



Part 1: What should the Act do?

1.1 Does the Act reflect contemporary attitudes towards wildlife?

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

The Act is an amazing resource, and it represents a must have set of guidelines and rules to support our marine environment. One of the challenges it presents is that it seems to have been written by people with no experience relating to our line of work. Arbitrary guidelines have been established without a clear understanding of animal behaviour. Our industry is set up to fail by the regulatory constraints. I am not endorsing acting outside the guidelines or not offering protections, however the way the marine mammal regulations are set up for tour operators provides extensive challenges. An example might be approach angles if a pod of 20 dolphins is spread across 100 meters, if we approach the animals we intend to interact with at the correct angle we may also be approaching other animals that we do not intend to approach at an incorrect angle by default.

Another challenge is getting the information out to the general public, tour operators act as the only line of support for the marine mammals, if there is going to be something in place then you must ensure that the greatest threat to these animals, jet ski users and recreational leisure boaters, are managed. Every day through summer we see countless recreational craft acting disrespectful and dangerously toward wildlife. Yes, the act offers protection, how ever we do not see how. It is very upsetting.

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

A personal feeling is that elements of the research community may have set agendas to remove marine mammal tourism altogether, or greatly restrict it. We have seen language that reflects this and heard anecdotes of information not being released from other areas within the research community if it does not align with the set narrative. It would be great to see more research undertaken by a broader range of organisations to ensure no bias is portrayed. This is also reflected by the clear divide in the research community regarding the true name of the local dolphin species, Burrunan or Common Bottlenose.

Another frustration regarding the research vessels, they will not step in and advise the public of the regulations if there are clear breaches that may negatively impact wildlife. This is not their job I understand, however I have seen a certain research group observing a jet ski user feeding dolphins, in the world of tourism we would advise that this is not ok, and they would likely move along. I can't understand how anyone would let that happen if welfare is their aim.



Apart from the above example we have an incredible industry, we communicate well together, and we coordinate with external stakeholders such as Parks Victoria, Water Police, and the Zoo's MRU team regularly for various reasons.

1.2 Is the intent of the Act clear?

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

In our example, the greatest tension comes from people who are not in the environment every day. It would be great to establish a protocol for tour operators to inform a regulatory body or database to pass on infringements and warnings to those that are not abiding by the act.

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?

I am not aware of any.

1.3 The Act does appear to appropriately recognise the rights and interests of Traditional Owners & Aboriginal Victorians.

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?

N/A

1.3.2 Should the Act recognise the cultural significance of Country and wildlife to Traditional Owners and Aboriginal Victorians? Should the Act explicitly recognise the value of Indigenous Ecological Knowledge for the stewardship of Country and the conservation of wildlife?

Yes, within reason. If this will not impact established industry adversely then yes.

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?

Yes, again within reason. We need to do what we can, but we must ensure we are not adversely affecting the established Victorian industry or economy. Tourism will greatly benefit from increased indigenous ties, however, if it becomes further restrictive as a result it may result in negative impacts. A suggestion may be to include an advisory panel / committee to have a say about regulatory changes?



1.3.4 Should the Act afford additional protection and the ability to return species to country because of their cultural significance?

Yes, again if this is impacting tourism, it is essential that the industry is able to utilise the opportunities while improving awareness and knowledge of the species/ ecosystem, generating greater advocacy levels throughout the community.

1.3.5 Does the Act provide appropriate mechanisms for Traditional Owners and Aboriginal Victorians to use wildlife? Should the Act support commercial use of wildlife by Traditional Owners and Aboriginal Victorians?

Yes, if it is not impacting established industry or creating unfair competition for established organisations.

1.4 Could a general duty help clarify roles & 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?

Yes, absolutely!

We need this in our industry. We are an industry of 3 established operators and 1 emerging operator. We are on the water with marine mammals roughly 270 days of the year, we undisputedly spend the most time in the environment with the animals. We also have the most to lose by their demise, we have some of the greatest invested interests in supporting a healthy environment that is supported and protected. I believe that industries like ours that are working closely with wildlife, should be provided with additional regulatory rights.

I think this could be as simple as having a set of requirements for issuing infringement, operators sign a statutory declaration stating information witnessed is true. We then have a standard form and clear guidelines that we can fill out, pass along imagery of the incident, and pass along to the correct department for issue of infringements.

One operator this summer took photos of over 300 recreational craft severely breaching the Act in a way that directly impacted wildlife, it is likely there will be no recourse for those recreational craft operators even after everything has been sent along to the authorities.

With a system of reporting that can be followed through we will have a greater chance of ensuring respectful behaviour toward marine wildlife becomes normalised and not isolated to invested parties.



1.5 Definitions of key terms can be unclear & confusing.

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?

'Burrnan Dolphins' – this is too widely disputed as being a Common Bottlenose dolphin on an international scale. This needs to be fully agreed upon internationally before extraordinary protection measures are imposed. I wholeheartedly support the dolphins being protected, I am saying let's get a clear and undisputed scientifically agreed upon narrative before further impacts are introduced on established industry.

Part 2: How does the Act interact with other legislation about wildlife & animals?

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.

The species of bottlenose dolphin known in Victoria as the 'Burrnan Dolphins' is also known to exist in Tasmania, and South Australia, with such a broad range it is likely these animals have ventured into NSW and WA. Yet the Victorian protections are based on it being a limited species.

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

3.1 The Acts 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?

Yes, however it starts to get very subjective. We say to act respectfully when ever you are in the natural environment. My respectful would be to minimise your impacts and try to prevent any negative impact the environment. The next person may believe they are being respectful by killing every thing they see in a humane manner. What is perceived as respect to the natural environment from one human may differs to the next and it should be more clearly defined within the Act.

I really feel like if we are all acting to improve the natural ecosystems whilst not negatively impacting industry then we will be on the right track. These two objectives co-exist.



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

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

Yes, all decisions relating to changes about operating and interacting with wildlife.

Industry professionals working with animals should be afforded greater input due to the professional nature of their work. In my experience a tour operator with 2 decades of hands-on practical knowledge and experience will have broader insights than a researcher investigating a single question.

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

Implement an ethical acknowledgement for all wildlife permit holders, acknowledging that they will provide information to the best of their ability that will strive to protect the native fauna and flora. Then increase the emphasis on industry professionals to be involved in the decision-making process.

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 minimised?

As a tour operator the feeling is that our word is not considered and that we operate to exploit. This creates substantial challenges. I believe that a commitment to support outreach programs as a permit requirement will improve perception of the industry professionals, this coupled with a legal acknowledgement to be providing information to the best of our ability would help reduce perceived barrier of the most experienced professionals being heard in the process.

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?

Yes, as long as it is measured, draws on all sources of information, and does not provide negative economical impacts to established industry.

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, streamline with Parks Victoria to prevent doubling up of paperwork.

Can we look at ways to streamline processes for known longstanding operators?



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?

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

No, in marine tourism cost recovery is grossly misrepresented. Marine mammal swim and sightseeing charters pay fees for entering marine parks yet fishing tour and sightseeing tour operations do not.

There is also substantial reinvestment into community outreach which should be taken into consideration. Some of this work includes liaising with animal rehabilitation groups, working with organisations to support research works, infrastructure programs and other conservation programs. This support does cost time and money and should licencing fees be increased it will create an adverse impact on the outreach works that are being undertaken.

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

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

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

Tourism without permits – implementing tougher guidelines to become a tour operator. This will help to reduce ill informed 'cowboy' operators coming from other industries and exploiting wildlife – For Example, commercial fishing tours watching and feeding offcuts to seals at haul out sites.

Part 4: Does the Act promote transparency and accountability?

4.1 Should expanded 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 more accountable and for what?

Needs more transparency. Operators should be included on decision making boards/ committees to ensure all interests are represented.



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?

Yes, however it is important to draw on a wide array of committee members. Industry needs to be represented on these committees as our experience in the field is an invaluable asset.

The challenge here is if a researcher presents bias, they may influence the implementation of regulations that are misrepresented by the genuine circumstances, leaning more to support the individuals thoughts or feelings.

Part 5: Are current enforcement and compliance mechanisms adequate?

5.1 Its not clear whether the Act creates appropriate offences.

5.1.1 Should the Act include other offences?

Yes

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?

No, these are grossly inadequate and unfair. Much higher penalties apply for licence holders for not abiding by regulations – in reality if operators negatively impact wildlife, they are hurting their industry and it goes against their best interest. Infringements for the general public are in no way strict enough to deter breaches.

I believe public infringement should be in alignment with commercial infringement to further deter disrespectful and illegal behaviour.

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?

Yes

5.4 The sentencing process does not provide sufficient guidance for judges.

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

Yes



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

Yes

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 in Victoria?

Public penalties should be in line with commercial permit holder penalties.

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 in Victoria?

Yes

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 in Victoria?

yes

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 in Victoria?

If the shoe fits, however it is a very big call. If you are looking at a facility which specialises in cruelty to animals for financial gains, then yes.

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 stories I hear about from fishermen who are caught overfishing or selling their goods to markets, often receive a fine that does not represent a sufficient rate to reconsider the actions. I think the scale needs to be increased for poachers or repeat offenders.



5.6 Authorised officers may not have the necessary powers to enforce the Act.

5.6.1 Does the Act contain the necessary powers and provisions to enable authorised officers to enforce the Act? What powers and provisions should be available to authorised officers? Are there examples from other jurisdictions (both in Australia and internationally) that could also apply in Victoria?

No, officers need to be able to provide on the spot fines for clear breaches

5.7 Are appeal and review provisions sufficient?

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

Yes, at every instance we have had a chance to go through things. I feel that ecotourism needs representation on the board for decision making. While the panel of esteemed experts have a broad range of skills and knowledge, eco-tourism operators have acquired more practical and infield experience that would be well suited to establishing appropriate and accurate decisions. It will be through these stakeholder engagements that strong, well rounded, and equal opportunity decisions will be made, further strengthening the decision-making process, and eliminating any potential bias. After all, some of these decisions will impact Victoria's tourism sector the most.

5.8 Should the Act provide for third party civil enforcement?

5.8.1 Should the Act provide for third-party civil enforcement under the Act? How might this make a difference in achieving the intended outcomes of the Act?

Yes, where regulatory presence is not available.

An example would be close approaches to the fur seal haul out site at Chinaman's Hat, recreational vessels are to remain at 30 meters from the platform, yet we on a daily basis see vessels tying off to the structure, feeding the seals and often travelling at dangerous speeds within very close proximity to swimmers and seals.

Through an AI development we have created we would be able to set a camera on the low landing of the structure, this camera can judge distance, it can identify boats and it can identify people. What it could do is take an image of the rego of a vessel when it approaches closer than the prescribed 30 meters, it will also automatically blur any human faces within the frame for privacy reasons. These images can then be uploaded to the required body for regulatory decision making. We are happy to discuss utilising this AI technology at a later date.

The main idea here is that we can call on systems and services from the community to help create a safer environment. In the above listed instance most people are respectful once they understand the guidelines, however for the ones who are not and are acting dangerously it could help to soften the impact on the environment through disciplinary action.