

## **Wildlife Act Review Submission – Natalie Kopas**

I have been involved in wildlife rescue for as long as I can remember and have focused my energies on duck rescue for the past 19 years. The inherent cruelty of this so-called 'sport', the lack of protection against the cruelty that is legalised by the Wildlife Act, and the disparity in penalties for those who wound and kill native wildlife compared to those who rescue wildlife, has prompted me to read the Wildlife Act countless times over the years, seeking to understand how duck shooting is regulated and how rescuers can lawfully help wildlife.

I thank you for the opportunity to submit my comments to the panel during this review.

Like the majority of the community, I believed that there must be protective laws that exist in our state to look after wildlife. Prior to reading it, I (mistakenly) believed that by the very virtue of its name, 'The Wildlife Act' must be the primary form of protection applied to our native wildlife.

I was amazed to discover that the entire legislation consists of detailing the ways that protections can be stripped from wildlife. The Wildlife Act allows hunting, keeping wildlife as pets, killing wildlife with little need to justify why ("culling") and using them commercially. This is certainly not in line with the high level of regard the average Victorian has for our native animals and the level of protection most people believe they have. Even amongst shooters I have heard time and again the disparaging way they refer to those who hunt native waterbirds, the average rabbit or fox shooter is very quick to distance themselves from duck shooters, an activity which they view as distasteful.

Victorians value wildlife and they (rightly) expect our laws to protect our native animals.

Obviously, there are some members of the public who feel differently, namely those who do wish to shoot, kill, keep and use wildlife, however they are in the minority. For example, the number of duck shooting licensees in Victoria is approximately 26,000, which represents less than 0.4% of the state's population. Yet this small group effectively closes down hundreds of wetlands to other recreational users for 3 months of each year, when those not licensed to shoot ducks are restricted in their ability to birdwatch, walk, bike ride, kayak, windsurf, take nature photographs and generally enjoy our beautiful wetland environments, many of which are of international significance.

When a conflict exists between different groups of people, for example duck shooters vs the rest of the community, we should refer to the primary purpose of the Act, to protect and conserve wildlife, as a guiding principle. The Wildlife Act should be about legislating to protect wildlife, not how to strip that protection from every conceivable angle.

Further complicating the Act's ability to protect wildlife is the language that is used throughout the document. "Using" wildlife is inconsistent with the Act's stated purpose of protecting wildlife. "Culling" attempts to sanitise the fact that they are being killed with little regulation and "protected" wildlife means little when the Act contains

provisions to “unprotect” wildlife. Referring to “game” animals is just another way of saying ‘these are protected wildlife we’ve decided not to protect - but just for a while’.

Language within the act needs to be clear, well defined and any potential for ambiguity needs to be removed within the definitions.

The Wildlife Act is vitally important not just because of the protection it is supposed to afford our native wildlife, but because of the interconnectedness of multiple pieces of legislation within Victoria. The interaction between these acts, for example the ‘Prevention of Cruelty to Animals Act (POCTA)’, ‘The Wildlife Act’ and the non-mandatory ‘Hunting Code of Practice’<sup>1</sup> is often convoluted and unclear.

For example, the holder of a game licence will read on the back that they are expected to comply with POCTA, however, they are exempt from charges for cruelty or for harassing, molesting or disturbing wildlife, IF their eventual intention is to kill it AFTER they harass, molest or disturb it. Furthermore, the license states that shooters ‘SHOULD’ comply with the hunting code of practice, a weak endorsement that clearly does little to encourage shooters to follow a non-mandatory, non-enforceable, suggested code of practice.

In contrast, wildlife rescuers have been charged with disturbing wildlife, when they used flags and whistles to encourage ducks to move out of the range of guns. These peaceful actions, conducted with the intention of protecting wildlife, were deemed unlawful, because the intention of rescuers was not to kill the wildlife after potentially causing it to change direction in flight. Duck shooters who use decoys, whistles, hides and recordings of bird calls to change the direction of birds in flight by simulating that this is a ‘safe’ place for ducks to approach because all their friends (decoys) deem it safe, are not subject to the same charges of disturbing wildlife. Their actions are deemed lawful, despite the fact that ‘protection’ of wildlife has a higher priority than ‘use’ of wildlife within the purposes of the Act.

This ridiculous disparity in law is always met with disbelief during the many presentations I have given on duck rescue over the years. Time and again I have to explain that wildlife rescuers run the risk of cruelty to animals charges, NOT shooters. Again, this clearly does not meet the expectations the community has for how wildlife should be protected by the law.

Personally, I would like to see the recreational duck hunting season banned in Victoria, however I understand that this is not within the scope of this review. However, if shooting wildlife for fun is to continue legally, we must explore every possible angle to minimise the cruelty that is inherent in this activity.

The currently accepted figure for the number of ducks wounded is approximately 26%<sup>2</sup>. Considering the average annual number of ducks killed during 2009-2020 is

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<sup>1</sup> <https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-welfare-of-animals-in-hunting-revision-no-1>

<sup>2</sup> <https://kb.rspca.org.au/knowledge-base/how-many-ducks-and-quail-are-wounded-due-to-recreational-hunting/>

347,160<sup>3</sup>, this represents over 90,000 birds wounded each year; an astonishing failure of the Wildlife Act to protect these birds who will either continue to lead an impaired life, or live out their remaining few days in agony, before dying a protracted death.

In view of this need to protect ducks at all times and especially during hunting season, I submit the following recommended changes to The Wildlife Act:

- The Act must contain provisions to create enforceable, mandatory standards of behaviour. This means that voluntary codes such as the Hunting Code of Practice would become mandatory and penalties would apply for non-compliance.
- The sentience of ducks (and all wildlife covered by the Act) should be recognised and therefore penalties for acts of cruelty towards them must take the degree of impact of pain and suffering to a sentient creature into account.
- Licensing fees (e.g game licence fees) must increase to align with the costs involved in employing and training sufficient staff to adequately conduct compliance checks and enforce the law.
- All monies raised from licensing fees need to be channelled into funding compliance activities.
- The effect of the climate crisis on weather conditions and the impact this has on wildlife habitats and populations, especially on wetlands which are significantly affected by rainfall, flooding and drought, must be recognised in the Act.
- The impact of species loss, dwindling numbers of wildlife and biodiversity loss on our environment must be recognised in the Act.
- The additional role that hunting plays in negatively affecting populations of wildlife during times of climatic stress (e.g. when there is decreased breeding during times of drought) must be recognised.
- The information that is presented to government to form the recommendations for a recreational duck season must be transparent. The information must be made available to the public, along with the name(s) of the author(s) of the report, which stakeholders were consulted and who were not consulted despite wishing to be involved. In addition, what pertinent information was ignored and the vested interests and biases and conflicts of interest of all involved should be noted.
- An independent animal advisory body should be created which will evaluate the information before it is presented to government. (This advisory committee would also have other non duck-related roles under the Act)  
Their report must be transparent and available to the community.
- The inability of the Game Management Authority as they currently exist to effectively regulate duck shooting must be recognised when the Act is being reviewed. This inability is highlighted in the Pegasus report<sup>4</sup>
- All authorised officers involved in compliance checks or working for enforcement agencies must not be involved in recreational hunting or in any

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[https://www.parliament.vic.gov.au/images/stories/committees/SCEP/Ecosystem\\_Decline/Transcripts/2021.03.11/Presentations/RVOTDS\\_Presentation.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCEP/Ecosystem_Decline/Transcripts/2021.03.11/Presentations/RVOTDS_Presentation.pdf)

<sup>4</sup> [https://8c4b987c-4d72-4044-ac79-](https://8c4b987c-4d72-4044-ac79-99bcaca78791.filesusr.com/ugd/b097cb_97d51dc5a28a4c9e992c231ee0e9cf1e.pdf)

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other activities that will compromise their impartial ability to conduct enforcement activities.

Currently penalties within the Wildlife Act are wildly inconsistent and therefore insufficient to act as a deterrent to wildlife crime. Additionally, some of the offences and exclusions defy logic.

Some examples:

**A. 21 Removing sand etc. from State Wildlife Reserve or Nature Reserve**

*(1) Any person who without the authority in writing of the land manager digs or removes any sand, soil, or other material from a State Wildlife Reserve or a Nature Reserve or deposits rubbish, debris, or other material in a State Wildlife Reserve or a Nature Reserve shall be guilty of an offence against this Act. Penalty: 25 penalty units.*

Removal of sand carries the same penalty as:

**20 Offence to take wildlife from State Wildlife Reserve**

*(1) Any person who, without the authority in writing of the Minister under Part IIIA, takes or destroys wildlife in or upon a State Wildlife Reserve not being a State Game Reserve shall be guilty of an offence against this Act. Penalty: 25 penalty units*

killing wildlife without a licence (illegal hunting).

Whilst I support the preservation of all natural resources within a game or nature reserve (including sand), I believe that illegal hunting should carry a harsher penalty than removal of sand.

Additionally, 'Section 21' states that depositing debris and rubbish carries a penalty of 25 units, yet there is no requirement for duck shooters to collect their plastic shotgun shells or wadding, this littering is considered to be an acceptable consequence of duck shooting. Conversely, wildlife rescuers who collect this plastic rubbish have been charged with theft of personal property, despite the shooter clearly having no intention of laying claim to it, as they had departed the area leaving the plastic floating in the water.

**B. 21AA Offence to cut or take away fallen or felled trees**

It is an offence to remove trees which provide vital habitat for wildlife.

However, there is an exemption:

Trees can be moved and constructed into hides to lure wildlife closer to guns so they can be killed. This is not consistent with the stated purposes of the Wildlife Act to both protect wildlife and conserve wildlife habitat.

**C. 58C Offence for certain persons to enter on or remain in specified hunting area**

Wildlife rescuers who wish to be on hand at the times of heaviest shooting, as this is logically when the greatest number of birds will be wounded and rescuers need to be

on hand to search for them, must either apply and pay for a gun and game licence, or risk breaking the law to enter the water at these times. The penalty is 60 units.

In contrast:

*58 Molesting and disturbing etc. protected wildlife*

Only carries a penalty of 20 units, even less than that for removing sand!

Further Recommendations:

- All offences and penalties within the Wildlife Act to be reviewed and brought in line with the Act's purpose and community expectations that it will protect wildlife.
- Penalties within the Act must be proportionate to the offence and there must be consistency across similar offences within the act.
- Wildlife Rescue should be permitted under the Act. This could be regulated by the creation of a free or subsidised 'volunteer rescue licence'
- The role of wildlife rescuers as a valuable source of information to authorities who are attempting to detect offences from shore, out of sight of where shooting occurs must be recognised
- A collaborative approach between GMA and third-party organisations such as duck rescuers should be encouraged
- All offences and penalties that relate to penalising and attempting to stop wildlife rescue from occurring should be immediately repealed
- There should be new offences created that encompass coercing or forcing someone to shoot against their will (especially in the instance where a power imbalance exists, such as parent/child relationships), coercing or forcing others to break the law (the Act), lying or covering up the actions of others (e.g. in a situation where a shooter kills more than their daily bag limit and then hides the bird(s) or who kills protected species and their friends who cover up for them).
- Additionally, wasting the time of authorities by filing false reports or calling for assistance for reasons such as shooters do not 'like' rescuers or they find rescuers 'annoying', when those rescuers are acting lawfully at the time should be an offence under the Act as these types of reports prevent authorised officers from fulfilling their duties.
- Offences against the Wildlife Act should result in the offender receiving a lifelong ban from possessing a gun or game licence and from owning or working with animals in the future. This would be a far more appropriate deterrent against acts of cruelty to wildlife.
- Offences relating to shooting must also result in removal and destruction of the firearm and a lifelong ban on future gun ownership

The protection of wildlife habitat is currently stated as a purpose within the Wildlife Act but there is very little contained in the body of the Act which supports this or details how it should be done

- The Act must recognise the importance of wildlife habitat in maintaining biodiversity.
- The Act must recognise the important role of conserving wildlife habitat in conserving and protecting wildlife populations.

- Wildlife habitat must be clearly defined within the Act
- Where wildlife habitat and wildlife populations exist on land that is privately owned, the Act must prescribe a duty of care for the landowner to protect the habitat and wildlife and minimise their impact on both. Any actions proposed by the landowner that may impact on wildlife and/or habitat must be subject to a permit and a thorough investigation of all possible options.
- Wildlife management plans should exist within the Act to promote the conservation of threatened wildlife.
- The Act must detail what will trigger the need for conservation work to begin (e.g. decreasing population level or habitat destruction), how the plan will be carried out, who will be consulted and what additional measures are required. For example, there is an area of orange bellied parrot habitat in the middle of Lake Connewarre, surrounded by water where duck shooting is permitted. There are no markers in the water declaring this area off limits. Additionally, the noise caused by boats, gunfire and human traffic would potentially act to compromise the arrival of this critically endangered bird and the likelihood of it remaining in this area, which places the bird under undue stress, requiring it to travel further to reach a safe haven. In these situations, the entire area of water surrounding the endangered wildlife habitat should be declared off limits to shooting.
- Sodium monofluoroacetate (1080) poison baits are also used in these Ramsar wetlands to protect the orange bellied parrot from predators, posing a risk of secondary poisoning to all carnivorous wildlife. All potential impacts of the use of poisons within an area that is habitat for wildlife must be considered and wherever possible other, safer options should be preferentially employed.

It must also be recognised that ducks are migratory by nature, which may lead to inadvertent breaches of the Wildlife Act and of other legislation.

For example, QLD and NSW have both banned duck shooting, but in times of drought, the birds normally residing in those states may enter Victoria and be killed, which directly contravenes the laws of those states.

- The Act must recognise that ducks (and other wildlife) may move between states and therefore legislation must exist to protect these birds.
- Where differences between state laws exist, the law that affords wildlife the highest level of protection should apply. Therefore in times of drought in our northern states, a duck shooting season should not be allowed to go ahead in Victoria as many of these birds have flown here for refuge and allowing them to be killed for fun negates the protection given to them by their home states.

This long overdue review of the Wildlife Act presents a unique opportunity to protect and conserve wildlife for the future. This would bring the Act in line with community expectations and values and also provide greater recognition of the intrinsic value of wildlife.

The Wildlife Act currently exists to detail how to remove protection from wildlife; I hope that the new Wildlife Act will instead detail how to better protect wildlife, conserve threatened species and wildlife habitat and how to deliver appropriate penalties for acts of cruelty against wildlife.

I also hope the Act will recognise the important work carried out by volunteer wildlife rescuers and encourage and support this work, rather than penalising those who seek to uphold the spirit of the law (to protect wildlife).

Thank you for taking the time to read my submission and thank you for giving me the opportunity to be a part of this important review.

Natalie Kopas

