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Dr Deborah Peterson,
Chairperson,
Independent Review of Victoria's Wildlife Act 1975

Submission to the Review of the Victoria Wildlife Act

This submission has been prepared by BEAM Mitchell Environment Group Inc. BEAM has had a long involvement over 30+ years in lobbying and on-ground works for nature conservation in Mitchell Shire north of Melbourne and lobbying across the wider areas of Victoria and Australia particularly for laws that will protect our wildlife and their environment. This submission was prepared by Peter Mitchell (PhD Zoology) with input from other members of BEAM.

The consensus in the group is that the Wildlife Act 1975 fails to reflect both community standards and concerns about wildlife management and the current parlous state of our native species and their environment:

- More and more people are growing to respect and value our wildlife and want them protected for their intrinsic values and as an important part of the Australian environment. There is growing evidence that a majority of people are willing to fund wildlife protection and particularly fund threatened species conservation (Pandit and Sander. [*The economics of threatened species*](#). Threatened Species Recover Hub March 2021). In the US, an Endangered Species Act was enacted (despite political divisions) "*to halt and reverse the trend toward species extinction, whatever the cost*".
- The Act fails to address the big conservation issues for wildlife. Since the arrival of Europeans in this country, our wildlife have been affected by the many impacts of our ever-growing population: habitat loss and fragmentation from land clearing, intensive agriculture and urbanisation, exacerbated by threats from introduced pest species and climate change. Locally in the peri-urban Mitchell Shire, we are seeing all these impacts writ large. We understand that developers have to have a wildlife management component as part of their permit from the local Council but in practice, we don't think they do much.

More broadly, we have gone from the initial "The Great Extermination" described by Professor Jock Marshall (1966) to the present "Extinction Crisis" involving millions of species. The current legal frameworks are clearly failing to protect wildlife and their environment.

- Recreational hunting is out of step with standards for the protection of animals from cruel hunting practices and for the effective management of wildlife and pest animals.

- The current Act protects some non-native species that are causing severe damages to the environment and wildlife habitat.
- Penalties for infringements of the current Act are clearly insufficient to deter illegal activities, as we have seen recently after the poisoning of Wedge-tailed Eagles and other species.
- Government organisations such as VicForests have been acting in ways that threaten wildlife but seem to be immune to any laws for the protection of wildlife. We are particularly concerned that the Federal EPBC Act has been used to over-rule decisions made under Victorian laws such as the recent case around forestry in the habitat of Leadbeaters Possum.
- The Office of the Conservation Regulator seems to be less than useful in our dealings over the impact of forestry on threatened species.

A new Native Wildlife Act

We have a great opportunity in this Review to replace the current Act with a new Native Wildlife Act with the primary intent ***to protect and conserve and ensure the long-term viability of all native wildlife, their populations and their habitat.*** This Act should protect animals from indiscriminate destruction and stop the decline of animal populations. It should care for all native species to ensure that we have healthy viable populations far into the future.

The Act should focus on

1. Protection of all native wildlife in their natural habitat from removal and harm and from cruel and unnecessary practices. No wildlife species should be declared as unprotected.
2. Protection of the habitat of wildlife at a local, landscape and State-wide scale, including paddock trees, remnant patches and connectivity (biolinks, stepping stones, etc). To best achieve this, an ecosystem approach is needed using the best practices that are being developed and tested across Victoria. Identification of critical habitat is obviously of great importance.
3. Monitoring wildlife populations and identifying threats to those populations.
4. Management of issues associated with wildlife that are, above all, in the best interests of wildlife. Independent committees should be established to provide expert advice and review the evidence on the status of wildlife and options for management of wildlife issues.
5. Establishment of an independent regulator to enforce this and other relevant laws without favour to Government agencies or private citizens and groups. This would be a step enabling private citizens to take legal action in the public interest
6. Improve processes to enforce the law including citizen-led prosecutions
7. Make stronger and more effective penalties.

As the Act “also plays a central role in Victoria’s legal framework for protecting and managing biodiversity”, the new Act should also be closely aligned with other relevant laws. Although the Terms of Reference for this Review do not include other acts, regulations or governance, we feel a complete review should at least consider the following as very relevant to the whole legal position of wildlife in Victoria:

- Flora and Fauna Guarantee Act: this Act goes some way towards protection of wildlife but it only focusses on species officially declared as “threatened” and not all the other species whose populations were severely depleted in the early days and continue to decline as a delayed response to past and continuing threats. Many aspects of the FFG Act should be included in the new Act including the concept of “critical habitat”.
- Prevention of Cruelty to Animals Act . this Act should also be linked to the new Act to ensure that all wildlife management practices approved under the new Act comply with community standards on cruelty to animals (as should all practices in the CaLP Act).
- Catchment and Land Protection Act: the CaLP Act should apply to all non-native animals that are not under direct domestic management and “*have or might have the potential to become a serious threat to primary production, Crown land, the environment and community health*”. In this context, “environment” should specifically include native wildlife.
- Planning and Environment Act: all planning decisions should include requirements to protect native wildlife according to the Native Wildlife and FFG Acts. This Act and all the associated Planning Schemes can both restrict destructive developments and encourage land uses (through zoning) that will add to the habitat available and legally protected for native wildlife.

In particular, the Native Wildlife Act should be used to push for improvements in the Native Vegetation Clearing Regulations to protect the habitat of native wildlife such as old trees and small remnants of native vegetation that are keystone components of the landscape for wildlife and better manage offsets to maintain local biodiversity. (In Mitchell Shire, the regulations are creating a net loss of local habitat).

- The Native Wildlife Act should be used to trigger an Environmental Impact Assessment wherever a proposed activity could have an impact on native wildlife, We refer to the current debate about impact of rodent control on native birds in NSW (see [here](#)).
- Various acts relating to crown land should also be used to ensure that wildlife management activities on public land are consistent with both public safety and the requirements for protection of native species.
- Laws relating to the use of firearms should be reviewed in relation to the Native Wildlife Act. We note two issues:
 - When killing animals, only guns with adequate ability to kill animals should be sanctioned for use.
 - The needs and risks of shooting animals near urban areas needs consideration.

Below are some more specific issues that we think should be considered in the development of the new Native Wildlife Act.

Remove protection of non-native animals

The protection of introduced game animals under the current Act is not needed. Introduced game species are well established in Victoria and beyond, and will persist without protection. They should not be classed as wildlife and should not be protected under any Wildlife Act.

Deer

Deer are a particularly urgent issue. Some deer species have expanded so much that they are now causing massive damage to the environment. A recent analysis has shown that most deer species have a good potential to spread throughout Australia. (*A systematic review of the impacts and management of introduced deer (family Cervidae) in Australia*. Naomi E. Davis et al.. *Wildlife Research* 43(6) 515-532 <https://doi.org/10.1071/WR16148>). This puts an ethical obligation on Victoria to act now. To emphasise the urgency of action, the FFG Act lists deer as a threatening process despite their legal status as protected “wildlife”

We have personally seen the damage caused to the natural environment and to our efforts to revegetate the local environment. We have seen Sambar Deer killed on roads within Mitchell Shire; such large animals are a big risk on local roads. We have also seen the damage caused by Hog Deer along the Gippsland coast..

We would like to see the following recommendations come from this Review:

1. Deer should be removed from protection under the Wildlife Act.
2. Victoria should act on the recommendations of the Senate Inquiry into the Impacts of Feral Deer Pigs & Goats in Australia, particularly
 - *Recommendation 6*: that a standalone Key Threatening Process listing for feral deer under the *EPBC Act* be adopted, accompanied by a Threat Abatement Plan, to elevate the focus on controlling deer impacts.
 - *Recommendation 8*: that all Australian jurisdictions make any necessary changes to their existing legislative and regulatory frameworks to:
 - ensure that wild deer are treated as an environmental pest;
 - maximise the ability of landholders to control feral deer on their land; and
 - maximise the ability of park managers to control feral deer in World Heritage Areas and National Parks.
 - *Recommendation 9*: that Commonwealth, state and territory governments should commit to eliminating feral deer populations in World Heritage Areas, areas of national environmental significance, and national biodiversity hotspots.
3. Deer should be considered as “pest” animals under the CaLP Act. This will help to support agencies and landholders trying to control deer populations and the damage they do, and support the work done in other States to control and eliminate deer.

Hunting of non-native species

Non-native game species are used for recreational hunting, and the Act has been used to control the time and location and take of hunted species. As non-native game species well established in Victoria, they do not need protection from over-hunting.

The only reasons to control recreational hunting of deer are:

- to ensure public safety. On public land, this would be up to the various acts relating to Crown Land. Firearms regulations and other laws would cover hunting on private land.

- to ensure that the hunting methods and skills are adequate to ensure that animals will be killed quickly and painlessly. This should be reviewed and controlled under the Protection of Cruelty to Animals Act.

See notes on Stubble Quail hunting below.

Stop all recreational hunting of native species

1. **Duck hunting** is a purely recreational activity, and we still have a duck hunting season for the enjoyment of hunters. Hunting is controlled but it is relatively easy to get a permit. We object to recreational duck hunting on several grounds:
 - Ducks do no harm to the environment and are a valuable source of food for a range of raptors and other native predators.
 - Identification of permitted species compared with rare species (such as Freckled Duck) and species with tight bag limits is difficult especially in poor light. Changing opening time to full daylight is no guarantee that identification will be more certain. Many non-target species have been shot, even though they are easy to distinguish from permitted species such as Black Swans and Cormorants.
 - Hunting uses shot pellets that are random in their ability to injure and not kill ducks, and this is unavoidable as long as duck hunting is allowed.

There is a lot of negative publicity around duck hunting (eg. see [here](#)) and we feel that public sentiment is firmly against duck hunting as a cruel and unnecessary “sport”.

It is time to end duck hunting.

2. **Quail hunting** Stubble Quail are allowed to be shot under regulations of the Wildlife Act. Some considerations:
 - Stubble Quail are not a native species and should not be included in the Native Wildlife Act.
 - However, we are unaware that they are having a significant impact on the environment requiring control of the species.
 - But we doubt that any hunter could distinguish between Stubble Quail and the many native Quail in the short moment between flushing birds and their return to cover. This is a question that requires an answer. It seems likely that native species would also be shot by hunters.
 - Hunting also uses shot that can injure without killing.

It is time to end quail hunting.

Control of wildlife

One of the big issues with the Act relates to the “control” of wildlife. The current Act accepts that wildlife are the property of the “crown” (i.e. the community) and allows for the issuing of Authorities to Control Wildlife by State officers on behalf of the State. We are concerned that

- a wide range of species have been covered by Authorities to Control Wildlife, including Wombats, Emus, Australian Fur Seals, Satin Bowerbirds, Black Swans,

Brolga, Grey-headed Flying Fox, Hardhead, Magpie Goose, Broad-shelled Turtle and the Murray River Turtle ([VNPA 2021](#)). We don't know the circumstances or the controls used but would like to know why these species have been targeted. Do the permits address a real issue affecting people or the environment, or are they simply a nuisance to be eliminated?

- the current processes for granting Authorities seem to be an *ad hoc* approach to the management of wildlife rather than a well-planned program to manage wildlife issues.
- we are not sure whether “control” actually means “destruction” (ie killing) or some other harmful practices that are not in the best long-term interests of some of these species.
- in our experience, Authorities to Control Wildlife have been easily obtained with little scrutiny on the needs for control or the skills of the applicants or any long-term outcomes that might actually be effective in managing issues.

We recognise that wildlife do come into conflict with people and their homes, gardens, farms and public places. We also recognise that the populations of some species have benefitted from the changes we have made to their environment and have built up to numbers that are probably higher than at any time in the past.

However, we are concerned that the simplistic solutions to destroy or remove wildlife are the default solutions, in part in response to the demands of people affected by wildlife. These solutions may be an ineffective long-term solution to a wildlife issue and may disregard other options that do not require the more destructive and sometimes cruel practices.

Some examples:

- **Brush-tailed Possums** are a nuisance to many people when they come into the roof space of houses. Control of possum damage in houses does not require killing, although translocation into the ranges of other possums may also be a death sentence. But there are other alternatives such as blocking access where you don't want possums plus providing alternative outside accommodation such as nest boxes or [protecting trees with hollows](#). Possums can be a nuisance in other ways as well, but again there are other alternatives. We need to find ways to live with our very interesting and special wildlife.

This is one example, but the principles apply to the many other species that are a ‘Nuisance’ without causing real harm to people and their businesses and assets or to the environment, and that can be managed without destruction of animals.

- **Kangaroos** are one of the native species that have flourished following the changes to their environment over the past 200 years. We have removed one top predator (dingos) and restricted the other top predator (people). We have created the wonderful mix of abundant grasslands, permanent water supplies and patches of shelter. The result is that kangaroo populations have built up. We now have large mobs of kangaroos moving through the countryside.

Locally, they are having an impact on valuable bushlands and on farm production (creating a lot of anger), and they are a serious risk on our roads. In Mitchell Shire, we have significant nature reserves close to golf courses in Seymour, Broadford and Kilmore, and very large mobs of kangaroos are moving between the lush grass of the irrigated golf course and the bushland reserves where they are having a significant impact on the flora of the reserves. Kangaroos in Puckapunyal were also a major

issue for local farmers and road users as well as the environment within Puckapunyal until they were culled in the early 2000s. Further afield, we have seen the issues of kangaroos and the benefits of culling on the recovery of vegetation in the dry country around Hattah-Kulkyne.

Because we are aware of the issue, doing nothing as a deliberate choice is not a humane option and does not address the issues created by so many kangaroos. Fencing kangaroos out (or in) is expensive at the scale required and does not resolve the issue, and it may lead to stress and starvation. Droughts can kill kangaroos, particularly if they are in large numbers – the equivalent of overstocked sheep or cattle. And feeding them in times of drought just exacerbates the issue. It seems that reduction of the population is the only option that will address the issues caused by the growing populations across Victoria.

Landholders can obtain limited permits to cull but this can result in some big animal welfare issues by unskilled shooters with inappropriate weapons. It is also ineffective with kangaroos moving freely across the landscape into properties trying to control numbers.

A landscape and regional response is needed.

Trials have used approved and monitored professional shooters providing meat for pet food (but suitable for human consumption). This may be the best but politically difficult option. And alternative control methods would still be needed for kangaroos close to towns.

- **Noisy Miners and Bell Miners.** These are native birds but they are very aggressive in attacking and chasing other birds from their territories. This is adding to the threats on other species caused by our fragmentation of the habitat of many threatened species and communities. For example, they chase threatened Helmeted Honeyeaters out of their last remaining patches of habitat in the Yarra Valley. This aggressive behaviour also affects the vegetation by chasing out the insect eaters and indirectly causing die back in forests (Bell Miners) and woodland remnants (Noisy Miners). As they are free-ranging and use the same habitat as other species, removal seems to be the only way to reduce their impacts. Translocation has not been successful, so culling (killing) has been trialled to reduce the impact of these species. Not an easy decision but well-thought through by expert groups.

These are examples of real issues with native wildlife. The challenge is to create a Native Wildlife Act and Regulations that can address these issues in ways that are the least harmful and most humane to the animals, are effective in managing the issues while maintaining sustainable populations of the species, and are transparent to a concerned community.

We propose the following step to be followed:

1. Set up a process to review all applications for control of wildlife, and to develop or approve wildlife management plans for any wildlife causing issues for people or the environment. This would include a panel of experts and draw on all the relevant information available. If this information is deemed insufficient for decisions to be made about the control being requested, the panel should make the gathering of relevant information a pre-requisite to the granting of any authority.

In some cases, this review could be pro-active in identifying and establishing wildlife management plans over wider areas rather than single land holdings, with separate

Authorities issued under the guidelines set by the panel. This process would cover both private and public land.

2. The panel should ensure that the control measures directly address the wildlife problem requiring control, rather than just controlling the numbers of animals. While we don't like the thought of killing animals, we recognise that it may be necessary in some situations. But there are many other ways to address wildlife problems that do not require the removal or destruction of the animals. Destruction should be the last resort.
3. Applications to control wildlife may be one-off local actions on separate properties or larger programs across several tenures (population management). In the control of kangaroos, population management would be more effective than one-off actions that would probably require repeated killing as animals breed and move into the control property from across the landscape. In this case, the use of professional shooters could be considered, with payments to landholders for access and "agistment" and costs defrayed by using the kangaroos for pet or human consumption.
4. All control or destruction of wildlife should be under an Authority approved under the review process above. There should be no allowance in the Act for the expedient to resolve wildlife issues by declaring them unprotected (as applied to Wombats until recently).
5. Any approved control methods, whether they involve "destruction" (i.e. killing) or non-destructive actions, should be done as humanely as possible. For example, shooting in the field that kills animals instantly with no sense of fear or pain is a better option than poisoning or capture or chasing animals off properties (shown to cause huge stress and injuries) .
6. Authorities to destroy or remove wildlife should only be provided to people who can be accredited. For example, people should be assessed on their ability to use the appropriate weapons and to shoot with accuracy, and should be trained in how to hunt and shoot kangaroos, which animals to shoot (eg. young at foot before their mothers), and how to destroy pouch young as quickly and humanely as possible.
7. All programs to control wildlife should be monitored. This should include reporting on any actions under an Authority and wider monitoring of the impact of control on wildlife populations, particularly as part of larger scale actions to control animal numbers across tenures.
8. All the processes and actions to control wildlife should be transparent. In particular, an independent regulator should be set up to monitor and review the control of wildlife, and ensure that the law is enforced. This independent regulator should be open to people to report breaches of the law and support citizen-led prosecutions.

Exemptions to the law

Several community groups including BEAM Mitchell Environment Group have been trying to protect the habitat of threatened species from forestry operations being led by VicForests, a State Government agency. We have been surveying the Tallarook Forests that are proposed for logging. We have found significant populations of threatened Greater Gliders in what is effectively but not officially classed as old growth forest. This population of Greater Gliders does not seem to be recognised or acknowledged by VicForests and plans to log the area have not been changed to effectively protect the species.

Leadbeaters Possum has been the subject of a recent ruling that shut down many proposed coupes within the habitat of the Possum. But this ruling has been over-ruled by a legal decision that gives priority to the Federal EPBC Act over State laws and in particular grants exemptions for the forestry industry. Many critiques of the Act (including the independent review led by Professor Samuel) have been disregarded and the Act patently continues to allow practices that threaten wildlife.

VicForests is a State -owned business. It should abide by State laws relating to wildlife rather than acting as an independent organisation using loopholes in Federal Laws to continue activities that are clearly at odds with government policies and laws relating to wildlife and with the concerns of many Victorians.

Traditional Owners

We agree that the Traditional Owners in the various parts of Victoria should be recognised under this Act, including those species and places with cultural significance. We also think that Traditional Owners should be encouraged and supported to rediscover and use their traditional practices in management of species and ecosystems.

Yours Sincerely

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