

Wildlife Act Review

Issues Paper questions – Response 53:

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Primary interests:

- Protection and conservation of wildlife and habitat
- Eco-tourism involving wildlife
- Protections for marine mammals

Question responses

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 most certainly does NOT reflect contemporary attitudes towards wildlife in Victoria. The overwhelming majority of Victorians are absolutely appalled by the ACTW permitting system, and are simply horrified at the KHP (which promotes hair raising kill methods of at-foot and unfurred joeys by bludgeoning or decapitating them!), and of course the inexplicable dramatic widening of this program since 26/12/20. There is also clearly a mounting groundswell of outrage that this state in 2021 is still legally sanctioning the recreational shooting of our native birds. This is clearly evidenced in many ways, including general opinion polls, media pieces, and importantly widespread community objection to planned macropod culls on golf courses (Heritage Country Club in Vic and Greens Beach golf club in Tas constitute salient cases in the last month alone - where these clubs were forced to rapidly back-pedal and cancel planned culls (which were completely legal/permitted KHP actions under the ACT) in the face of overwhelming community outrage. The Heritage club in Victoria received a community petition with over 20,000 signatures - collected within the space of a week. Kinley estate were also forced to abort their planned cull of landlocked kangaroos within their proposed residential development, as a result of overwhelming community damnation - including that of the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation.

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.

Its not lost of the Victorian public that there is an absurd and highly unethical conflict of interest in having a Govt department (DELWP) be on one hand responsible for the welfare and protection of our native animals, and on the other actively promoting and licencing the largest terrestrial slaughter of wildlife on the planet - for commercial profit!! (ie. pet food/meat/goods trade and export markets).

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

The only way the Act can achieve this is through the establishment of an Independent Office of Animal Welfare. Govt simply cannot get away with having one Dept manage both the wildlife protection portfolio and also manage the needs/pressure from powerful commercial (pet food/macropod products) recreational (GMA) and (land development) lobby groups.... BTW: I say this as a land developer.... We clearly need to stop putting the fox in charge of the henhouse!! We

must have an independent body with significant discretionary powers incorporated into the revised Act, to moderate the competing interests in a balanced way, and certainly to ensure that the regulatory burden on these lobby groups is sufficient to prevent exploitation of our wildlife.

1.2.1 Are the current purposes of the Act satisfactory? If not, what should the desired outcomes, objectives or purposes of the Act be? How should the objectives and purposes of the Act relate to the desired outcomes? How would they ensure desired outcomes are achieved?

The intent of the act is certainly not clear, if its claiming on one hand to be an instrument through which Victorian wildlife and its ecosystem/habitat is protected, and yet we have ongoing draconian waterbird hunting seasons, and of greatest concern the highly aggressive and unpopular ACTW and KHP systems in place.

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

The only way to resolve this is to ensure that the Govt dept charged with responsibility for protection and conservation of our wildlife, is not also responsible for regulating/promoting commercial slaughter programs and land development and planning. This is an untenable and highly unethical conflict of interest within the portfolio of a single Govt department. We must establish an Independent Office of Animal Welfare, which operates in a non-partisan manner, to at least have very significant regulatory powers to ensure that animal welfare interests are not being heavily overshadowed by competing commercial/recreational hunting/land development interests.

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?

It most definitely is. The Traditional Owners/Aboriginal Victorians have been very publicly vocal in their outrage and horror at the KHP/ACTW programs, and what this means for our totem animals (macropods). The Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation have significantly contributed to campaigns to abort planned macropod culls on Melbourne's Kinley estate and Heritage Golf & Country Club.

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?

It absolutely should explicitly recognise the value and opinion of the Indigenous community/Traditional Owners.

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?

The Act should absolutely prescribe a meaningful role for Traditional Owners/Aboriginal Victorians. They must have significant power to actively contribute to decision making about wildlife conservation. This should be in the form of the opportunity for meaningful input into all aspects of the core legislative framework, but also the evolving relevant standards & regulations.

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?

The Act definitely needs to prescribe a general duty of care to wildlife conservation/biodiversity protection. Clearly this is not sufficiently reflected in the current Act, or we would have the disastrous and horrifying ACTW/KHP systems rolled out and escalating across this state. I also note that biodiversity is not being sufficiently considered in growth area Planning Schemes, particularly around land use and new residential estates. They simply do not consider the impact on wildlife habitat and migratory patterns across the land. This is clearly having an increasingly disastrous impact on wildlife, not only through the loss of critical habitat itself, but also the daily consequences of wildlife attempting to cross busy roads (injuring and death caused by collisions with vehicles) or coming into contact with domestic pets (dog attacks etc).

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

Yes absolutely. There simply shouldn't be any "game" animals in the year 2021. The draconian notion of shooting an animal for any recreational purpose simply has no place in modern animal welfare legislation. These animals should always have been afforded protection under the Act, and definitely need to be defined as 'Wildlife'.

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

Game management needs to be phased out period. The overwhelming majority of Victorian community believes that there is no place whatsoever for recreational hunting. The revised Act needs to respond to this, in the first instance by removing the ridiculous degree of discretionary powers the GMA currently hold, with a medium term provision to eradicate game hunting completely.

2.3.1 In what ways does the Act succeed or fail in protecting and conserving wildlife habitat? Please provide examples from your own experience.

The Act fails to protect wildlife habitat in terms of land development (ie. previously mentioned Planning Schemes failing to consider native animals and their habitat and migratory paths). As a land developer I see this again and again in Victoria. There are numerous examples of landlocked macropod mobs simply being slaughtered (Epping, and recently Kinley estate - until widespread community outrage aborted that) as their habitat and migratory patterns have been completely overlooked in the land use planning for their area. The "Portland Massacre" of koalas is another salient case in point, where large areas of koala habitat were destroyed. The new legislative framework must ensure that critical wildlife habitat is preserved in residential growth areas. Not only in terms of the Planning Scheme adequately provisioning for the conservation of critical wildlife habitat, but ensuring that they can move across their natural migratory paths without encountering dangerous roads (or if they must, ensure a strategic wildlife over/underpass is provisioned at critical points) or residential estates.

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

It is clear that the Act needs to ensure it is able to robustly stand against powerful lobby groups (ie. land development bodies, large oil/gas infrastructure organisations such as AGL), and its own Govt imperatives such as the VPA fast-tracking 18 large-scale residential development and road infrastructure projects to unlock significant economic value (which enable them to circumvent

critical planning controls). This is why the Act must establish an Independent Office for Animal Welfare, to ensure that the interests of Govt/private industry groups do not weaken the legislative power of the Wildlife Act and result in the exploitation of wildlife or loss/mismanagement of critical habitat.

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

Absolutely yes they do. Wildlife protection legislation MUST NOT stop at the title boundary of private land. This must be universal legislation. Why should the rights of animals living on private land be compromised?

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

Absolutely not. Wildlife protection legislation MUST NOT stop at the title boundary of private land. This must be universal legislation. Why should the rights of animals living on private land be compromised?

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?

Of course. Animal sentience must be a core theme in the new legislation, and serve as a guiding principle for all of the associated regulations and standards. This is the only way to protect wildlife from the extreme commercial exploitation of the KHP enterprise and the ACTW system. These horrifically cruel, barbaric and unregulatable systems are directly borne out of the fact that animal sentience is in no way reflected in the current legislation. It is also the only way to protect our wildlife from grossly inappropriate and damaging (not to mention indescribably cruel) population control measures such as 1080 baiting programs.

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

I've addressed this point above.

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?

Of course the Act should include clear statements of principle and criteria as the core of the legislation. That's what legislation is. The guiding principle should be protection and conservation of wildlife and habitat, and that needs to be clear and robust enough to withstand powerful lobby group pressure that cuts across that principle (ie to slaughter macropods for commercial gain, or seek approval for inappropriate land use etc).

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

Yes the Act certainly should provide for community consultation, and by this I mean engagement that is not mediated through highly partisan 3rd parties such as AgriFutures. I'm utterly staggered and appalled that there was no meaningful community engagement/consultation around the appalling decision to introduce a KHP in Victoria, and certainly to dramatically expand the vile trade on 26/12/20. Any proposed change to land use or management, or a significant program to 'manage

wildlife population' must undergo meaningful community engagement, where the public has a significant say in what is being proposed.

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

As above.

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?

It appears there are NO barriers to private sector lobby groups completely overriding any protective value of the Wildlife Act. The new legislation needs to dramatically REDUCE the persuasive power of land development/agribusiness/commercial trade groups (ie. pet food/products/export) and private land owners such as farmers, and make it much more difficult to override the protective/conservation intent of the Act.

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?

The permissions framework itself needs wholesale revision to remove the ACTW permit system and KHP. Both of these systems absolutely undermines the intended protective outcomes of the Act. They serve as a significant cautionary tale, in how the legislation (and Govt department charged with the competent management of the legislation) has been completely overridden by the interests of powerful commercial lobby groups.

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

No.

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?

There simply shouldnt be any licencing in the first place. ACTW and KHP systems must be eradicated immediately.

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

Of course, yes it must allow for this.

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?

Absolutely not. The KHP and ACTW debacle clearly evidences this. Interdepartmental finger pointing between DELWP, the Conservation Regulator and the GMA make it (intentionally) impossible to clearly understand the underlying regulatory mechanisms of these programs.

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?

Absolutely, but its critical that this is in the form of an Independent Office of Animal Welfare, and not some highly partisan academic such as Graeme Coulson (who's private consultancy financially benefits from his engagement with DELWP). This is of critical importance. The advisory body must be non partisan.

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

The maximum penalties in the Act are clearly in no way adequate to deter offenders. We have seen a significant increase in violent offences against wildlife. There needs to be a mandatory custodial sentence for anyone convicted of a violent offence against wildlife.

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

Absolutely.

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

Yes, this is critical. Case in point: The overwhelmingly negative impact on the community's mental health as a result of the KHP appears to be completely ignored by Govt.

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

Yes of course. It must, because clearly sentencing of offenders convicted under the Act is woefully deficient/lenient.

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?

Yes, there certainly should be civil penalty provisions.

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 it should.

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 in Victoria?

Yes at the core of the legislation. If regulators cant enter enforceable undertakings why have legislation at all.

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 in Victoria?

Yes.

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 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?

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?

It clearly does not. This needs to be addressed at the wholesale revision of the core legislation, to ensure more robust regulatory tools.

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