This is particularly important for corporations who are not particularly deterred by small penalties.

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

The Act should contain provisions to permit community impact statements relating to the harm caused to wildlife because the loss or decline of wildlife does directly impact the wellbeing of a community. As wildlife rescuers, we see the distress and impact that wildlife injury has on members of the public. There are many community members who genuinely care what happens to wildlife and like us, they feel powerless to change the things that are negatively impacting wildlife. In my local area, there has been much uproar from the community about private farmlands that have been sold off to developers and approved by the council. The planning has clearly not considered habitats, leaving no green spaces and planting of no new vegetation. There has been concern about wildlife from the community and yet there was no forum available for how this has and will impact the community. We often rescue orphaned Kangaroo Joeys after landowners have shot their mothers. Presumably these landowners have ATCWs licences but they give no consideration for the orphans they leave behind or the impact this then has on the community. The members of the community who contact us for help are sometimes neighbors of the shooters and know and love the wildlife that live on their shared lands. They are extremely distraught at not being able to keep them out of danger. If orphaned Joey's are then able to survive without their mothers, they then need to be cared for by an experienced carer for up to 18 months. Sustaining baby joeys requires regular feeds that can be as often as every three hours and this might be one of many joey's in care. This puts an enormous strain on wildlife carers, To allow community impact statements related to the harm caused to wildlife will provide much more context and a greater understanding of how the community value wildlife and how this impacts their wellbeing.

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

The Act must contain specific provisions to guide sentencing and this sentencing must be proportionate with the crime, considering the extent of the crime and the extent of the harm caused, i.e., flow-on effects from the offence. As private enterprise will, in most cases, put financial gain ahead of preserving wildlife habitats, harsh penalties should be recommended for offences that

are committed for financial gain. There should also be harsher penalties for landowners who commit wildlife offences when clearing land that are wildlife habitats on their property.

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

The Act does not contain adequate regulatory tools, sanctions and remedies to punish and deter wildlife crime. At a community level, there needs to be a public reporting tool and process for the community to report wildlife crime and intentions to commit offences. This will allow the community to be part of the solution and to help protect wildlife in their own backyard. This could also help to deter future offences. Apart from heavily publicised penalties for wildlife crime, it should be clear what these crimes are so that there is full transparency, and no one can claim they did not understand the impact of their actions in relation to harming wildlife. The regulatory bodies in collaboration with not for profits such as Wildlife Victoria, should work to educate communities about wildlife and the risks they face. This will give the public a better understanding of how they can be part of the solution. There should be a streamlined process for crimes to be intercepted by a regulatory body immediately to protect wildlife from further harm.

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?

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

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?