

28 May 2021



Department of Environment, Land, Water and Planning,
 Department of Jobs, Precincts and Regions, and
 Department of Justice and Community Safety

Dear Expert Advisory Panel,

Re: Goulburn Broken Catchment Management Authority feedback on the Expert Advisory Panel's Review of the Victorian *Wildlife Act 1975*

On behalf of the Goulburn Broken Catchment Management Authority (GB CMA) I am pleased to provide comment on the proposed changes to Victoria's *Wildlife Act 1975*. The GB CMA team has worked through the Independent Review document and is pleased to provide the following feedback:

Part 1: What should the Act do?

1.1 Does the Act reflect contemporary attitudes towards wildlife?

No, it is now quite dated and needs to reflect current views and the land use change that's occurred across Victoria to the detriment of wildlife and habitats.

1.1.1 In what ways does the Act succeed or fail in representing contemporary expectations for, and values relating to, wildlife in Victoria? Provide examples of own experience?

In 2021, the Victorian landscape and its wildlife populations are very different to when the current Act came into being in 1975. Our landscape and habitats are more fragmented, less connected and some habitats have disappeared or are so degraded they cease to function or support viable wildlife populations e.g. decline in our wetland's estate across the state, and many wildlife species are under threat. For example, once common species such as the platypus *Ornithorhynchus anatinus* are now listed in Victoria as vulnerable. We acknowledge this is not the fault of the current Act, the fact remains many of our wildlife species and populations remain under threat and will continue to be so. We believe our community is more informed and can access information on wildlife more rapidly than ever before, particularly post Covid, the growing interest in the environment and its respective natural elements including wildlife, community expectations are high that we look after them.

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Greater promotion of where the Act has been effective would assist, through social/print/TV media etc. For example, a positive prosecution that assisted a wildlife issue/species would be valuable. Clear, simple explanations of what the Act is and its purpose and demonstrated linkage to aligned and complimentary legislation both State i.e. *FFG Act* and federal *EPBC Act* would assist also. In the education and awareness space, having real time data on wildlife, their populations, habitat and threats is critical and helps provide the information for informed decision making i.e. this land holds the last population of rare frog, we need to protect it and find a way to save and increase its population. A good example is the Growling grass frog *Litoria raniformis* once found across eastern parts of the state, the species is now rare and has lost significant habitat due to land use change and human impacts i.e. housing development pressure.

Additionally, the acknowledgement and growth in awareness and community expectation of Traditional Owner and Aboriginal knowledge and skills, their input and contribution were lacking in the current Act and would be a valuable asset moving forward in the renewed Act.

1.1.2 Are there conflicts between the interests or expectations of different stakeholders or community members regarding wildlife in Victoria? Provide examples of own experience?

Definitely, an obvious issue is the duck shooting fraternity versus protecting our native waterfowl/wetland habitat group, also commercial/overpopulation culling/hunting of kangaroos versus saving the kangaroo community etc. A common thread in this space is education and awareness, all parties knowing and understanding what our wildlife needs to survive, the fundamentals of good habitat i.e. importance of tree hollows, debris on the ground, managing pest plants and animals, and also wildlife populations that need controlling e.g. grey kangaroos etc. Agencies do their best, but are typically under resourced, reliant on sporadic funding, coupled with the loss of extension services across the public service has impacted, where enquiries now get directed to a website, which only takes you so far. The conflict between community, local governments and industry through new developments, particularly now while we are in an infrastructure boom takes its toll on wildlife and respective habitats. Currently, a local community group, passionate about saving a local wetland or stretch of river/forest and its wildlife would mostly lose out to development pressures.

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 jurisdictions (both in Australia and internationally) that may be useful?

Clearer, simple explanations of what the Act is and its purpose and demonstrated linkage to aligned and complimentary legislation both State/Federally i.e. *FFG Act* and federal *EPBC Act* fit would assist.

Clear, concise information on breach implications, fines, case study examples of where the Act has been enacted and consequences, through the suite of media available. For example, Yorta Yorta Indigenous rangers now co-manage Barmah National Park, with Parks Victoria a listed Ramsar site on the Murray River. This site protects many wildlife species and their habitats and is a great example of Traditional Owners protecting Country and wildlife, the broader public needs to know about this, it's a positive story. We believe there remains general

confusion around the purpose and similarities between the current *Wildlife 1975 Act*, the *FFG Act 1988*, *Wildlife Regulations 2013* and the *Game Authority Act 2014* and its wildlife and reserve regulations. When you examine Figure 1/pages 8-9 of your issues paper you can see the similarities in purpose between the various Acts and regulations. Is there an opportunity to combine or build each of these legislative pieces into a more comprehensive package without losing the core intent of the legislation?

1.2 Is the intent of the Act clear?

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 desired outcomes? How would they ensure desired outcomes are achieved?

As stated earlier, we believe there remains general confusion around the purpose and similarities between the current *Wildlife 1975 Act*, the *FFG Act 1988*, *Wildlife Regulations 2013* and the *Game Authority Act 2014* and its wildlife and reserve regulations. The current purposes of the Act aren't strong and can be confusing. We would like to see clearly stated desired outcomes (based on good science and monitoring data!) that demonstrate where the Act can be applied i.e. preventing species/taxa from extinction due to habitat isolation and lack of connectivity to other viable habitats etc.

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

Clearly stated desired outcomes (based on good science and monitoring data!) that demonstrate where the Act can be applied. A good review in this space would help!

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?

The NSW *Biodiversity Conservation Act 2016* and *Environment (Amendment) Act 2018*, and Federal *EPBC Act 1999* are good places to start, all have a clear mandate and strong penalties, well worth using and adapting from.

1.3 The Act doesn't appear to appropriately recognise the rights and interests of Traditional Owners and Aboriginal Victorians

An accurate comment!

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?

The current Act doesn't really assist Traditional Owners or Aboriginal Victorians in this space. A future advisory panel overseeing this space would benefit from Traditional Owner input and bring a broader perspective of wildlife, their importance as a totem species, cultural practice and Country.

1.3.2 Should the Act recognise the cultural significance of Country and wildlife to Traditional Owners or Aboriginal Victorians? Should the Act explicitly recognise the value of Indigenous Ecological Knowledge for stewardship of Country and conservation of wildlife?
100% and it should clearly acknowledge and recognise the value of Indigenous Ecological Knowledge for stewardship of Country and conservation of wildlife, this will be a valuable addition to the Act, and we believe the broader community will be supportive of this inclusion.

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?
Definitely, and a permanent seat/or seats on a future advisory panel overseeing this space would benefit from Traditional Owner input and bring a broader perspective of wildlife, their importance as a totem species, cultural practice and Country. There are certainly many Indigenous academics skilled and knowledgeable that could contribute as well as experienced elders with more traditional knowledge of Country and its wildlife could be brought in as well.

1.3.4 Should the Act afford additional protection and ability to return species to country because of their cultural significance?
Definitely, and along with modern science can add value via the acknowledgement of the cultural importance of a species and its protection.

1.3.5 Does the Act provide appropriate mechanisms for Traditional Owners or Aboriginal Victorians to use wildlife? Should the Act support commercial use of wildlife by Traditional Owners or Aboriginal Victorians?
Not sufficiently, and yes, the Act should clearly support the use of wildlife by Traditional Owners or Aboriginal Victorians. There is great opportunity in this space at many levels, it empowers traditional ways and the use of wildlife, promotes sustainability and sensible management, and, has application where wildlife is a problem i.e. kangaroos in some landscapes. With support and input from modern science this is an area of the Act that could be improved significantly.

1.4 Could a general duty help clarify roles and responsibilities?

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?
A general duty of care statement would be beneficial and can only add value, the Act is far more effective when it is seen in context to support and compliment the broader protection and conservation of wildlife, biodiversity and ecosystems. An upfront general duty of care statement that then rolls into the key functions of the Act would be useful, including a short case study or example of where the Act has been used for the benefit of wildlife.

1.5 Definitions of key terms can be unclear and confusing

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?

Definitely, the term 'wildlife' is currently explained very broadly and includes reference to wild and captive populations, also wildlife parts/products are covered, and many native taxa i.e. marine vertebrates and invertebrates need to be listed as well as increased recognition of rare and endemic species with limited ranges (i.e. at risk species/populations) where their protection is paramount.

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 mentioned above, all marine vertebrates and invertebrates and all terrestrial vertebrates and invertebrates need to be listed as well as mentioning rare and endemic species with limited ranges (i.e. at-risk species/populations) where protection both physically (on-ground action) and from the strength of the Act is needed. We would like to see non-native species excluded from the Act as it causes confusion. In many cases non-indigenous wildlife e.g., deer impact negatively on the environment and habitat and are growing in numbers and level of threat to native wildlife across many landscapes.

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

Game species should be defined clearly as game animals and should be excluded from the Act. We note the hunting of native waterfowl is the anomaly here and should be highlighted as a short-term game species (based on annual review of populations/conditions). We acknowledge that for short periods our waterfowl are a legitimate game species for a pre-determined hunting period based on monitoring of numbers and wetland and waterway conditions. Outside of this hunting period, our waterfowl need protection under the Act as per other wildlife species.

PART 2: How does the Act interact with other legislation about wildlife and animals?

2.1 There are overlaps and gaps in the broader legislative framework

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

Definitely, there is a need to include all native wildlife taxa in the Act. Consideration needs to be factored re species with cultural significance, including totemic species such as eels, turtles, fish etc. Consultation with Traditional Owners or Aboriginal Victorians in this space would be beneficial moving forward. As stated earlier, we believe their remains general confusion around the purpose and similarities between the current *Wildlife 1975 Act*, the *FFG Act 1988*, *Wildlife Regulations 2013* and the *Game Authority Act 2014* and its wildlife and reserve regulations. The current purposes of the Act aren't strong and can be confusing. We would like to see clearly stated desired outcomes (based on good science and monitoring data!) that

demonstrate where Act can be applied i.e. preventing species/taxa from extinction due to habitat isolation and lack connectivity to other viable habitats etc.

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

Definitely, keeping the Act to protecting native species only would be a great start!

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

Definitely, we don't see any disadvantages, only improved clarity on the Acts purpose. Also, this would benefit consultation with Traditional Owners or Aboriginal Victorians who would add significant value to wildlife management, i.e. kangaroo management, their involvement would complement current science-based approaches in this space as well.

2.2 Managing wildlife populations that span jurisdictions and land tenures is difficult under the Act

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

Wildlife moves with no regard for borders, a good example is waterfowl which often move about in response to rain events and consequent improvements to conditions at wetlands and aquatic habitats. Also, the short-term duck hunting season in Victoria and the differences in other states which either support or have banned duck hunting i.e. WA (1990), NSW (1995) and Qld (2005), this makes managing the whole population problematic. A good cross border/jurisdiction scientific advisory group could assist in improving issues such as this.

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

Given our landscapes and habitats are more fragmented, less connected and some habitats have disappeared or are so degraded they cease to function or support viable wildlife populations, remaining viable public land and private land that supports wildlife is more important than ever. This needs to be considered in the regulations and education and awareness in this space is important. Regulations clearly highlighting for example, the importance of habitat, debris on the ground native vegetation, effective native vegetation offset processes for any clearing activity, clear notification of rare and threatened species etc., it's a long list and needs good extension services, easy and clear to understand hard copy and online information, again this needs resources and a driver.

2.3 The current legislative framework doesn't preserve and conserve habitat

2.3.1 In what ways does the Act succeed or fail in protection and conserving wildlife habitat?

Please provide examples from your own experiences.

Our concern is in 2021, the Victorian landscape and its wildlife populations are under threat. Our landscape and habitats are more fragmented, less connected and many wildlife species are under threat. We acknowledge this is not the fault of the current Act, the fact remains many of our wildlife species and populations continue to remain under threat and will continue to be so. Wildlife and habitats keep getting lost so increasing their protection via a stronger Act would benefit significantly and we believe communities expect this. They want nature and its components to endure.

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

Provision of good information on the importance of habitat, debris on the ground native vegetation, effective native vegetation offset processes for any clearing activity, clear notification of rare and threatened species in habitat to name a few, would be a valuable addition of protection under the Act. Penalties for Act breaches should be increased and publicised to reduce negative impacts, including any examples where the legislation has worked effectively.

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?

A general duty of care statement would be beneficial and can only add value, the Act is far more effective when it is seen in context to support and compliment the broader protection and conservation of wildlife, biodiversity and ecosystems. An upfront general duty of care statement that then roles into the key functions of the Act would be useful, including a short case study or example of where the Act has been used for the benefit of wildlife. A statement that acknowledges the importance of wildlife on private land and broader ecological processes such as gene flow, breeding habitat, refugia and connectivity for wildlife in a landscape should be considered. Again, education and awareness and how you promote this is important.

2.4 The treatment of wildlife as property

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

We acknowledge state governments have primary responsibility for our wildlife and natural resources. It gets murkier once we delve into the private land space, given its rising level of importance to wildlife and respective habitats. There are some good models out there, for example Trust for Nature can put a covenant on a patch of habitat along with its wildlife to be protected into perpetuity, this is good, but it is an expensive and slow exercise and not all landholders want to go down this track. State and federal governments have provided incentive programs for the protection of habitat and wildlife species, for example the Mountain Pygmy Possum *Burramys parvus* and Regent Honeyeater *Anthochaera phrygia*. Project's such as these are often delivered and administered by Catchment Management

Authorities, but again are limited by available resources. Ultimately you want wildlife to thrive, breed and survive in perpetuity, they need to be arguably less considered as property and more protected for the people and the contribution to nature they provide.

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

This would depend on whether you are protecting wildlife under the Act or applying a property 'right' to the wildlife. Our preference is landholders are supported and actions recognized that are 'managing' wildlife in some way, even just through keeping habitat healthy. Again, in this space, education and awareness is important, also there are opportunities to support a private custodianship type model where landholders and the wildlife that lives on their land is considered. A good advisory panel could deal with such matters, but again it will need resources and a process to be successful.

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?

We believe so, Qld and NSW now specify native wildlife unless lawfully taken, is the property of the State, this appears to be working. Clearer clarification on the Act's intent and what it protects is needed, including where the State, private landholders and licence holders sit in relation to wildlife.

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

We support and clearly acknowledge and recognise the value of Indigenous Ecological Knowledge for stewardship of Country and conservation of wildlife, there are few negatives here and we believe the broader community will be supportive of this inclusion. We also note Traditional Owner and Aboriginal Victorians would bring a broader perspective of wildlife, their importance as a totem species, cultural practice and Country. Active discussions with an advisory group would assist in this space a conversation using both modern science and Indigenous Ecological Knowledge should be able to work through appropriate rights and responsibilities related to wildlife.

Part 3: What mechanisms does the Act need to achieve its objectives?

The listed Act principles cited on page 21 of the issues paper are reasonable. We suggest an advisory group would be a good mechanism that could drive input from community, scientists and Traditional Owner and Aboriginal Victorians would bring a broader perspective on suitable principles to manage wildlife recognizing the challenges in 2021 and moving forward.

3.1 The Act lacks principles about how to manage wildlife

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?

Definitely, and yes, these principles are important, however we believe a consultative process be applied that seeks input from community, scientists and Traditional Owner and Aboriginal Victorians would work through and design the right principle mix.

3.2 Does the Act facilitate an equitable and participatory approach to wildlife management and conservation?

Not really, input from community, scientists and Traditional Owner and Aboriginal Victorians would assist.

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

What issues should undergo community consultation?

Certainly, we should clearly acknowledge and recognise the value of Indigenous Ecological Knowledge for stewardship of Country and conservation of wildlife, there are few negatives here and we believe the broader community will be supportive of this inclusion. A permanent seat/or seats on a future advisory panel overseeing this space would benefit from Traditional Owner input and bring a broader perspective of wildlife, their importance as a totem species, cultural practice and Country. There are certainly many Indigenous academics skilled and knowledgeable that could contribute as well as experienced elders with more traditional knowledge of Country and its wildlife could be brought in as well. Broader consultation with the wider community may be warranted in specific cases, such as moving a remaining wildlife species/population to a safer location, or even captivity may need to be explained, good use of social media can assist as well.

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

As noted earlier, a permanent seat/or seats on a future advisory panel overseeing this space would benefit from Traditional Owner input and bring a broader perspective of wildlife, their importance as a totem species, cultural practice and Country. The same approach could be applied to the wider community, even to be brought in to advise on specific wildlife issues or sit on a more broader community representative advisory group that could be selected through an EOI process? At least some form of process that allows community to provide input or comment on matters of interest would assist, again this could be promoted via social media, online etc., or more formally through a set meeting with experts etc.

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 minimized?

There is currently a scattered approach to the planning and investment needed to work in the wildlife management and conservation space. The NRM Regions model has been proven to be effective over a long period of time and is able to deliver sound collaborations and partnerships across both the private and public sector aligning regional priorities and programs to effective actions on -ground. A key point is communication, there is always room to improve communication and networks between agencies and NGO organisations, what's missing is a driver and facilitator and utilising the NRM regions connection to the public sector and philanthropy in a regionally relevant and supportive way. NRM regions fit this bill well with people and programs that can liaise, share information and opportunities, however this needs ongoing resources.

3.3 The Act has no framework for enabling wildlife management plans

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

Definitely, for example the *EPBC Act* has recovery plans for many threatened species, but often lacks the teeth to activate any meaningful actions that helps the species, so this needs to be considered, appropriate resourcing to develop and importantly instigate wildlife management plans. Wildlife management plans would be valuable to contain a threat e.g., habitat loss, overpopulation e.g., grey kangaroo management or extreme type planning to save a rare species found nowhere else. A good advisory group could drive such planning, with input from CMA's who have a resilience approach and long-standing skills in the natural resource management space, supported by strategies, for example, regional catchment, biodiversity and land health strategies. These could be complimented with Traditional Owner input, modern science and also community. Wildlife management plans would not be relevant in all situations as we know that investment in connected healthy habitat that supports the resilience and movement of individual species and whole ecosystems is also important. Specific Species plans can at times be siloed in approach and miss the key drivers and attributes to build a resilient functioning natural environment.

3.4 The permissions framework lacks clarity, transparency and accountability

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?

Yes, wherever possible provided you don't lose the integrity of the Act. Some form of risk-based approach could work, where you could apply provisions related to the risk to wildlife. For example, a local endemic species found nowhere should be given higher protection reflecting the risk to that population. The level of penalty would reflect such a risk as well.

3.5 Fees imposed by the Act do not fully recover costs

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

Cost recovery is an ongoing challenge for all regulatory organisations, and most would argue pretty legitimately that they are under resourced in this space. The Act should clearly state what licence fees and permits cost and the cost recovery should be built into the charges and be promoted as being included as well.

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

Definitely, user pay rules should still apply, also all paid penalties should go back into the recovery and licencing/permit system and not go into general revenue!

3.6 The Act doesn't have a mechanism for the making of mandatory codes, standards or guidelines

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

We believe so, it would provide clarity to the duty holder of what's expected, and can they comply with any licence conditions, also given ongoing changing conditions i.e. species become rarer, the regulator can adjust or amend conditions to suit the need, such as new scientific data coming in. Any opportunity to improve the transparency would improve the system.

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

Certainly, the wildlife rescue, rehabilitation and release area could use some development and clarity of mandatory codes and standards, this area is often led by NGO's and volunteers, so any help in this space would be welcomed.

PART 4: Does the Act promote transparency and accountability?

4.1 Should expanding reporting requirements be included in the Act?

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 accountable and for what?

Currently accountability is not clearly defined. In relation to investment in outcomes it is a great opportunity to discuss with CMA's, their ability and experience to coordinate effectively and deliver both projects/programs and network with a broad range of partners and stakeholders at a Catchment level. A catchment approach would support efficient and effective investment of public resources, build on decades of experience, connections, process and systems development and avoid the duplication of effort and energy when investment decisions don't reflect regional and local capacity and knowledge.

It would be helpful for the Act to explain and publicly provide the criteria for approving or refusing applications for the various licences, permits and authorities, including criteria for appealing decisions etc. Regular publicly available information on the number and type of wildlife impacted, including rehabilitated and released wildlife. This would apply to wildlife carers, rehabilitation centers and anyone working with wildlife that needs a licence or permit to do so etc.

4.2 Should independent expert advice play a greater role in decision making under the Act?

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?

Definitely, and a permanent seat/or seats on a future advisory panel overseeing this space would benefit from Traditional Owner input and bring a broader perspective of wildlife, their importance as a totem species, cultural practice and Country. There are certainly many Indigenous academics skilled and knowledgeable that could contribute as well as experienced elders with more traditional knowledge of Country and its wildlife could be brought in as well. Again, a great opportunity to discuss with CMA's, their ability to contribute local knowledge and advice to support deliberations. The structure of such a panel could have a more permanent element or include provisions to bring in targeted expertise to solve a problem or provide fit for purpose advice.

PART 5: Are current enforcement and compliance mechanisms adequate?

5.1 It's not clear whether the Act creates appropriate offences

5.1.1 Should the Act include other offences?

Definitely, especially not including damage to or destroyed wildlife habitat, as this is a key driver of wildlife decline. The NSW *Biodiversity Conservation Act 2016* example provided on p.29 of the issues paper is an excellent means of incorporating impacted wildlife habitat as an offence with significant penalties as well, which we would strongly support such an inclusion.

5.1.2 Should any offences be replaced?

A review of similar legislation would benefit, to see where issues such as the current Act omitted issues of wildlife trespass, wild animal feeding, removal of wildlife from native habitat etc.

5.2 Do maximum penalties deter or sufficiently reflect the seriousness of offences?

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

Definitely not, the current penalties and imposed sentences across the board are too low and inadequate and we believe are not a deterrent. Your example on page 30 of the issues paper re the maximum penalties under the *EPBC Act 1999* are significant, as are the NSW penalties under their *Biodiversity Conservation Act 2016*. A review in this space is needed and could be tiered to reflect the gravity of the offence.

5.3 Continuing offences and additional penalties could be strengthened

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

We note the current Act has some additional penalties; however, we believe the inclusion of a general additional penalty provision should be applied to cover all offences.

5.4 The sentencing process does not provide sufficient guidance for judges

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

Definitely, we acknowledge this is a difficult space and wonder if there is an option for an advisory group to provide sound scientific knowledge and application to assist a judge's determination in wildlife cases? The typically low numbers of prosecutions and sentencing reflects something is missing which could come via an advisory group or through community impact statements which appear to be successfully applied in some jurisdictions e.g. Canada and South Australia, as noted on page 31 of the issues paper.

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

5.5 The Act could also contain a number of other sanctions and remedies to help achieve its objectives

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 to Victoria?

Civil penalty provisions could be a positive value addition and deterrent. We note the NSW *Environment (Amendment) Act 2018* contains a number of civil penalties for breaches of permits and licences. Additions such as these civil penalties would only strengthen the Act moving forward.

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 to Victoria?

Again, we believe including infringement notices under the Act would be beneficial. Provided the process for issuing infringement notices could be streamlined and clear in process, we would imagine it could assist in speeding the prosecution process up. A review of the fines (suggest increasing) and sentences is warranted including sorting out the 'degree' of infringement, some scaling would most likely be needed.

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 to Victoria?

We believe this is a viable option in your tool bag. For example, EPA Victoria has a community fund where convicted polluters when caught can either pay the penalty which would go into general revenue or put the penalty \$'s into the community fund which goes towards a viable mitigation action, such as a fine for air pollution goes into a native revegetation project. A similar approach could be used in the wildlife space.

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 to Victoria?

As per civil penalty provisions and infringement notices, the inclusion of compensation orders could be a positive value addition and deterrent and streamline processes if listed under the Act.

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 to Victoria?

As per civil penalty provisions and infringement notices etc., the inclusion for the making of cost orders could be a positive value addition and deterrent and streamline processes if listed under the Act.

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 to Victoria?

As per civil penalty provisions and infringement notices etc., the inclusion for the monetary penalty orders could be a positive value addition and deterrent and streamline processes if listed under the Act.

5.5.7 Should the Act contain specific provisions to allow for the forfeiture of property used in the commission of an offence under the Act? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply to Victoria?

As per civil penalty provisions and infringement notices etc., the inclusion for the forfeiture of property could be a positive value addition and deterrent and streamline processes if listed under the Act.

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 GB CMA would like to see much stronger compliance rules and penalties (higher!) to deter wildlife crime in the Act. More compliance staff on the ground are required. Investment in the regional delivery of targeted education and awareness activities with communities, industry, local governments, developers etc., is important as is engagement on stewardship and landscape resilience as part of the delivery and extension programs of the Catchment Management Authorities.

The GB CMA fully supports the review of the *Wildlife Act 1975* and applauds the Independent Review Panel for its review work and the key questions posed to inform an updated Act. We are concerned that for good legislation needs to work, its needs to recognise and support the reality on the ground, which is ongoing and significant human development pressure on biodiversity, habitats and our wildlife. We see that rapid land use change and demographic shifts are increasing pressure on the natural landscape and consequently flows down and impacts on wildlife populations. The rapid spread of urban and peri-urban communities across the state and increased natural resource use and impacts are contributing to the long term sustainability of wildlife populations caused by a suite of impacting issues such as increased use and degradation of public land, resulting in loss of habitat, increased fragmentation, increased rubbish/litter, degradation of waterways and wetlands, ongoing and increased firewood take, pressure on native wildlife and threatened species and connectivity challenges.

An updated Act with stronger powers, penalties and clarity of purpose would be of benefit to our wildlife species and populations. Many species in our Catchment are rare such as the Hemiphlebia Damselyfly *Hemiphlebia mirabilis*, Regent honeyeater *Anthochaera phrygia*, Barred Galaxia *Galaxias fuscus*, Flathead Galaxia *G. rostratus*, Spotted Treefrog *Litoria spenceri*, Southern Pygmy Perch *Nannoperca australis*, Macquarie Perch *Macquaria australasica* and Trout Cod *Maccullochella macquariensis* to name a few. These species along with all our other wildlife species need solid protection from an empowered Wildlife Act.

We also would like to acknowledge and support the intent to enable self-determination for Traditional Owners in the reframing of the Wildlife Act legislation, including the improvement in opportunities for the management of wildlife and the introduction of formal mechanisms for Traditional Owners to incorporate cultural knowledge into wildlife management activities.

Should you require any further details on our feedback please contact Dr Steve Wilson, Land, Biodiversity & Indigenous Program Manager at the GB CMA on 03 5822 7737 or 0438 394 353 or email steve@gbcm.vic.gov.au

Yours sincerely



Chris Cumming

CEO

Goulburn Broken CMA