

The Independent Review of Victoria's Wildlife Act 1975

Website: <https://engage.vic.gov.au/independent-review-victorias-wildlife-act-1975/submission-upload>

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Part 1: What should the Act do?

Section 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 should protect native animals and plants for their intrinsic value. Native animals should have the right to live their natural way of life in their original habitat. Humans have exterminated more than enough native animals and plants (*both in terms of individuals and species*) and destroyed more than enough natural habitats and it is necessary to protect the ones that remain.

It is necessary to stop supporting human population-growth and the expansion of housing, roads, mining, logging and farming, especially animal farming, and return land to nature and indigenous peoples.

Australia has the worst record in the world when it comes to species extinctions. Australia is as bad as Brazil when it comes to the scale of destruction of natural ecosystems.

Victoria is the state with the largest fraction of natural ecosystems that have been destroyed by humans. Populations of native species continue to decline in Victoria and the number of threatened species is increasing. It is unacceptable that Victoria recently introduced a kangaroo meat industry, both for 'pet' food and human consumption.

I lived in Australia from 1970 to 1992 but never saw a kangaroo in the wild, even though I travelled a lot, including going to school excursions and camps, and doing farm work, such as picking potatoes and peas. It is not that I was not observant because I have been concerned about animals since early childhood and, in those days, we did not have smartphones or other electronic devices to divert attention away from the natural landscape. Opposition to the killing of wildlife is not new nor is it confined to some socio-economic classes. I have been opposed to the killing of animals since 1972, when I was 3 years of age and before I could speak English and I was living in the public housing suburb Corio, near Geelong, Victoria. I returned to my country of origin because I did not wish to be part of a country in which the large-scale destruction of natural habitats, the logging of forests and the extermination of native animals continues to take place and which is the result of genocide against indigenous peoples. For the same reasons, I try to avoid and campaign against products that contain raw materials from Australia, North and South America, Southeast Asia and Sub-Saharan Africa.

I have been involved in animal rights activism in Croatia since it began in 1999 and I helped to form the first animal rights organization, Animal Friends Croatia, but I do activism on my own and do work that is unrelated to animals or nature for an income.

I have been involved in the campaign against the killing of native animals in Australia since early 2002. That was after a news report on Croatian Radio-Television about the Australian government increasing the killing quota from 5.5 million to 7 million kangaroos. I became a member of the Australian Wildlife Protection Council.

It is a myth that Australia has high standards of ecological protection or animal welfare. By contrast, we have achieved a lot for animal rights and the environment in Croatia although a lot more needs to be done. A ban on fur-farming in went into effect in 2018. The keeping of dolphins in captivity is banned as is the use of wild animals in circus acts. The testing of non-medical products on animals is banned. No primates are used in experiments although they are not actually banned. The sowing of GMOs is banned. Interestingly, all this progress happened whilst a conservative government was in power and animal rights organizations are actually eligible for some government funding. About 47% of the land is covered in natural and nature-identical forests and an additional 15% is abandoned farmland. Croatia is a relatively good European example of humans co-existing with native animals such as deer, bears, wolves, lynx and foxes. There are 'green bridges' over highways so that animals can cross safely and there are fences on both sides. However, I am disappointed that the hunting of native animals, such as deer and bears, still takes place.

The killing of native animals in Australia (*and bison in North America and deer in Europe*) makes campaigns against the killing of gorillas and elephants for 'bush meat' in Africa; or the Chinese killing of sharks; or the Japanese or Norwegian killing of dolphins look as though they are not due to genuine concern.

Concern for native and other animals (*and plants and nature*) is increasing around the world. Many people think that protection of native animals in China is not a good but there was a news report in early June 2021 in which humans used drones and cars to escort a migrating herd of elephants through a city of 7 million people. There are many examples of people co-existing with native animals in various Asian and African countries, India and Russia that I have seen on television over the past few years.

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.

There are conflicts of interest between those who advocate the protection wildlife and those who advocate the exploitation and killing of wildlife. It is unacceptable that the same department (DELWP) that is responsible for protecting wildlife also issues licences to kill wildlife (ACTW Permits). I do not have direct experience of this but I am aware of it as an activist.

One area where I am in conflict is the hunting of native animals by Traditional Owners and Aboriginal Victorians. I am opposed to the killing of animals by humans but I am also opposed to white people stopping indigenous people from living their traditional way of life. The ideal solution is to have indigenous people advocate veganism within their community. The killing of endangered species and commercial killing should be prohibited to all, including indigenous people.

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 Act should be all about the protection of wildlife and not about exploitation or killing.

Section 1.2 Is the intent of the Act clear?

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 appears clear to those of us who support the protection of native animals and plants but those who support their exploitation may see the intent of the Act differently.

The purpose of the Act should be:

- to prohibit the exploitation and killing of wildlife;
- the protection and conservation of wildlife;
- the prevention of taxa of wildlife from becoming extinct.

It is unacceptable that introduced species are offered protection and that some native species are not protected. Native species have no other homeland and should be protected.

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

The Act should be all about the protection of wildlife and not about exploitation or killing.

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 familiar enough with legislation in various jurisdictions to be able to provide a good example.

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

The Act may be a barrier to self-determination for Traditional Owners or Aboriginal Victorians. Traditional Owners and Aboriginal Victorians have the right to exercise self-determination and they should make the decisions related to the land and conserving, protecting and using wildlife.

Victorian Aboriginal communities are Australia's First Nations. As the world's oldest continuing culture, they have an intrinsic and lasting connection to Victoria's land, waters and animals. The culture, customs, and practices of Victorian Aboriginal People valued, protected and shaped the land and its animals over thousands of years. The land supported a biodiverse fauna that play an important role in the cultural practice of Traditional Owners and Aboriginal Victorians.

Some species have high cultural importance to Traditional Owners and Aboriginal Victorians, yet these species are not recognised under the Act or any other Victorian statute as being culturally important. The Act does not require consideration of the impacts on Traditional Owners when these totem animals are hunted or killed on Country. Traditional Owners have a cultural obligation to protect Country and wildlife. These obligations can be realised in many ways. For instance, each nation has totems that represent sacred animals and areas. Likewise, individuals of each nation have personal totems, and that ensures that many native species are someone's responsibility. Individuals are responsible for protecting their totem and normally totemic species are not to be eaten. In this way, wildlife is protected both by nations and individuals.

Since I advocate the right of Traditional Owners and Aboriginal Victorians to self-determination but I am also opposed to the killing of wildlife and especially if that puts species in danger, I think that it is reasonable that Traditional Owners and Aboriginal Victorians must still apply to government for taking, hunting or using wildlife. Ideally, it would be good if Traditional Owners and Aboriginal Victorians had their own authorities acting to protect wildlife. I advocate the return of land to First Nations. It would be good if there were a fund to which people from around the world could donate to buy back land. I have been donating towards the "Pay the Rent" fund since April 2020.

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?

The Act should recognise the cultural significance of Country and wildlife to Traditional Owners and Aboriginal Victorians and explicitly recognise the value of Indigenous Ecological Knowledge for the stewardship of Country and the conservation of wildlife. The culture, customs, and practices of Victorian Aboriginal People valued, protected and shaped the land and its animals over thousands of years.

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?

Traditional Owners and Aboriginal Victorians have the right to self-determination and they should be make decisions relating to land and wildlife. Obviously, Traditional Owners and Aboriginal Victorians should decide on their role rather than having somebody else prescribe it to them.

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

The Act should afford additional protection and the ability to return species to country because of their cultural significance. However, species should be reintroduced to country if they existed there in the past even if they do not have cultural significance because native species have an intrinsic value.

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?

One area where I am in conflict is the hunting of native animals by Traditional Owners and Aboriginal Victorians. I am opposed to the killing of wildlife and other animals by humans but I am also opposed to white people stopping indigenous people from living their traditional way of life. The ideal solution is to have Traditional Owners and Aboriginal Victorians advocate veganism within their community.

The Act should not support commercial use of wildlife by Traditional Owners and Aboriginal Victorians. The killing of endangered species and commercial killing should be prohibited to all. As far as I know, Traditional Owners are opposed to the commercial killing of native animals. The fact that indigenous people hunted native animals in the past does not mean that it is sustainable to commercially hunt them now because the human population of Australia is about 100 times what it was before the white colonization of Australia.

Section 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?

The Act should prescribe a general duty of care related to wildlife conservation or biodiversity protection more broadly. It would be an obligation to avoid or undertake acts that could reasonably be foreseen to cause or avoid injury or harm. General duties can fill gaps in existing legislation where no specific duties are imposed. When backed by appropriate guidelines they can also guide individuals on their roles and responsibilities and what practices are acceptable. Such a duty can also be applied to government bodies such as those responsible for managing public lands, for example to require proactive action to repair and restore degraded areas.

Such duties already exist and people should take all reasonable and practical measures to prevent or minimise pollution or harm to the environment, wildlife or human health.

However, such duties may be difficult to enforce and may not provide much additional protection for biodiversity if direct environmental protection legislation exists.

Recognising or imposing a duty of care affects who bears the costs of achieving desired outcomes. Federal and most state law provides some rights of compensation for removing property rights which may result from imposing new duties. Given this, it may be necessary to help people understand their obligations under a general duty, by phasing in standards of best practice, and/or helping with the costs of fulfilling their obligations.

However, a statutory duty of care would not solve all problems and would need to be supported by complementary approaches to support shared responsibilities.

Section 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?

The definitions are not confusing but there should be more information available to the public.

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?

The Act should apply to all native species of animals (*including fish and other marine animals and invertebrates*), plants and fungi. It should exclude all non-native species because they can harm native species and their habitats.

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

'Game' animals should be excluded from the Act entirely because they are not native species and are actually harmful to native animals because they compete for food and living space, spread disease and can destroy their habitat.

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

Section 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?

Unfortunately, interactions between the Wildlife Act and other legislation cannot be avoided and all we can do is to try our best. This is because all human activity affects wildlife.

For example, human population growth is causing the continued destruction of natural habitats and the extinction of species. Australia has a high per-capita ecological impact and it would be good for governments to stop encouraging human population growth. That means that legislation relating to family allowances and immigration affect wildlife.

Education and science affect wildlife because education forms a person's attitudes and science can research ways to protect wildlife but it can also exploit native species in research which does not necessarily benefit them or it can be a link in the development of technologies that can turn out to be harmful to wildlife, such as GMOs, chemicals, nuclear power and so on.

Religion can also influence attitudes towards wildlife and nature.

Any legislation to do with agriculture, mining, logging, construction, transport and just about any other industry will affect wildlife and nature.

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

Wildlife, flora and fauna generally should be regulated by a more inclusive statute to avoid conflicting legislation. It would be good to amalgamate some parts of existing Acts into a broader statute that encompasses all aspects of biodiversity.

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

'Game management' has nothing to do with wildlife and should not be under this Act. I am opposed to recreational hunting but I do support the removal of non-native species from natural areas.

Section 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 movement and distribution of many Australian wildlife species, such as kangaroos and birds, across state borders requires the involvement of multiple jurisdictions in their management and regulation.

Wildlife management should account for impacts on the whole population regardless of state borders or land tenure, to ensure wildlife control or management is appropriate and sustainable.

I am opposed to all lethal control and hunting of native wildlife and the trade in products that are made from wildlife.

It is necessary to harmonize legislation across Australia and increase penalties relating to wildlife.

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

It is necessary to harmonize legislation across land tenure regimes. Native animals on private land should also be protected and if they need to be removed then they should be relocated and not killed.

Section 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 protecting and conserving wildlife habitat? Please provide examples from your own experience.

The Act is failing to protect and conserve wildlife habitat. It is quite obvious that suburbs are sprawling and natural habitats are being destroyed. Habitat health and integrity are necessary components of protecting and conserving Victoria's wildlife. Native vegetation is being destroyed in Victoria at a rate of 4,000 habitat hectares per year. The destruction and degradation of habitat has flow-on effects on Victoria's native wildlife, increasing the vulnerability of our ecosystems.

The Act addresses conservation by regulating direct threats to wildlife, such as taking wildlife without an authorisation or licence. However, it does not account for indirect threats such as the destruction of wildlife habitat.

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

The Act should mandate that existing natural ecosystems be protected. That would mean that the relevant departments should stop offering permits for the continued expansion of agriculture, animal farming, mines, roads and housing.

Since human population growth is causing these problems, it is necessary for the relevant departments to stop supporting human population growth through births and immigration. It is necessary to cut one-off baby payments and family allowances, especially to those with more than two children. It is also necessary to stop encouraging immigration into Australia and it is unacceptable that I occasionally see online advertisements for immigration into Australia. A person living in Europe has a much smaller ecological impact than a person living in Australia. To avoid coming across as racist, I focus my criticism on immigration into Australia from Europe.

Anything that is good for the environment is good for wildlife and wildlife habitat. More people using public transport and less people driving cars means less native animals killed on roads. More recycling means less logging and mining is required for new raw materials. More high-density housing means less land taken up by suburbs. Energy conservation means less destruction of wildlife habitat for gas and oil drilling and coal mining. More veganism means less land used to feed the same number of people.

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?

The Act should prescribe duties for landowners about protecting and conserving wildlife and wildlife habitat on their land. That should involve a ban on the killing of native animals, logging of native trees and the destruction of existing natural vegetation.

Section 2.4 The treatment of wildlife as property

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

Wildlife should not be property but should be considered as having intrinsic value. The law should recognise inherent rights in wild animals (*wildlife and nature as legal subjects*).

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

Private landowners should not have greater rights to use of wildlife on their property.

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?

The Act should recognize sentience in wildlife. This would mean that governments, businesses and individuals could not trade in or kill wildlife and would need to avoid causing harm to them.

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

One area where I am in conflict is the hunting of native animals by Traditional Owners and Aboriginal Victorians. I am opposed to the killing of wildlife and other animals by humans but I am also opposed to white people stopping indigenous people from living their traditional way of life. The ideal solution is to have Traditional Owners and Aboriginal Victorians advocate veganism within their community.

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

Section 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?

The Act should include statements of principle and criteria to guide regulators, duty holders and the public.

The guiding principle could be that native species and ecosystems have an intrinsic value and do not exist just to be destroyed by humans. Native animals should have the right to live their natural way of life in their original habitat. Humans have exterminated more than enough native animals and plants (*both in terms of individuals and species*) and destroyed more than enough natural habitats and it is necessary to protect the ones that remain.

Indigenous peoples have the right to self-determination and to live according to their traditional way of life but it should be done in a way that does not put native species in danger of extinction or destroy natural ecosystems.

Section 3.2 Does the Act facilitate an equitable and 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?

The Act could incorporate provisions requiring or enabling consultation and engagement with community members. Not-for-profit organisations can play significant roles in leadership and governance, including contributing to the design and implementation of strategies aimed at conservation of wildlife, since they have more resources than individuals and may have more enthusiasm than employees in the public service.

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

I am not sure how community involvement could be improved because I already have information about more public consultations than I have time to take part in. Unfortunately, working people in Australia generally have much less time for public consultations than we do in Croatia because of longer work hours and time spent travelling to and from work (*or education*).

Regular community consultation about wildlife would be useful for information sharing including about alternatives to lethal control. This approach could support the development of effective wildlife management plans and damage-mitigation strategies at a regional level rather than by individual landowners operating in isolation. Consultation would also allow collection of informal data about the impacts of wildlife on communities and the impacts of people and activities on wildlife to supplement official reporting.

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?

There is already too much private sector involvement in wildlife management. I am referring primarily to the killing of kangaroos and the logging of forests. I am not familiar on private sector actors who would like to be involved in the conservation on wildlife so I cannot comment that. I guess that that could refer to wildlife carers and they should not be restricted when they rescue animals. However, I prefer the idea of protecting entire ecosystems to rescuing individual animals.

Section 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?

I am not sure what to write other than that I am opposed to any exploitation of wildlife.

It is better to protect existing natural ecosystems than to actively restore those that have been destroyed by human activity.

Section 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?

The Act should not simplify but should clarify the provisions relating to the various licences, permits and authorities. I am opposed to the exploitation and killing of wildlife.

Section 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?

The Act is not 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?

Fees imposed by the Act should fully recover costs and monies collected should have to be reinvested in administering the Act or funding wildlife-related activities. It should be on user pays or beneficiary pays principles. It is unacceptable that permits to kill wildlife are issued to farmers and other landowners at less than their cost and taxpayers subsidise the difference.

Wildlife regulatory agencies need sufficient resources to undertake the functions necessary to achieve legislative outcomes. Adequate funding allows regulators to access qualified staff, monitor compliance, use appropriate technologies and follow through with prosecutions when necessary.

Section 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?

The Act should contain provisions that allow for issuing mandatory codes of practice, standards or guidelines that stipulate how activities relating to wildlife must be lawfully conducted.

That would make it easier for the duty holder to be confident they comply with licence conditions and the regulator can prescribe mandatory standards that can be amended and updated easily as scientific knowledge grows. Their creation is more transparent than for the current licence conditions, which are drawn from various voluntary codes and guidelines.

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

I would like to see wildlife rescue benefit from the development of mandatory codes or standards.

I am opposed to activities that involve the exploitation and killing of wildlife and the only codes and standards that I would like to see for such activities is their prohibition.

Part 4: Does the Act promote transparency and accountability?

Section 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?

The Act lacks provisions to enable publicly available evidence-based justifications for some government decisions about wildlife management. For example, information is published on the number and general nature of ATCWs issued, but there is no publicly available information about the effect of these authorities on wildlife populations. The Act does not require holders of an authorisation to report on the use and outcomes of that authorisation.

The Act should:

- state explicit and publicly available criteria for appeals to decisions about ATCWs and other licences, permits and authorities;
- require reporting on the number of applications for ATCWs and other licences, permits and authorities, the number of declined and approved applications and the general reasons for approving or declined applications;
- require reporting on the number and type of animals actually taken, killed, destroyed, disturbed, marked or controlled, the methods actually applied and the possible impacts on the animals under approved ATCWs and other licences and permits;
- require reporting on the number and type of animals 'taken' from the wild for rehabilitation and the number and type of rehabilitated animals released, and post-release outcomes for those animals.

Reporting such information is common in contemporary law and is critical for applying scrutiny and evaluating impacts.

Section 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?

The Act should 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. Scientific knowledge, products, practices and technology for managing wildlife evolve constantly. Expert consideration and advice on these developments is necessary to support up-to-date and evidence-based decision making.

The only other approaches that I can think of are to leave key decision makers such as the Minister, the Secretary or the regulator on specific matters relating to wildlife open to pressure from stakeholders such as businesses, landholders, animal and ecological activists, the media and the general public.

Part 5: Are current enforcement and compliance mechanisms adequate?

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

5.1.1 Should the Act include other offences?

The Act should include other offences such as trespass to wildlife, feeding animals in the wild, taking native wildlife from critical habitats, and disturbing dangerous native animals. A major omission is interfering with or destroying wildlife habitat, which indirectly affects wildlife.

5.1.2 Should any offences be repealed?

No offenses should be repealed.

Section 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?

The maximum penalties under the Act are too low to either deter or punish offenders. They do not reflect the gravity of the offences committed against wildlife and are lower than the maximum penalties in other jurisdictions.

It is important to increase both the maximum penalties but it is even more important to introduce minimum mandatory penalties if they do not already exist or increase them if they exist because, all too often, people who kill native animals or plants or destroy the environment are given no or very small penalties.

Section 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?

The Act should contain general provisions creating continuing offences and allowing for additional penalties because penalties should be proportional to the harm that was done, such as the number of animals or plants killed or the duration of the suffering to an animal or of some polluting activity.

Section 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?

The Act should contain provisions to permit community impact statements relating to the harm caused to wildlife although I would prefer that the seriousness of the harm caused to the wildlife be the primary criteria for sentencing. Over recent years, a limited number of offences have been prosecuted under the Act and even when successful, the sentences imposed have been regarded by many members of the community as inadequate to either sufficiently punish offenders or deter them or others from committing similar offences.

Some harms may affect a community, or some members of a community more than others, such as Traditional Owners who may have a particular interest in certain wildlife.

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

The Act should contain specific provisions to guide sentencing of offenders convicted under the Act. The court should consider matters such as the extent of the harm caused or likely to be caused by the offence, the extent to which the person who committed the offence could reasonably have foreseen the harm caused or likely to be caused, and whether the offence was committed for commercial gain.

Often, it is difficult for judicial officers to determine the seriousness of a harm if they are not familiar with the nature or the context in which it may occur. This is particularly the case for harms to wildlife and the environment.

Section 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?

The Act should contain civil penalty provisions but it would be better if harming wildlife and natural habitats were subject to criminal penalties to reflect their seriousness.

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?

The Act should allow for infringement notices for minor offences but I would prefer more serious penalties for harm to wildlife and natural habitats.

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?

The Act should contain provisions enabling regulators to enter into enforceable undertakings.

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?

The Act should contain provisions allowing for compensation orders or mandated bonds/financial assurances because that would act as a deterrent.

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?

The Act should contain provisions allowing for the making of costs orders both to recover costs and to act as a deterrent.

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?

The Act should contain provisions allowing for the making of a monetary penalty order both to recover costs and to act as a deterrent

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?

The Act should contain specific provisions to allow for the forfeiture of property used in the commission of an offence under the Act because that would act as a deterrent.

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 Act does not contain adequate regulatory tools, sanctions and remedies to punish and deter wildlife crime. All of the above additional tools, sanctions and remedies should be included within the Act and courts should stop giving minimum penalties and sentences.

Section 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?

Current powers under the Act require strengthening. For example, the Act does not grant authorised officers with powers to require a person to stop an activity and remedy a harm. It also does not clarify that authorised officers are themselves exempt from offences under the Act while carrying out their duties (*e.g. the euthanasia of wildlife*).

Section 5.7 Are appeal and review provisions sufficient?

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

The Act does provide provisions for the review and appeal of decisions but I am not sure how that functions in practice. However, I am concerned that permits to kill wildlife or destroy natural habitats are granted. I am not interested in appealing refusals to grant permits to kill wildlife or destroy natural habitats.

Section 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?

The Act should provide for third-party civil enforcement under the Act when public enforcement authorities fail to act even though there may be a public interest in taking enforcement action. This would provide interested and affected third parties with a remedy if the regulator fails to act.