

GENERAL CONCERNS WITH RESPECT TO THE NEW ACT

Australia has led the world in mammalian species extinction rates for many, many years, with reptilian extinctions now also occurring. Furthermore, of all the states, Victoria has the worse conservation record, with poor and inadequate protection of our indigenous habitats, flora, and fauna being endemic for decades.

Manifestly, Victorian current and historical practices, regulation, legislation and policy have failed to adequately protect or care for our unique species of flora and fauna. The population numbers and distribution of indigenous species continue to decrease at ever greater rates, just as wildlife habitats continue to decline alarmingly in area and distribution. Moreover habitats continue to become ever more fragmented, leading to conservation problems with the genetic isolation of now-separated populations, and ever-greater concerns about the lack of adequate and well-distributed wildlife corridors.

Victoria, truly, has an appalling historical record with respect to the protection of our indigenous species.

Yet our indigenous flora and fauna provide a natural heritage that should be passed onto future generations. Each generation in turn has a duty of care that requires our natural heritage is maintained – although failure to so maintain our natural heritage has been consistently embedded in the actions of Victorian governments of all persuasions.

Consequently any reform of the Wildlife Act 1975 must provide a scientifically based legislative tool that actually protects our endangered wildlife, before the slide towards extinction becomes total. The current model is not working at all adequately and the new act needs to focus upon both the declining state of our indigenous species and the scientific, empirical and ecological foundation that must crucially underlie the regulatory steps set up by the new Act. Indeed the new Act should be named to reflect this focus – a suitable title could simply be the Native Wildlife Act - and it should protect all native vertebrae fauna in a much more effective and independently applied manner than previous Acts have managed to do. As with climate change, the previous lack of effective action over time has led to a situation of crisis now occurring.

In nature, species co-exist in ecosystems where food webs and factors such as shelter requirements are inter-related in complex ways necessary for the survival of the different species that form the ecosystem (both permanent 'residents' and more transient 'visitors' passing through during migration etc). Put more bluntly –

if necessary habitats are not maintained in sufficient distribution then the species found within them are doomed.

Therefore the new Act must provide stringent and clear regulation for the protection of habitat as well as regulation for the protection of individually named species. It is important that habitat areas are also connected by protected wildlife corridors so fauna can move from one remnant habitat area to another (plants will also re-distribute themselves along such corridors but at a much slower rate). Indeed climate change means protected wildlife corridors will become ever more important in the future.

Protected habitat areas must also, whenever possible, be sufficiently large that viable populations can occur within them. It is important that any smaller remnant areas are also linked by specified corridors. Only when suitable habitat areas occur, can indigenous species be maintained in healthy populations whose size and genetic diversity enable them to continue forward into time.

The acknowledgment that underlying ecological principles and research should be given precedence when trying to preserve our already greatly depleted wildlife also means that new methods and tools must operate, especially given Australia's current rate of population growth, which places greater stress upon various habitat areas. Concepts such as 'wildlife protection zones' should be added to legislation and the current weak regulation stating how individuals are "not to damage, disturb or destroy any wildlife habitat" needs to be upgraded into a more effective tool through the use of greater legislative power and enforcement.

However, once habitat protections are in place, other issues must also be covered by legislation and regulation, which needs to encompass the protection and status of individual species, and their classification within the threatened species advisory lists. The advisory lists also need to be revised at regular intervals, using contemporary empirical data.

Hence the new Act needs to ensure adequate monitoring of both wildlife populations and habitat areas, with due regard to threatened species and any others also in decline. Legislated control authorisations must be better set out so they can be better understood, used, and monitored. The use of offsets should also be more precisely defined and monitored, so valuable habitat areas are not replaced by less viable ones that do not help to retain conservation resources.

Given the failure of all the protections and regulations tried over the last 5 decades and more, there are obvious inclusions that **must** be contained in the new Act. An **independent statutory body** must be established so that regulation in the new Act can be more effectively monitored and enforced, with reporting to the public also showing outcomes and explaining the decision-making processes made

by other government departments. Furthermore the current woefully inadequate penalties need to be increased, in line with community expectations that our wildlife be protected and looked after.

Indeed a complete overhaul of the current Authority to Control Wildlife System must occur so that greater transparency obtains, and the principles under which control regulation operates are made much clearer. The Authorities need to be better understood, better used, and much better monitored. Moreover all information concerning individual or corporate actions should be published on a publically available website¹ – secrecy should not be allowed to hide matters of public interest. The creation of ‘Wildlife Protection Orders’ may help in regulating individual actions so that policy is followed, especially if these are linked to greater penalties being made available for the deliberate flouting of legislation and regulation. Currently the relevant penalties under the current Act are so weak as to provide little or no motivation to remain within the law. The footnote below gives just a few examples of the plethora of cases that display the inadequacy of the current Act to protect wildlife.²²

Funding must also be legislated for and must be adequate for purpose, as too often government inaction is deliberately brought about by funding cuts to the relevant departments or their sub-sections (even while pay rises for already well-paid politicians continue to isolate them from the general public and any awareness of community wishes instead of those of expensive lobbyists). Indeed extra funding should also be granted to permanently locate biodiversity officers in all major habitat areas so that they can know and be familiar with ‘their area’ (even if such positions are only part-time!).

¹ This could be done in a manner comparable to the way burn-offs etc must currently be registered.

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1. Wombat shooting of wombats as a tourist attraction – although community outcry stopped this activity it should be noted it was not illegal under the current Act.

2. Illegal killing of kangaroos currently occurring at Heritage Golf and Country Club at Lilydale – to the extent Wildlife Victoria is requesting police action.

3. Illegal killing of Wedge-tailed Eagles

4 Bulldozing of koala habitat, with consequent death of koalas.

5. Sunshine Magistrates Court 27/5/2020 - 4 men were found possessed of nearly 500 rounds of ammunition, high-powered torches and spotlights, thermal imaging equipment, and the dead bodies of protected species of mammals and birds. One man did not even have a Firearms Licence. The penalties were low, with the fines issued being roughly equivalent to a single speeding ticket for 35km/hr over the limit.

SPECIFIC CONCERNS WITH HAVING A CATEGORY OF 'UNPROTECTED SPECIES' AS EXISTS UNDER THE CURRENT ACT

GAME SPECIES EXEMPTIONS

Specific exclusions relevant to the protection of our wildlife species apply under the current Act. Duck and quail shooting and logging activities (notably by VicForest) have been exempted from much of the scrutiny provided by the greater and more general regulatory structures. These exemptions should not be allowed to over-ride general principles of conservation as the empirical data from the operation of these exemptions (over decades) strongly indicates that wildlife conservation is severely and detrimentally affected by such exceptions. Indeed I consider that the ability to declare any species of wildlife as 'unprotected' is now out-dated and should be removed from the new Act.

Ducks and quail are not included in the operation of all wildlife protections, as they have been classified as a game species. Indeed duck shooting has been an area of controversy in Victoria for decades now. Despite plummeting duck numbers and widespread community opposition to the shooting of our native wildlife for recreation, the Victorian government (unlike W.A., NSW, and Queensland) still operates a duck-shooting season. Yet the October 2020 Aerial Survey of Wetland Birds in Eastern Australia Annual Survey Report provides an empirical measure of how the 4 major indices for waterbirds show they are still significantly declining in numbers over time. Despite the improved rainfall of 2020 from 2019, Victorian waterbirds abundancies³³ in 2020 still remained down from those of 2019, and were well below long-term averages, especially in the game species. Continued population decline over time is a matter of great concern yet the government appears unable to act upon the seriousness shown by the empirical data.

Moreover, each shooting season, there is widespread evidence that targeted game species are not the only ones shot. A significant number of hunters appear to lack the requisite shooting skills, or the ability to identify the different species (unless they are simply of low ethical standards and don't care). Moreover animal welfare issues are also invoked by the cruelty of injured birds left to die slowly over time. I

³³ total abundance, breeding index, number of species breeding, wetland area index
Porter, Kingsford, Francis, Brandis

It should also be noted here that detailed surveys of Eastern Australia Waterbirds have been made since 1983 so that reliable historical data is readily available. Sadly, Kingsford.R., 2019 states **a 90% decline has occurred over the last four decades.**

should perhaps add here that my own father was a very highly skilled shooter and so I consider that poor shooters are a disgrace – it is not hard to practise!

Climate change is already making it harder for our waterbirds to survive, and will continue to do so in the future. Therefore it is time that recreational duck shooting is stopped altogether - Victoria should follow the lead of other states.

LOGGING EXEMPTIONS

The next issue is one that has caused even more controversy in Victoria, as in other states: logging and its exemptions from much of the scrutiny and regulation concerning wildlife conservation.

From its own website: VicForests is a State-owned business responsible for the harvest, commercial sale and re-growing of timber from Victoria's State forests on behalf of the Government.

Both personally, and as a taxpayer, I need to first state that I actually consider the corporate culture at VicForests to be such that the organisation should be completely overhauled, with a new statutory organisation being established. Furthermore I also consider that a completely new management team should replace the old (from the directors downwards). I find it absolutely appalling that a State-owned business should be **continually** found guilty of illegal behaviour, over decades and decades. Indeed I consider it **totally unacceptable** that a state-owned enterprise should be so poorly run, and with such a disregard for state laws that the courts sometimes seem to be forever finding them guilty of illegal behaviour. It would seem that management must be seen as either incompetent or as unethical! Whilst records of legal action against VicForests go back decades into the last century, I have simply given a few in the footnotes (from various sources) to show VicForest management seems to need much improvement, and any exemptions from wildlife protections and conservation scrutiny is unjustified.⁴

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1. VicForests charged over alleged illegal logging in Gippsland forest after a near two-year investigation. 2018 Adam Carey from Sydney Morning Herald

2. <http://local.governmentcareer.com.au/news>

'Not policing our own backyard': Victorian forestry industry breaches logging rule. Mike Foley March 16, 2020, Age

3. Federal court ruled VicForests had breached laws related to threatened species - VicForests had breached provisions related to environmental conservation in the code of conduct **Lisa Cox** 2020 (66 coupes involved).

4. Breaches recorded by the Auditor-General show paper companies buying logs from VicForests may not be meeting the conditions of the Illegal Logging Prohibition Act - further evidence of the dubious nature of VicForest's business dealings!

5. VicForests conducting more illegal logging and putting Melbourne water catchment at risk, scientists say - national science, technology and environment reporter **Michael Slezak** and the Specialist Reporting Team's **Penny Timms** May 2021

6. Federal Court orders VicForests to pay costs in Possums Case, **reiterating multiple breaches of Victorian environment law EJA Comms** June 3, 2021 **Media release** The costs decision in the Possums Case was made in light of findings that the state logging agency breached Victorian law and its operations pose a major threat to two native possum species at high risk of extinction. The costs judgment states: "FLP was overwhelmingly successful at trial in establishing, as matters of fact, that VicForests

Moreover, VicForest operations are not only illegal upon occasion but they return little value to taxpayers. “Ending logging in Victoria now would save taxpayers \$192m, budget office estimates”. Furthermore, not only are the operations of VicForests uneconomical to taxpayers, they are also putting water supplies for Melbourne and other areas at risk.⁵ The new Act must rein in the excesses of VicForests.

Indeed, the Victorian government has announced plans to phase out native timber extraction by 2030. However the crisis situation of our wildlife means this is much too long a time period in which to allow native timber logging to continue. Instead the legislated contract with Australian Paper to supply native timber under a deal passed by the Victorian Parliament in the 1990s must be immediately rescinded due to the lack of timber supply. “VicForests have had to breach their rules to meet the legislated supply volume that it's bound to deliver,” Dr Taylor said. Bushfire, habitat destruction and extreme weather events all mean that assessments of timber supply made in the 1990's are now highly inaccurate – the timber is not procurable and the current situation shows how agreements made with such long time frames are not desirable. Nevertheless our wildlife must not be driven to extinction because of poor business modelling in the past and the new Act must provide *immediate* help to our wildlife.

And certainly VicForests needs to obey the laws of the government it is associated with. Even though their operations are currently exempted from much of the same regulatory oversight other activities that may endanger wildlife are subject to, they still perform illegal operations of what regulations they should obey. The historical record shows these illegal activities are constantly and continually occurring over the decades. Strong empirical evidence demonstrates how VicForests needs stricter and more monitored control in its operations and that this greater

contravened State legislative instruments with respect to the endangered Greater Glider and Leadbeater's Possum species. Those factual findings were not disturbed on appeal". The appeal Court upheld that the logging agency had repeatedly contravened environmental protections across scores of forest areas, home to the critically endangered Leadbeater's Possum and vulnerable Greater Glider.

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Against regulations, critical water catchments were having illegal logging occurring on steep slopes contained within them. In fact by late 2019 ANU researchers found evidence of slope limit breaches across seven catchments; the Upper Goulburn, Thomson River, Tanjil River, Tyers River, Loch River, Tarago River and Bunyip River catchments. “The scientists say they have evidence of breaches in 252 logging areas since 2004 — the year VicForests began operating. They found the Thomson catchment supplies almost 60 per cent of Melbourne's drinking water, but over a third of the areas logged by VicForests included slopes that exceeded 30 degrees.”

oversight should be applied immediately. Exemptions for VicForests must be removed by the new Act.

The catastrophic fires just over a year ago should also be a warning that old growth forests should be immediately protected in ways that allow for wildlife species to maintain at least some populations between burnt-out areas. As an aside, it should also be noted that scientists have warned logging native forests has worsened bushfires due to the differences between young new-growth forests and old growth ones in the way they burn!

All the above indicates why I consider **the new Act must not include regulations granting exemptions with respect to our indigenous species, when such exemptions greatly prevent the adequate protection of our precious and already much-reduced wildlife.** The exemptions that have allowed our waterbirds to be shot despite their plummeting numbers, and the exemptions that have allowed VicForests to so little value or consider our indigenous fauna, must be removed.

CONCERNS ABOUT EXEMPTIONS CONCERNING INVASIVE PEST SPECIES – NAMELY THE EXEMPTION OF DEER FROM THE INVASIVE PEST CATEGORY

It is not just farmers or conservationists who are concerned about feral deer. For people living in the fringe areas where rural and urban land uses meet, the problem of feral deer is neither abstract nor minor, particularly as increasing population and property developments impinge ever more into what used to be solely rural zones.

Indeed I myself am personally acquainted with the problem as a friend (whose name is being withheld as this is a public submission) was driving along Glenharrow Heights Road in suburban Belgrave when a deer leapt across the road and straight into her car as she was driving home one night after work. Luckily she herself was not killed or badly injured but the car had \$6000 to \$7000 worth of damage done to it, and this in a residential street with houses on both sides for the whole length of a long street (as in the street above it). In streets such as Forest Road, Belgrave, where peri-urban conditions apply, you can see where deer enter properties at night, damaging both vegetation and even built structures upon occasion.

Feral deer numbers are currently very large and increasing. They are destroying wildlife habitat and negatively affecting agriculture and the economy. Moreover, as covid has displayed, the dangers of zoonotic diseases increase when natural

habitats are greatly disturbed and human- wildlife interactions increase in undesirable directions. Feral deer are proven vectors of disease for stock as well as wildlife and they should be regarded as a biosecurity threat. They occur throughout the Yarra Catchment, yet traces of parasitic protozoan species such as *Cryptosporidium* and *Giardia* have been found in their faecal pellets.⁶ Such parasitic species present a danger to both people and some indigenous mammals, and any improvement of water treatment infrastructure to stop Melbourne's water being contaminated by such protozoans, would present an extreme cost to taxpayers. The new Act should definitely list deer as a pest species under the Catchment and Land Protection Act 1994.

Nor is it only animals that may be negatively affected by feral deer. Feral deer also spread a *Phytophthora*, which has become widespread in the peri-urban areas of Melbourne and whose increased distribution is causing dieback of native trees, thereby adversely affecting wildlife habitat.

Currently feral deer are protected for game hunting, a stance that is not found in the management of other pest species such as rabbits, pigs, and foxes. The reason given in the 1975 Act – that deer are '*already established in the wild in Victoria and beyond eradication with current control methods*' – would apply equally to the other introduced species but is not so applied. Confusion and difficulties also exist due to this protection of feral deer to allow for game hunting whilst having exemptions for private land, especially when public and private land interface. Moreover, since deer are not recognised as the invasive pests that they are, extra problems occur for the managers of Public Land, who must allow for feral pest removal (through an 'Authority to Control Wildlife') in a system that excludes deer from any effective protection of biodiversity and habitat in conservation areas.

The exponential growth in deer numbers over the last few decades empirically displays the total failure of the current classification of deer as a game species to control deer populations in any meaningful way. The new Act must rectify this.

Therefore I consider that all the feral deer species in Victoria should be placed in the same category as other invasive pests and subjected to the same principles of eradication i.e. deer should no longer be protected as a game species. This would also help provide consistency in deer management practices across the various states – the difficulties of managing brumbies in the Alpine areas show the results of contradictory practices in NSW and Victoria. It is also to be noted that the change of deer status in other states has already seemed to result in improved management practices by private landholders.

⁶ *Trends in Parasitology*, 21:8 August 2005

Furthermore I consider that deer management, at this crisis point of a deer population explosion, should be initially undertaken by professional government appointed and paid shooters, with silencers being used to increase the effectiveness of this method of control whilst park areas are temporarily closed off. There is a history of recreational shooters in this state behaving inappropriately and unsafely, especially on the boundaries of private farms and public lands⁷. “Open slather’ is not a viable management technique – as the number of supposedly protected ducks shot each year testifies. Once deer numbers are much lowered, other methods of control, possibly involving recreational shooters, or non-shooting control methods, could perhaps be re-introduced.

The new Act must place deer in the category to which they belong – that of an invasive pest species that is destroying the natural habitat so necessary for the survival of our indigenous fauna. Like other invasive pests such as pig, rabbits and feral goats, deer must be better controlled.

SUMMARY

The new Wildlife Act must reflect and follow scientific principles and ecological research concerned with wildlife protection and conservation, not the desires of small special interest lobby groups. Time and again the overall community has indicated that it wants our indigenous flora and fauna to be protected for future generations.

More importantly the government has a duty of care towards our natural heritage. Hence habitat protection must be considered along with population numbers and distribution and genetic viability of the different species. Climate change impacts also need to be factored into the protection of ecosystems and both larger and remnant connected vegetation patches (including wildlife corridors and animal crossing points for various highways etc).

Monitoring is vital, as is continuing research, and the new Act should ensure that monitoring is fit for purpose. Enforcement of the Act must be included in the new legislation and relevant penalties need to be greatly increased.⁸ Funding must also

⁷ I still remember reading the article by a farmer’s wife concerning her fears as to his safe return whenever he went to investigate shooting on or near his property – due to unpleasant confrontations on earlier occasions! Disregard for the current Act is common, possibly due to the lack of effective monitoring and the lack of sufficient penalty. Many cases do not reach the courts due to little action being taken by authorities and, when the courts are reached, little penalty often exists.

⁸ If financial fines cannot easily be paid then prison or long-term compulsory community work must act as a deterrent.

be massively increased and legislated for – previous conservation efforts have been continually hamstrung by inadequate funding by governments that wish to be seen as doing something to protect our wildlife (in response to community pressure) but that are not actually interested in doing so. Empty promises and noises have resulted in the current crisis facing our wildlife. Continual inquiries and public consultations and ongoing submissions have replaced the taking of effective conservation action.