



PO Box 3276
Victoria Gardens
Richmond, Vic 3121

Phone : (03) 9428 4709

info@australianbrumbyalliance.org.au
www.australianbrumbyalliance.org.au

ABN : 90784718191

30-June-2021

Submission to the Wildlife act (Vic) 1975 Independent Panel review

Wildlife act 1975 (Vic) review background

The Review Panel "Issues" paper introduces the Act as promoting, protecting and conserving wildlife, preventing wildlife extinction, sustainable use of/access to, wildlife and that the Act plays a central role in Victoria's legal framework for protecting and managing biodiversity.

The panel explains that while the Wildlife Act aims to protect exotic game animals like deer, and regulate the destruction of native wildlife - it provides no direct protection for wildlife habitat and is "toothless for prosecuting illegal acts of harm to wildlife", such as the recent illegal poisoning of Wedge-tailed Eagles and bulldozing koalas which were never prosecuted.

The new Act should provide ways to capture and respond to post 1975 changed community values and expectations, reflect today's needs and desires by understanding the values and expectations for wildlife in 2021 held across Victoria's multicultural communities.

Australian Brumby Alliance Introduction

The Australian Brumby Alliance (ABA) Inc. Advocates for the recognition, management, preservation and welfare of Australian Wild Horses and for the retention of sustainable Brumby populations in the heritage areas they have evolved in over the past 150-200 years.

The opening paragraph in 1.1 states "*Wild animals are valued for a wide range of reasons, and different groups in the community have diverse attitudes and expectations about protecting, interacting with, and using wildlife*". These words resonate strongly with the ABA's experience in relation to the joy and uplifting experience I feel when seeing Brumbies, Australia's Wild Horses" living free and independently of human control, We continue to be in awe of seeing how our domestic wild ancestors lived in their social family mobs.

Victorian authorities refer to Victoria's wild horses (Brumbies) as "feral". Feral means wild, but using the term feral is preferred by parks Victoria (PV) as it infers a lower value class, easily dispatched with little care or respect. Brumbies have evolved alongside Australia's flora and fauna for 150-200 years without causing any native species to go extinct.

National Cultural Heritage Values Assessment & Conflicting Values Report on The wild horse population Kosciuszko National Park (Including VicAlps) December 2015 found that the wild horse population is an attribute associated with the cultural heritage significance of Kosciuszko (& VicAlps) National Park in relation to five criteria: (a) events and processes, (d) representativeness, (e) aesthetic characteristics, (g) social value and (h) significant people.

Many in the Victorian community support the retention of SUSTAINABLE Brumby numbers living wild in their historic homelands. For example, the Lonergan random survey of Victorian residents in 2019 found;

- 4 in 5 (82%) Victorians believe that Brumbies are an important part of Australia’s history to preserve.
- 9 in 10 (88%) of Victorians would support efforts to preserve a small herd of Brumbies living in the wild if there was little evidence of impact on their negative environmental impact.
- A strong majority, more than 4 in 5 (84%), of Victorians would support further research into the impact of other wild animals, extreme weather events, or humans.

Some wild animals (such as Brumbies) are intrinsically valuable to some people – their value is independent of benefits they offer humans – and that value alone warrants protection and conservation. For these people, wildlife’s intrinsic value often translates into moral obligations, for example obligations to protect sustainable Brumby numbers living wild.

Part 1: What should the Act do?

We urge the panel to consider including brumbies as “wildlife” under the revised Act, with overabundant numbers managed to sustainable levels, such as for kangaroos, Koalas, deer.

The Australian Brumby alliance Inc. (ABA) believes that Brumbies, in sustainable numbers, do in fact increase biodiversity, and provide specialised niches for the species they co-exist with, such as frog spawning in hoof prints beside a river, and skinks searching for insect around dung piles, and allowing less dominate species to survive by nomadic grazing.

Alternative paradigms cont... Work together to harness positive horse impact to slow environmental decline



Save energy slashing grass for the Sun Moth - horses will do it for free

[Photo credit ABA sign 2012? and Skink 2018]



Skinks by Brumby Dung (2018 VicAlps)

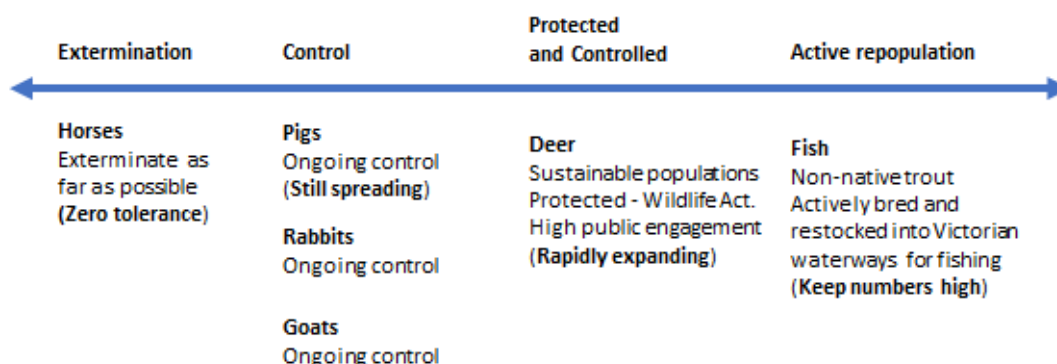


Frogs spawning in hoof prints 2020 in VicAlps [Photo credit: Renee Neubauer 2020]

Dung Insects feed skinks – pugholes shelter frog spawn - Investigate before their horses benefactors are culled

We regularly highlight the inconsistencies in the anti-Brumby rhetoric about their claims Brumbies must be exterminated because they are “introduced” to Australia. Yet Victoria’s government supports the retention of sustainable deer. Parks Victoria breeds and reintroduces non-native trout to Alpine rivers for anglers to fish.

Brumbies in perspective: Inconsistencies across non-native species management



CONFLICT resolution

The ABA has experience of how to integrate opposing views that result in the retention of sustainable wild horse numbers and environmental values. All interested stakeholders took time to sharing concerns, identifying risks and together identify wild horse numbers/density to live alongside native species, such as New Zealand's wild horse advocates and Park staff who, for 5 years worked to identify sustainable levels for their Kaimanawa Heritage horses.

The ABA has seen that pitting one cultural value against another's just increases conflict, such as Parks Victoria putting Aboriginal heritage values above non-Aboriginal culture. "Best practice" under the Burra Charter emphasises that where heritage values differ or conflicts arise, there *must* be ways found to accommodate both values.

Parks Victoria resists permits for people wanting to utilise park areas such as horse riding, walking tracks as they perceive these actions as contrary to how parkland should be utilised. We also see differing philosophical standards, such as, Barmah allows 4WD and motor bike riding but not horse riding/horse tour groups, or heritage activities such as the Barmah Muster. The Act has broader values, including 'sustainable use', and may be better placed to take responsibility of r issuing park utilisation permits.

CRUELTY

While the ABA supports a goal of sustainable use of wildlife being impacted by humans in a manner that will conserve native species. However we are highly concerned that where any animal is classified as "feral", cruelty is rarely considered, and any duty of care is weak. The ABA urges that all non-native animals be classified as "Animals" not "feral" to enable the Act to uniformly hold any Act of animal cruelty fully accountable and adequately punished.

All Government or individuals on private or public land MUST be held uniformly accountable for any act of Animal Cruelty, including exemption requests for traditional cultural.

Categorising an animal as “pest” lowers “duty of care” responsibility such as using 1080 poison or aerial shooting. There should be no exceptions for government, Aboriginal traditions, hunters etc. To allow any exemptions makes a mockery of the Animal cruelty Act’s intent and not be aligned with current Australian community expectations.

“Game” animals should be defined as wildlife to ensure they also are killed in the least cruel manner, for example only killed by an instant brain shot and never left to die from wounds. In future, animals previously called game could be described as specific wildlife that under certain, strict conditions can be shot under a permit controlled licence.

COMMUNITY CONSULTATION

Parks Victoria now state they can make changes to policy/actions without consultation or warning. Such lack of due process, transparency or accountability is not consistent with the Acts intent for transparency and community consultation. Parks Victoria’s inconsistent approach to managing introduced species has already resulted in inconsistent supervision of procedures that are essential for uniformity when issuing permits.

There should be provision to ensure community views of both aboriginal/non-Aboriginal are included in consultation processes. Consultation is especially important where an action is likely to be contentious to at least one of the values held by an individual’s interest, such as duck or Deer shooting, Brumby/wild horse culls etc. In our experience, Aboriginal views are used by government and Parks Victoria to over-ride conclusions made during consultation. Parks Victoria’s willingness to promote Aboriginal values above others infers “consulting” is just a “seen to be consulting” exercise.

TRADITIONAL OWNERS-OTHER Victorians

In our experience, the wildlife act is no barrier for self-determination for Traditional Owners. Parks Victoria’s “Land management Strategy” (LMS) sets a significant change in direction to now minimise non-Aboriginal Victorians. The LMS states that parks and reserves have been *returned to Aboriginal ownership under Aboriginal Title* and that the (Vic) Government is *“expected to apply to more of the parks estate in the future as further formal agreements with Traditional Owners are implemented.”*

National parks were originally “for the benefit of the public”, which we assumed included all Australians, but Parks Victoria’s LMS states that national parklands, such as Barmah’s park, is “owned” by the Yorta Yorta Aboriginal Corporation, on behalf of its Aboriginal members.

Pitting one social community’s heritage values against another has escalated conflict in Barmah’s area. Instead, Parks Victoria should apply the Burra Charter’s conflict resolution process which may take longer, but the end decision will be support all Victorian interests.

The ABA fully supports the integration of all Australian multicultural values, with Aboriginal and non-Aboriginal community social heritage equally valued, but never, as we see in Barmah allow one groups values set to over-ride another - each group values is unique.

SUSTAINABILITY

The ability to return a species to country because of cultural significance is important, but this approach must be equally allowed for all Australian ethnic cultures incorporated since 1788. For example, the ABA strongly advocates to retain cultural significant Brumbies/wild horses in SUSTAINABLE numbers living in parks - one rule must apply to all Australians.

Sustainable to the ABA means that the species being considered is retained at a genetically viable level in the heritage area, for example Brumbies evolved, provided the density level is *“no longer significantly impacting on priority environmental and Aboriginal heritage values”* the wording used to argue for sustainable deer levels by the Victorian Government recently.

As climate change marches on, we may come to a situation where to keep a healthy wildlife population; we need to identify those species with ability to cope with increasing climate change. Species surviving in the wild are never static; we lose species and gain new ones as time moves on. Those species best able to adapt to their harsher environment and survive rising temperatures need to be retained, whether native or introduced.

Our experience has seen that where the correct density level of wild horses/Brumbies can be achieved, the positive impacts they contribution to biodiversity will also assist native species survive in future. Such as frogs spawning in water held in hoof depressions and skinks seeking insects attracted to horse dung in the Victorian alps. (slide page-2)

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

CRUELTY and PERMIT RULES

ALL animals are sentient beings, and experience pain, suffering, mistreatment. ALL people committing acts that increase an animals suffering unnecessarily, should be prosecuted under the Act to ensure a proper duty of care is applied at all times, to native/non-native animals, as well as animals the Act issues permits to for destruction, hunting etc. Ethnicity should not be used as a reason for ignoring compliance to the Animal cruelty Act.

The ABA considers acts of cruelty to wildlife animals (native/non-native) include;

- Where an animal does not die instantly, or
- Is left conscious, but wounded, to suffer until it eventually dies
- Had to suffer in the name of sport, tradition or personal desire.

The total lack of oversight displayed over duck shoot seasons, leaves many ducks (native/non-native) to die painfully from injuries by “sport” shooters, with no fear of prosecution;

Louise Bonomi - Animals Australia info@animalsaustralia.org states “Sadly, only minutes into the 2021 opening, stories of birds being rescued — their bodies bleeding, bones broken — emerged from rescue teams across the state”. And “Once again, rescuers were faced with the difficult decision: risk entering the same wetlands as gun-wielding shooters, or watch injured birds drown.”

The rescue and treatment/euthanasia of animals injured in the name of sport thrill should be fully funded by income from permit approvals. Flagrant transgression of shooting permits must be prosecuted, fined, stopped. No native or non-native animals should be subjected to cruelty, even in support of native species conservation.

The Wildlife Act needs to be transparent, enforceable standalone Act as people rarely check all necessary Acts; it also ensures consistency across all relevant areas.

CONSERVE

The Act currently fails to protect and conserve wildlife, primarily because the safeguards for permit compliance frequently fail. Instead of the being a “toothless tiger”, it must ensure all acts of cruelty are prosecuted, to deter future non-compliance.

HABBITAT CONSERVATION protection

Since habitat health and integrity is important in protecting and conserving wildlife, any damage resulting from permit holders must be punishable under the Wildlife Act and all permit holders subject to humane actions and prosecuted as needed.

Parks Victoria’s permit approvals is not consistent, for example, banning local firewood collection then paying contractors to use heavy equipment to remove high fuel loads and allowing shooters to drive vehicles or wade through wetlands in hunting season.

The Wildlife Act 1975 (the Act) could provide the framework managing wildlife habitats:

- promote the protection and conservation of wildlife,
- prevention of wildlife extinction,
- sustainable use of/access to wildlife and
- provide for Victoria’s legal framework in protecting and managing biodiversity.

With the Wildlife Act providing the framework, Parks Victoria are freed up to focus totally on managing their park estates and help to monitor compliance, freeing them up from the responsibility of issuing permits and report non-compliance under the Act to an authority that has sole responsibility for issuing permits and prosecuting non-compliance.

Farmers who agree to limit their produce to protect and conserve wildlife and its habitat on their land, could be financially compensated under a signed agreement system.

All members of the public should have the right for their interests to be considered as part of decision making, but rights must not allow unnecessary acts of animal cruelty.

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

The ABA supports statements of principle and criteria to guide regulators, duty holders and the public to minimise misunderstanding of the Act in a direction and intent. Principles must apply to all animals (native/introduced) and recognise that;

- All animals (native/introduced) are sentient
- All animals (native/introduced) must be protected from unnecessary Acts of cruelty.
- Animals permitted to be hunted could be specifically listed, along with the specific requirements needed to meet the permit conditions.
- All permit conditions must be sufficiently funded to ensure all permits are complied with, and where permit holders, or those without a permit, commit act of cruelty are prosecuted, charged and fines payment enforceable.
- The principle of ecologically sustainable development must guide us all (Traditional Owner corporations, individual Aboriginals and non-Aboriginals).
- All Australians, of any race, must be eligible to participate in consultation in decisions and where they can be involved in management actions.
- ALL decisions, policies and programs must consider equally rights and interests of Aboriginal Traditional Owner Corporations (or individuals) and non-Aboriginals.
- All polluters should pay for the costs of their negative environmental impacts.
- The principle of ecosystem-based adaptive management is ideal, provided it is based on comprehensive, robust studies, not “perceived” negative impacts. It is common sense that the results/success of “treatments” be based on the measured change in population numbers, not as parks Victoria do, such as counting numbers shot and then assuming it automatically increases native species. Examples I have experienced are, native frogs spawning in the shelter of water collected in pugging and sighting increases in skinks around horse dung, looking for insects (see p2 slide).
- Plus those already in the Act, unless they are inconsistent with the principles listed under 3.1.1 above.

Wildlife management plans – permits - PV

Given that the Wildlife Act 1975 (the Act) should:

- promote the protection and conservation of wildlife,
- prevent wildlife extinction,
- sustainable use wildlife, and
- provide a legal framework to protect and managing Victorian biodiversity.

We view the Act setting parameters for wildlife management plans so agencies tasked with hands on delivery to protect wildlife (native/non-native), such as Parks Victoria, are freed up compliance activities. The Wildlife act can have responsibility for permits, separate to Parks Victoria, leaving them to focus on reducing the rate of native species decline or extinction.

It is vital for the Act to provide consistent and transparent enforcement that is funded by a user pays system to cover the regulatory services needed to enforce permit conditions. We strongly reject public money being used to subsidise permit compliance, in particular for those removing animals for profit or to gain sport thrills that encourage acts of cruelty.

In our experiences, all codes of practice/standards/guidelines that are not mandatory or enforceable, are a waste of the effort made to create them. The ABA does not know of any successful prosecution for failing to follow non-mandatory requirements. It is essential that ALL actions required to be met are mandatory, enforceable successfully prosecuted.

All activities under the wildlife Act should be reported on annually or more frequently, and include the number/type of animals killed, destroyed, disturbed or removed under permit or non-compliance and their impacts on native species. Any permit that allows construction impacting native species, must include risk levels and be held accountable to correct before their permit period conclude or their projects “signed off” to ensure all damage is rectified.

Spot checks, periodic reporting must be conducted to identify non-Compliance as soon as it becomes apparent. Permits should cover all costs for enforcement, prosecutions and fines. ALL reports must be listed on the compliance Authorities’ website within one month of when the report is required for under the Act to provide public confidence.

Part 4: Does the Act promote transparency and accountability?

All aspects need to have an adequate degree of transparency about, and accountability for, decision making on matters relating to wildlife, especially the Act should require reports on;

- The number and type of animals actually removed, killed, destroyed, disturbed, marked or controlled,
- The size of land negatively impacted in wildlife areas, the flora and fauna killed, destroyed, disturbed or controlled etc.
- Volunteer charities helping injured wildlife should operate by permit under the Act, financially assisted and Act compliance reports fully funded.

An **Advisory group** will need to provide the mix of representatives that reflect the full range of conflicting interests to ensure transparent accountability to the Wildlife Act, such as:

- promote the protection and conservation of wildlife,
- prevention of wildlife extinction,
- sustainable use of/access to wildlife and
- provide for Victoria’s legal framework in protecting and managing biodiversity.

The review panel extracts below should be consistently reflected throughout the Act

- “what is acceptable/desirable to different parties depends, in part, on the values (the parties) ascribed to wildlife”, and
- “Wildlife has instrumental value if it provides benefit to humans; these benefits may be economic, cultural, emotional, spiritual, recreational or environmental” and
- “Less tangible benefits include performing traditional expressions of culture; such as the emotional, spiritual or recreational benefits of seeing, interacting with, protecting or helping wild animals” so that wildlife will exist for future generations.

The Act’s ultimate goal seems to be balancing sustainable use via permits whilst ensuring the ultimate preservation of native species for future generations to see.

Part 5: Are current enforcement and compliance mechanisms adequate?

The Act should include as many appropriate offences as required to ensure the Act can fully enforce compliance, along with adequate funds for compliance staff etc. Penalties need to also reflect current community expectations for compliance to meet the Acts intent.

Fines could be graduated to reflect the status of the animal (e.g. whether endangered or vulnerable) but importantly fines should be graduated to reflect the degree harm planned and the degree to which harm actually resulted, irrespective of the animal type.

Repeat offences should carry increased penalties, or be disqualified for set time periods. The offence should aim to find a realistic balance or flexibility to gain compliance to permit conditions and minimise acts of cruelty to a level that compliance become the norm and repeat offences rarely happen. Minor infringements could have discretion, however if repeated then the full force of the offence must be applied to the original as well as the repeat.

ABA suggestions for the revised Wildlife Act Goals to consider include:

- Conservation and preservation of native species well into the future, and
- Retention of sustainable non-native species (i.e. Brumbies) agreed to where local or national community values support their retention in SUSTAINABLE numbers.
- Hunting harms animals, however where local or community values support hunting, then strict permit controls must be in place and enforceable.
- Approved animal rescues should be regulated and assisted with funding for rescue activities, with additional paperwork required by the Act fully refunded.
- Wildlife Capturing, trade, profit or conservation endangered species all need to be stringently regulated to the highest levels of care.
- Sustainable tourism (professional paid tourism/individual tourism) requires permit approval, and non-compliant actions subject to penalties etc.
- Parks Victoria should not regulate, due to conflict of interest from their management role, but should actively assist with enforcing regulations set under the Wildlife Act.

Yours sincerely



President,
Australian Brumby Alliance Inc.