

[Redacted]

Independent Panel
Wildlife Act 1975 (Victoria) review
via wildlifeact.review@delwp.vic.gov.au

Dear Dr Peterson,

Re: Independent review of Wildlife Act 1975 (Victoria)

Introduction I appreciate the opportunity to comment on the review of this Act.

I believe the Act is providing little, if any, protection to Victoria’s wildlife and the ecosystems on which they depend.

I also believe that the consequences for people who deliberately harm wildlife are grossly inadequate.

There is much scope for improvement and I am glad the review is being conducted.

A little about me [Redacted] which is one of Victoria’s green wedge shires.

I am fortunate to live here, an area where native wildlife, including some threatened species, still exist.

However, I see an increasing lack to respect to wildlife due to our growing population, increasing urbanisation, general fragmentation of communities and lack of consequences to people who harm wildlife, whether they be individuals, companies or government departments.

I am the former Convenor of a local revegetation project and a long-time supporter of environmental organisations.

Contents

Topic	Page
Scope of review	2
Responses to issues paper questions	9
Request for independent regulator	10
Authority to control Wildlife (ACTW)	11
Specific examples highlighting deficiencies of the Act	12
Dingoes	13
Kangaroos	14
Ducks	15

Scope of review

Summary

I believe that the Act fails in all aspects that the panel is reviewing.

The act seems to mainly exist to allow the killing of both native and introduced wildlife, including deer.

It does not meet community expectations, which increasingly oppose the use of lethal control, whether for native wildlife or wildlife who we introduced to Victoria.

And it completely fails in deterring people from harming wildlife.

Below, I detail some areas the panel is considering and suggested changes.

1. Contemporary values and expectations around wildlife

Summary

The Act does not meet current community values and expectations of how wildlife will be treated.

Current expectations are that wildlife will be respected and cared for, not seen as a 'resource' from which to profit or to 'enjoy' killing.

There is also an expectation that anyone who harms wildlife, whether it be by destroying their habitat or killing individual animals, will face significant consequences. This is not the case.

Currently, there are situations where someone who aims to save the life of a threatened species who has been illegally shot by a duck shooter faces much larger fines than the shooter who omitted the wildlife crime.

I would like to see the Act protect all wildlife, including those who are currently being exploited and persecuted.

For animals who we chose to introduce to the country, such as deer, I would like to see the use of non-lethal management methods. The spread of their range could have been prevented, but they were viewed as a 'game animal', to be shot for enjoyment.

Allowing their numbers to increase, instead of using methods such as immunocontraception to reduce breeding, has now created yet another environmental issue, for which they will suffer in large numbers.

Examples where Act is not in line with community values

Dingoes Dingoes are a threatened species in Victoria. Despite this, they are classed as a 'pest' under the Catchment and Land Protection Act. They are killed in large numbers, under the guise of protecting farmed animals like sheep, using barbaric means including 1080 poisoning and leg hold traps.

The widespread killing of a crucial native animal is done using the euphemism 'wild dog'.

This is a clear case where the Act is failing to protect wildlife. [More details below.](#)

Kangaroos Kangaroos are a keystone species in Victoria and Australia. Despite this, they can now be legally killed nearly anywhere, including in my area.

The fact that this killing program is being managed by the Department of Jobs highlights the contempt with which our wildlife area treated and how badly the Act is failing wildlife. [More details below.](#)

Ducks Each year, the government announces 'open season' on native ducks, for the 'recreation' of a very small number of Victorians. This occurred again this year, even during a Covid lockdown.

Surveys consistently show that people in both metropolitan and regional areas

wish for duck shooting to be banned. Despite this, and despite aerial waterbird surveys showing a consistent decline in numbers, they seem to be used as a political football to garner votes. [More details below.](#)

- Suggested changes**
1. Ensure changes to the Act reflect the community's wishes for wildlife to be protected.
 2. Ensure that, where there is any conflict between profit-making and wildlife, non-lethal methods are used as the first priority and lethal methods only as a last resort.
 3. Do not allow wildlife to be killed for 'recreational' purposes eg duck shooting.
 4. As far as possible, write the Act so that animals are protected from being harmed for political reasons.

2. The need to protect and conserve wildlife and to prevent wildlife from becoming extinct

The Act now	<p>The current Act is based mostly on exploiting and killing individual species. It fails to protect the one thing that wildlife most need to survive: habitat.</p> <p>In line with current scientific approaches, the Act needs to be changed to consider whole ecosystems, and how wildlife interact with them to survive.</p> <p>Preservation of habitat is critical. Unless ecosystems and habitat are protected, wildlife extinctions, whether they be regional, functional or absolute, will inevitably occur.</p>
Example	<p>Victorian native forests are still being logged by government agency VicForests, even though this jeopardises the survival of several species including the Spot-tailed Quoll, Leadbeater's Possum, Spiny Crayfish and Greater Glider.</p> <p>Several times, community organisations have successfully sued VicForests for its illegal conduct, but the government allows it to continue with its largely lawless behaviour.</p>
Suggested changes	<p>If the Act is to protect and conserve wildlife, and prevent extinctions, it needs to consider entire ecosystems and be based on science.</p> <p>The destruction, damage or degradation of the habitat needs to be included.</p> <p>This needs to apply to government departments, companies and individuals and include logging of native forests, clearing for farms and so-called fuel reduction burns.</p> <p>The principal objectives of the Wildlife Act should be to:</p> <ul style="list-style-type: none">• Protect and conserve all wildlife, including by protecting their habitat. This needs to include prohibiting native forest logging and minimising land clearing. The proposed end of naïve forest logging by 2030 is too late. There will be little native forest left by then• Ensuring wildlife corridors remain throughout Victoria to avoid genetic 'islands' of wildlife• Ensure wildlife are treated humanely and are included under relevant cruelty legislation (currently, I believe wildlife are excluded from the Prevention of Cruelty to Animals Act). <p>Under the Act:</p> <ul style="list-style-type: none">• Ensure that wildlife habitat in native forests is protected by making it a crime to destroy, degrade or damage native wildlife habitat through logging. Apply this to government departments such as VicForests, individuals and companies• Remove exemptions that currently apply to land included under RFAs• When 'fuel reduction burns are planned', require that on-ground wildlife surveys (including through the use of camera traps), are conducted. Make

it illegal to rely on computer modelling, as this may not reflect actual wildlife populations.

3. Sustainable use of, and access to, wildlife

Summary I am opposed to the 'use' and exploitation of wildlife.

They are sentient animals who exist for themselves, not for us.

The only access I believe people should have to wildlife is to enjoy their presence, through passive recreation such as bushwalking, birdwatching, photography etc.

Where there is a conflict between humans and wildlife, I would like to see non-lethal management methods used.

4. Wildlife and indigenous people

Summary The fact that we kill indigenous people's totem animals en masse, including kangaroos and dingoes, is a clear indication that our current laws do not respect indigenous cultural practices and beliefs.

Suggested changes Consult with the recognised elders of indigenous communities before harming any wildlife or their habitat.

5. Impact of wildlife on agriculture and other activities

Summary The farming of both animals and plants is a key cause of harm to wildlife, through direct killing and destruction of their habitat.

Dingoes and Wedge-tailed Eagles are both killed by farmers, under the belief that they kill sheep and other animals.

In reality, predation by native animals on farm animals is very low.

Vineyard operators are known to kill kangaroos.

Suggested changes Ensure that the Act principally protects wildlife from agriculture and other activities, not the other way around.

Where there is a conflict of interest, require the use of non-lethal methods before lethal methods are considered.

For example, in the case of dingoes, require sheep/wool farmers to use livestock guardian animals (such as donkeys, llamas, certain breeds of dogs) instead of killing dingoes.

In the case of deer, whose range has now increased considerably as they were valued as an animal for people to shoot for 'recreation', explore the use of immunocontraception to limit their population growth.

11. Encouraging compliance with the Act and punishing wildlife crime

Summary

There are many notable examples where the Act has clearly failed to prevent wildlife crime.

The poisoning of 406 protected Wedge-tailed Eagles by East Gippsland farm worker Mr Murray Silvester, in the mistaken belief that they were killing sheep, is one case.

Biologists believe that the eagle population in that area may never recover. Yet the perpetrator was fined just \$2,000 and was in jail for just two weeks.

I understand the farm owner suffered no consequences.

The massacre of koalas in Portland is another example. The property manager, Mr Keith Troeth, chose to destroy the gum trees, while koalas were in them, to increase the amount of land for grazing his sheep.

And, further back, the Victorian government itself [wilfully destroyed hundreds of trees needed by the federally-endangered Red-tailed Black Cockatoo](#). Under law, they should have been protected under the EPBC Act. However, the Federal government chose not to take any action against the Victorian government.

Suggested changes

1. Research the most effective ways of reducing wildlife crime and recidivism, based on laws and actions taken by other states and countries eg do financial penalties or enforceable undertakings (as are used for breaches of OHS legislation) have more impact in reducing wildlife crime
2. Significantly increase penalties for crimes against wildlife and their habitat
3. Given that maximum penalties are rarely, if ever, applied, include minimum penalties
4. Base fines for companies and government departments on their annual profits or their financial gain from the crime. Unless the penalty means that harming wildlife is not profitable for them, there is no deterrent
5. Include both civil and criminal penalties
6. Enable individuals and independent organisations to sue for wildlife crimes
7. Broaden the admissible evidence that can be considered when assessing crimes eg include videos and photos taken by members of the public

Responses to issues paper questions

2.4 Treatment of wildlife as property	<p>I support the recognition of wildlife as sentient beings who exist in their own right.</p> <p>I do not support them being viewed as 'property'. I would like for their inherent rights as wild animals and their lives and needs to be considered when making decisions that affect them.</p> <p>We are living on, and constantly destroying, their habitat. We should be living with them, not constantly harming them.</p> <p>Animal jurisprudence is a rapidly-developing area of law. Given that the Act hasn't been reviewed since 1975, now is the time to recognise animal sentience in it.</p>
3.6.1 Codes, Standards etc	<p>I support including provisions for these in the Act. As with all aspects of the Act, there need to be meaningful consequences for failing to adhere to standards, including by government departments.</p>
4.2 Independent expert advice	<p>I would like to see the Act to be able to use expert advisory bodies to provide advice on strategic matters.</p> <p>Government departments rarely employ experts in any one field on staff. If they do, they will likely be constrained for political reasons in what they can recommend.</p>
5.2.1 Penalties	<p>These are grossly deficient, as stated elsewhere.</p>
5.4.1 Community impact statements	<p>I support the use of these, and consideration of them before wildlife are harmed or habitat destroyed.</p> <p>Many more Victorians than ever before are now affected by the kangaroo slaughter. Many more Victorians will witness cruelty they never thought they would see, on their back door steps. Many more Victorians than ever before will likely witness regional extinctions.</p> <p>Had community impact statements been considered, I would think the new kangaroo killing program wouldn't have been approved.</p>
5.8 Third party civil enforcement	<p>I support the conferring of civil rights of action on third parties.</p>

Request for independent regulator to oversee the Act

Summary	<p>There is no independent regulation of wildlife management in Victoria.</p> <p>This lack has led to many instances where individuals, Victorian government departments and corporations have illegally killed wildlife, destroyed wildlife habitat and jeopardised the survival of federally- and state-listed threatened species.</p> <p>The Office of the Conservation Regulator is constrained in what action it can take, as it sits under DELWP. DELWP isn't renowned amongst the community for protecting wildlife and has, itself, committed wildlife crimes.</p>
Suggested changes	<p>Create an independent statutory authority to ensure wildlife and their habitat are protected and species extinctions prevented.</p> <p>Responsibilities for the new authority should include:</p> <ul style="list-style-type: none">• Ensuring and enforcing compliance with the Act• Prosecuting wildlife crimes, including habitat destruction and damage, including by government authorities like VicForests and Forest Fire Management• Setting policies. <p>I view this as one of the highest priorities for revisions of the Act.</p> <p>Until there is meaningful enforcement, we will continue to harm wildlife and jeopardise their survival.</p> <p>The regulator could operate along the lines of the Environment Protection Authority or WorkCover.</p> <p>It is important that the regulator be protected from political interference, or we will see more destruction of threatened species habitat by VicForests, DEWLP and, likely, Forest Fire Management.</p>

Authority to Control Wildlife (ACTW)

Summary

The ACTW system is an example where the Act fails to protect wildlife.

Anyone can apply for an ACTW, with no requirement to provide independent evidence that wildlife need 'controlling'.

Although people are advised information must be accurate, have there ever been consequences to someone for providing inaccurate information?

Suggested changes

- Ensure that ACTWs to kill are considered to be a last resort
- Apply the same level of rigour to ACTWs as are applied to wildlife research, including review by an ethics committee
- Develop transparent and science-based criteria on which ACTWs are approved
- Implement a performance review of the system, conducted each year
- Ensure these criteria are readily available to the public
- Require applicants to submit evidence of the numbers of animals they claim are on the property, and any damage they claim the animals are doing, verified by a registered and independent organisation
- For applications to kill animals, require the applicant to:
 - provide evidence of the use of non-lethal methods, that they were used according to best practice and the outcomes of this
 - submit a count of the animals, and the alleged 'damage', conducted by an independent and suitably qualified scientist using, measured using best practice methods
 - conduct wildlife monitoring after the ACTW has been implemented,, conducted by an independent and suitably qualified scientist using, measured using best practice methods
- Ensure that those who will be affected by an ACTW, whether for lethal or non-lethal control, are notified of the application and can register their objection to the issuing of an ACTW

Specific examples highlighting the deficiencies of the current Act

Introduction

Three animals come to mind when assessing whether the Act is currently adequate in protecting wildlife:

[Dingoes](#)

[Kangaroos](#)

[Ducks](#)

Dingoes

Summary The persecution of our apex land predator is of great concern to me, because of its ecological impact, the cruelty associated with it and because other species are also harmed.

Although they are classed as a threatened species in Victoria and should be protected, allegations and beliefs by farmers that they kill livestock have led to the legal and widespread killing of them in much of Victoria through an Order in Control.

This has dire ecological consequences. Dingoes control mesopredators such as foxes. They create ecological balance and improve biodiversity.

Dingo vs wild dog The government itself has stated that it is not possible to distinguish between a Dingo and a so-called wild dog by sight alone. DNA testing is required.

Wildlife biologist Dr Kylie Cairns has stated, 'We don't have a [wild] dog problem in Australia.'

Results of DNA testing From [analysis of more than 5,000 DNA samples from wild canines](#), 99% were found to be pure dingoes or more than 50% dingo. One per cent were approximately 50% dingo and 50% domestic dogs.

Dingoes and livestock farming Farmers allege that dingoes kill livestock in such large numbers that aerial poisoning in large parts of Victoria is done each year.

However, the reported number of Victorian livestock losses to dingoes is very low, at just 0.002% of the sheep population in 2018/2019.

It would be better ecologically, and likely economically, to introduce a compensation scheme for livestock killed by dingoes.

Suggested changes

- Restore dingoes' status as protected wildlife throughout Victoria. Remove the Order in Council
- Cease using the deliberately-deceptive phrase 'wild dog' to refer to dingoes
- Cease using barbaric 1080 poison and leg hold traps - for any species
- Use funds that have been used for poisoning and trapping dingoes to help farmers implement non-lethal livestock management eg fladry fencing, livestock guardian animals
- Develop compensation scheme for animals killed by dingoes

Kangaroos

Kangaroos as 'food', anywhere any time

Kangaroos in most parts of Victoria can now be killed and their bodies used for pet or human food.

This is despite the fact that a government inquiry recommended against this.

This is despite the fact that they are a keystone species and play a crucial role in plant regeneration.

This is despite the fact that there are decades of peer-reviewed research that has shown that they do not have an adverse impact on farming.

This is despite the fact that the cruelty involved with killing kangaroos is extreme. And that the killing is unmonitored and largely lawless.

That this is being done under the auspices of the Department of Jobs is deeply concerning.

This decision directly affects me and many people I know.

I live where I do because I value nature.

Kangaroos who live two doors from me can now be killed. Kangaroos who visit Heritage Golf Course can now be killed.

I am concerned that there will be regional extinctions, both near me and elsewhere.

NSW and Qld experience

Both Queensland and NSW have allowed kangaroos to be killed for similar purposes for some years. It was alleged to have been 'sustainable' with a 'quota' on how many could be killed each year.

The sad reality is that it hasn't been sustainable at all. This is partly because the method used to survey kangaroo numbers is grossly inaccurate. A biological statistician was most surprised to learn how numbers were being 'estimated' and that killing quotas were based on this method.

The Wallaroo is likely to become extinct in NSW. There are now so few kangaroos in some areas of both NSW and Queensland that it is no longer profitable for shooters to travel there.

The same is likely to happen in Victoria, as DELWP has used a similar method for estimating kangaroo numbers.

Suggested changes

- Revise the Act so that native animals cannot be killed for profit, including for creating jobs

Ducks

Summary	<p>Aerial surveys of duck populations by Dr Richard Kingsford have shown consistent declines in populations. Since the 1980s, waterbird populations have declined by 90%.</p> <p>For many years, surveys have consistently shown that a majority of Victorians want duck shooting banned, due to the environmental harm it does and the cruelty.</p> <p>Despite this, the government still allows ducks to be shot for recreation during a dedicated 'season'.</p>
Threatened species killed	<p>Each year, rescuers find killed and maimed Freckled Ducks, who are Australia's most endangered waterbird.</p> <p>They are a protected species. Their killing is illegal. To my knowledge, no one has ever been prosecuted for killing or injuring them.</p>
Authority with conflict of interest	<p>The Game Management Authority decides whether a season is allowed or not. This authority has a clear conflict of interest.</p> <p>If the Wildlife Act protected wildlife, the decision would be based on independent and accurate science, not politics.</p>
Lack of independent monitoring	<p>Staff from the Game Management Authority have been filmed witnessing shooters committing wildlife crimes and failing to take action.</p> <p>This is an example where an independent environmental regulator is much needed.</p>
Suggested changes applicable to ducks	<ul style="list-style-type: none">• Develop independent environmental regulator who is responsible for determining if waterbird populations can ensure a season, based on independent science• Remove the classification of any bird species as 'game'• Include provisions for evidence of wildlife crimes obtained by individuals to be admissible in prosecutions• Include provisions for third party prosecutions for wildlife crimes• As for other wildlife, increase penalties for people who commit wildlife crimes

Regards,

Lee O'Mahoney