

Submission to review of Victoria's Wildlife Act 1975

Eric Smith, 29 June 2021

Thank you for the opportunity to contribute to the discussion.

I am a rural property holder which is included in the program "Land for Wildlife", a member of Landcare, a birdwatcher and a theologian who seeks to understand the relationship of human beings with the environment of Planet Earth. I live on the lands of the Gunaikurnai people in the Shire of Baw Baw, Gippsland.

1.1 and 1.2 : What should the Act do? and Is the intent of the Act clear?

Contemporary perceptions of humanity's place in the natural environment point to the clear need for legislation to proactively intervene in the extinction crisis we are facing. State Government policies on Biodiversity have partially established a framework, but this Act needs to ensure that legislative requirements enshrine those principles, with power to act quickly.

The Act needs to be clear as to what species are inherent to the true biodiversity of Victoria, and which other species need to be speedily removed from the environment. I have seen the damage done by wild horses in the Alps, by wild pigs in forests, by the Common Myna to native birds food sources and nesting, and by several species of deer on farmland.

Consistent with other Acts such as the Prevention of Cruelty to Animals Act, this Act needs to make clear that all feral species removal needs to be done humanely, but it also needs to ensure that the web of biodiversity upon which our water resources, agriculture and atmosphere depend is prioritised over the feelings of people towards 'nice' feral animals. It is not possible to satisfy everyone and therefore the environment on which we depend for our very lives has to take precedence.

The Issues Paper is correct in identifying the conflicts amongst Victorians, but I want to encourage your recommendations to boldly prioritise the needs of Australia's native wildlife in the environment over perceptions of the alleged sanctity of all animal life, even where it is destroying other life.

The Act needs to clearly state that we are responsible for our actions, both of commission and omission. Removal of Wedge-tailed Eagles, the trade in 'exotic birds' and the trapping of platypus are no more and no less a crime than the act of negligence which leads to the destruction of habitat and the consequent starvation of marsupial and other species.

It will be better to call the new Act "The Native Species Act" so that it is clear we are prioritising indigenous fauna, ensuring it is set within the context of the interdependence of animals, flora, invertebrates and fungi – i.e. the whole network of our ecological system.

The current intent of the Act is not clear and needs to be renewed.

1.3 Indigenous Australians

I am not a member of the First Peoples and therefore cannot speak for them. I am glad you are specifically including them in your consultative processes. To do so is consistent with Victoria's moves towards a Treaty and I hope that process is speedily successful. This Act needs to allow for the newly defined relationship.

1.4 Duty of Care

Enshrinement of a general duty of care in the Act is most worthwhile. It demonstrates the holistic nature of humanity's relationship with the environment – the absence of such a relationship is

hindering our many worthwhile attempts at fixing up details in the environment without being so focussed on the whole picture.

1.5 Definitions

This is where it gets tricky. It seems to me that:

- a) Game animals should be excluded from the act as they are not native, and if some native species are considered as game that should be changed – ban duck hunting as many other jurisdictions have done.
- b) The intricacy of the web of life dictates that all native species should be included. The symbiotic relationships of many species are examples of these intricate connections.
- c) There does need to be flexibility, even at the cost of some confusion. People’s activities produce environmental conditions that favour some species at the expense of others, e.g. long billed corellas in certain localities, and therefore there needs to be some leeway for returning nature to a more balanced situation so that the less favoured species are given a fair go. In other words, where human actions have had detrimental biodiversity outcomes, some human action may need to be taken to redress the balance.

2.1 and 2.2 Broader Legislative Framework

It would make life much simpler for farmers, Field Naturalist Groups, DELWP and everyone else if there was one comprehensive Act. It would be a great goal to achieve in the next 5-10 years, but the current Act needs to be reformed now and cannot wait for such a lengthy process. Even more ideally, it should be a nationally consistent legislative framework, with similar penalties and requirements across the country – but since that is probably a pipe-dream, Victoria needs to set up world’s best practice now, for the sake of the environment upon which we depend for our very lives.

2.3 Habitat

The Ideas paper sets out the issue clearly – the need to take broad perspectives and look at where the species live. This is so basic it hardly needs comment.

However habitats are so diverse that there needs to be flexibility, and legislating prescriptive requirements upon landholders is fraught with difficulty. Establishing the general principles may be a better way to go, consistent with the intent of the Act, and looked at in part 3.

Such principles need to cover all landholders, including mining companies and VicForests.

One of the issues we face is that gum trees drop limbs – appropriate preventative action needs to be legal – but defining this is difficult. But it is important to note that offsets are never a totally satisfactory outcome as new saplings do not replace old trees with many nesting hollows for very many years – too many years for the creatures to wait when they need them this breeding season.

Another huge issue is bushfire. Protection of habitat through the much more extensive use of Cultural burning practices would be a great step forward and of huge advantage to the indigenous wildlife that are so badly affected by both prescribed burns and wildfire.

The Act ought to allow for the farming of emus, macropods and maybe some other native species, but in such ways that do not harm the long term viability of the wild population of those species.

3.1 Principles

My comments on your named principles are in red

- environmental, social and economic considerations should be effectively integrated
Yes, but in situations of conflict environmental considerations must predominate
- prevention is preferred to remedial or mitigation measures
Most definitely
- decisions, actions or things directed towards minimising harm or a risk of harm to human health or the environment should be proportionate to the harm or risk of harm that is being addressed (proportionality)

Yes

- responsibility should be shared by all levels of Government and industry, business, communities and the people of Victoria

Yes, we have responsibilities as well as rights

- actions or decisions are to be based on best available evidence in the circumstances that is relevant and reliable

Decisions must be factually based, not on prejudices, or even necessarily on past practice

- where threats of serious or irreversible harm to human health or the environment, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or minimise those threats (the precautionary principle)

Yes, and I stress that environmental damage is likely to have long-term detrimental consequences for human health

- members of the public have the right for their interests to be accounted for in decisions made under the Act

Only to be used as a principle if it means that people have a right to be heard, but not necessarily agreed with, and that actions taken may not be necessarily in what they perceive to be their interests.

- principles related to participation, consultation and involvement in decision making, including that a decision, policy, program or process account for the rights and interests of Traditional Owners in relation to wildlife

Yes, provided that such consultation does not delay urgent action, or unnecessarily prolong the decision-making process.

- principles promoting particular economic measures, such as that polluters should pay for the costs of their environmental impacts

- the principle of ecosystem-based management
- the principle of ecologically sustainable development
- the principle of adaptive management.

Hear, hear!
Of course
Also of course
And again, of course.

3.2 Consultation

Consultation is necessary, but safeguards are needed that it is not used as a delaying tactic or simply done for the sake of doing it. Consultation needs to be genuine, with no pre-conceived outcomes already set in place.

3.3 Wildlife management plans

I find it astounding that there is no such allowance made already for these. Of course they must be permitted. And don't forget the huge resource of citizen science.

3.4 Licences, etc

Clarity and simplicity are to be preferred. But we know that if you give some people an inch, they will take a mile – so there needs to be rigour also. Indigenous species are our national privilege, and ought not become playthings for certain individuals. On the other hand, the more familiar urban dwellers are with the delights of our native fauna and flora, the better the chance that more people will grow to understand how important it is to conserve, preserve and restore our native species.

3.5 Fees

Full cost recovery or environmental action is not an option, when we are talking about the health of our natural environment on which we depend. It is as vital a component of community responsibility for government to maintain environmental security as for military security. It is an essential and necessary cost to government to fulfil the intent of this Act. Current budgetary allocations for National Parks, Wildlife Management, etc need to be increased by 10% pa for the next decade to bring them up to a more responsible level, and then maintained at that minimum level without reducing other government environmental expenditure.

License fees for permission to undertake certain activities need to reflect the cost to government of allowing that activity to occur, including policing it.

3.6 Mandatory Codes

Human experience shows that if a code is not mandatory it will be flouted. But codes need to have flexibility and not be overly prescriptive or bureaucratic in detail or paperwork.

4.1 Governance

Yes, these are important, just so long as accountability, transparency and reporting do not take so much effort that there is little energy or time left for the actual on-ground work.

4.2 Independent expert advice

I am perfectly happy for government staff to use their expertise – which often is highly developed. But there are occasions where an independent panel can be useful where that expertise does not exist within the relevant government department or authority.

5.1 – 5.4, 5-6 – 5.8 Offences and penalties, etc

I am not sufficiently familiar with the details to be able to properly comment, except to say that environmental offences, especially in habitat destruction, are extremely serious and in many ways are equivalent to damage to private property. Such destruction needs substantial fines and prison terms, especially for corporations.

5.5 Other sanctions and remedies

Education and prevention are the ways of the future. All the suggestions in this section have some merit.