

Response to Independent Review of Victorian Wildlife Act 1975

Friends of Lorne, June 2021

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Context

Lorne is a town on the Great Ocean Road. The town itself features a significant canopy of eucalypts and is inhabited, or visited by, many species of wildlife. It is surrounded by sea and the Great Otway National Park.

The purpose of the Friends of Lorne (FoL) is:

- To encourage and contribute to the planning and development of the environment within Lorne and its environs consistent with the need for preservation of the natural features, flora and fauna of the district.
- To encourage and contribute to the planning, development and maintenance of community services and activities within Lorne and its environs consistent with the balanced needs of permanent residents, holidaying residents, campers and tourists.

Through newsletters, visitor information (including translation into Mandarin) and public meetings including Webinars, FoL contributes to education about wildlife. We have just started platypus monitoring at a site on the St George River and support hands-on environmental programs run by Lornecare and the Friends of Queens Park.

Our submissions to State government and other authorities reflect our interest in the built and natural environment. Our concerns include environments on land and sea, in urban and rural settings and on publicly and privately owned land. In our view, protection of wildlife demands conservation of habitat, including within, as far as reasonable, the town boundaries.

Content

Contemporary values and expectations around wildlife

Increased acceptance of value of wildlife

Wildlife has intrinsic value. Australian citizens, as well as non-Australian visitors, are responsible for its welfare. In Lorne, whether on public or private land, iconic wildlife (eg koalas, kangaroos, echidnas and most birds) and some plants (eg trees and orchids) have long been seen as communal resources.

Research showing that many species have abilities formerly thought to be unique to human beings, has undermined human exceptionalism. Coinciding with this blurring of boundaries between humans and animals, the doctrine of many branches of Christian faiths is less inclined to the belief that mankind has dominion over the Earth and more inclined to the view that mankind has a responsibility to other creatures.

Definition of wildlife	<p>The Act's definition of 'wildlife', which is basically as indigenous mammals +/- some exceptions, is misleading and mistaken. In common use we suggest 'wildlife' refers to a much wider selection of indigenous animals including some aquatic animals. In some uses it includes plants. We note that the all-encompassing term 'biodiversity' has come into use since the Wildlife Act was proclaimed. 'Wildlife' may be an obsolete term.</p> <p>FoL is drawn to the idea of wildlife being defined as all indigenous life forms (biodiversity). Regulation under this definition would have to depend in large part on the protection and conservation of habitat, given that an estimated 70% of Australia's indigenous species are yet to be discovered.</p>
Game	<p>Some non-indigenous species classified as 'game' are currently protected under the Act. FoL supports the removal of all game species from protection as wildlife. Deer are a pest of increasing significance in the Otways.</p>

The need to protect and conserve wildlife and to prevent wildlife from becoming extinct

Habitat protection	<p>FoL accepts the prevailing view that biodiversity is most effectively protected by protecting habitat. If biodiversity and habitat are adequately protected by 'Biodiversity 2037' (at this time we do not have an opinion about Biodiversity 2037), it is not clear what further purpose the Wildlife Act serves with respect to protection and conservation.</p> <p>FoL has been and remains a firm protector of Lorne's tree canopy, valuing both the trees themselves (aesthetics, evaporative cooling, shade, soil stabilisation) and the diverse organisms that come with them. The Surf Coast Shire Council's 'significant landscape overlay' is broadly in keeping with our values.</p>
Conflicting values	<p>Preservation of habitat sometimes conflicts with other values (eg property protection vs habitat protection) and aesthetics (eg panoramic views vs filtered views) within the community. We note that, on the whole, owners have not cleared vegetation to the maximum extent allowed by wildfire considerations. This retention of plants is often presented as irrational and stemming from a failure to comprehend the consequences of fire. The alternative explanation is that the community is behaving entirely rationally but has a different balance of values, ie it assigns greater value to habitat protection than do the fire agencies.</p>
Canopy & old growth	<p>Our tree canopy, however, is thinning. One hollow-dwelling species, the yellow-bellied glider, has disappeared from most of the town and others such as mopokes may follow. These are not threatened species, but the management of hollow-bearing trees both within the town and its surrounds is a critical concern. Habitat trees are often felled within the town and peripheral 'strategic' firebreaks because they are designated as dangerous. Habitat trees along the management lines of planned burns are accorded some protection, but the vast majority get none. Research shows that old trees are disproportionately killed as a consequence of</p>

planned burns.

Duty of care The panel asks if a duty of care would be useful. FoL believes that a duty of care could strengthen environmental aspects of planning (eg provision for wildlife corridors into the town, wide linear reserves, absence of perimeter fences), and reinforce the position of local government in imposing existing overlays and regulations.

We note that a ‘duty of care’ is increasingly invoked in environmental matters. The Federal Court has just upheld it with respect to climate change and children. It applies to private land managers under the Catchment and Land Protection Act, but, as we understand it, the duty is to do no harm rather than specifically protect wildlife. At present, ‘protect and conserve’ tends to be interpreted as avoiding doing active harm, whereas a duty of care requires more proactive approaches.

We suggest that a precautionary approach could also be embedded in the Act such that where there is a possibility of harm, the extent of which is uncertain, then that possibility must be taken into account.

The impact of wildlife on agriculture and other activities &

The impact of ecotourism and other activities on wildlife &

The benefits of activities that foster an appreciation of wildlife

Close encounters FoL believes that making provision for people to be in close contact with wildlife is an essential part of raising the sort of public awareness needed to conserve it. We recognise that this may come at some cost to individual animals. The overarching criterion should be the long-term protection and conservation of species and habitat.

Education, language It is not reasonable to assume that people will automatically know how to behave in natural habitats. Education and instruction about caring for habitat and wildlife should include translation into non-European languages throughout the State, especially where tourism is a significant industry.

Ecotourism We are aware that ecotourism can be damaging and, in some cases, degenerate into being front for tourism lobby groups. If the ideal of providing an opportunity for people to experience wildlife at the same time as protecting and conserving it, the behaviour of people including tour operators must be under strict environmental regulation. Regulations must be enforced.

Interactions Emphasis in our region tends to be on protecting people and property from events in the surrounds (principally coastal erosion and fire), but FoL recognises that the obverse applies too, and that the surrounds must be protected from the impact of people and property development. We favour forms of urban and rural development that have a light footprint.

We support the creation of no-go zones where needed to protect endangered species (eg hooded plover) and restrictions on domestic cats within the town.

Emerging issues affecting wildlife protection and conservation, sustainable use and access

Climate change	<p>Climate change has emerged as the greatest issue facing all forms of life on Earth. The Act must be able to interact with climate change legislation and regulation.</p> <p>Defining the distributions and vulnerabilities of habitats, plants and animals is becoming increasingly difficult as climate change takes hold. Measures that at present are classed as interference with wildlife will be needed in future, such as relocating populations from degrading habitat to areas that have become more suitable. Such operations will be high risk, controversial and expensive. One population/species may 'saved' at the expense of another, or one type of habitat converted to another. We need much more monitoring of habitat & species if we are to approach the protection and conservation in the coming decades in an evidence-based manner. The Act could help to define the general grounds and the processes needed to deal with change.</p>
Over-abundance, koalas, cockatoos, ducks	<p>As a consequence of the presence and/or activities of humans, some species become over-abundant at the expense of others and of habitat.</p> <p>Examples: In the southern Otways, koalas' preference for manna gums over messmates decimated the manna gum component of mixed forests and resulted in koalas starving. In Lorne we have maned ducks (also called wood ducks) and white cockatoos, large populations of which are supported by food sources associated with the activities of mankind. Culls of maned ducks have occurred in Lorne.</p> <p>The Act's provisions for regulation of wildlife populations are essential in the long-term protection of both over-abundant species and of other species displaced by over-abundant species. FoL has reservations however about species being 'unprotected' over wide areas. If wildlife is defined as indigenous, vertebrate, terrestrial mammals and birds, FoL suggests that geographically restricted Authority to Control Wildlife (ACTW) permits are appropriate.</p> <p>We believe the first criterion for ACTW permits should be the overall health of the habitat followed by the good of the species. Inconvenience to mankind should not, in most circumstances, be sufficient justification. Decisions about population control and the carrying out of measures should be in the hands of wildlife specialists and ecologists not the community at large.</p>
Pests, insects & arachnids	<p>If, on the other hand, we consider a broader definition of wildlife that includes insects and arachnids, people who have failed to make the link between the presence of termites and echidnas might, for example, want termites declared 'unprotected'. Although termites are unwelcome in buildings, they are valuable contributors to ecological processes. In our region it seems appropriate that the situations in which control measures are allowed should be clearly defined, and in some cases restricted by licensing. 'Exterminations' should only be allowed in very limited situations.</p>

Consultation & costs We believe that early warnings, on-going education and consultations with the community are essential for acceptance of population control measures.

The costs of controlling populations should be borne by all users of the region including casual visitors and tourists.

Any gaps or inconsistencies resulting from changes to other legal frameworks or policy settings

Within DELWP Inconsistencies within DELWP have seen Forest Fire Management Victoria converting one type of habitat to another without being required to find like-for-like offsets for their activity, either in terms of habitat or carbon storage. Nor does FFMV appear to be constrained by the return period for disturbances specified by the same Department for different ecological vegetation classes.

Mitigation vs adaptation FoL considers that mitigating climate change by reducing net emissions is the key consideration in the protection and conservation of wildlife. The Climate Change Act 2017 establishes emissions reductions targets for Victoria. But we have been unable to identify any agency or sub-agency in our region that applies carbon accounting to its activities, including the managers of the most substantial store of carbon, the forest. Departments, agencies and individuals should be encouraged and facilitated by DELWP to apply carbon budgeting to their activities.

Present indications are that measures undertaken to deal with (ie adapt to) the consequences of climate change are increasing net emissions. Examples include rearguard actions by VicRoads to shore up the Great Ocean Road and some activities of Forest Fire Management Victoria. FoL acknowledges that giving precedence to long-term, low emissions, ways of adjusting to a changing coast line and forest is difficult. Long-term climate planning may be in conflict with the expectations of property owners and businesses.

Changing tourism FoL sees little indication that the Department of Tourism, Sports and Major Events is supporting the creative thinking, and experimentation needed to work out how to do all forms of tourism differently.

The most appropriate and effective ways to encourage compliance with the Act and punish wildlife crime

Preferred methods Much of the destruction of habitat and wildlife in our region is unintended. Where possible we prefer systems based on education, incentives and compliance to those based on punishment.

We believe all businesses operating in the region should do so under some form of agreement that includes clauses related to the conservation and protection of wildlife and habitat. Infringement notices are used in the Surf Coast Shire for some matters (eg fire hazards) and appear to be effective. Infringement notices could be

applied to wildlife protection and conservation. Permission to operate might be revoked if inappropriate or illegal activities are associated with a business and infringement notices are ineffective. Individually minor transgressions which are cumulatively significant, such as feeding wildlife, should be included.

Compliance by individuals, whether property owners, residents or visitors, is also important. FoL is aware of suggestions that all users of the region should do so under a system of permits. This suggestion is usually made in the context of placing a cap on the number of tourists entering the region. If a permit system is ever used along the Great Ocean Road, the conditions for issuing the permit could include the users' responsibilities to protect and conserve wildlife.

Enforcement But in the end regulations should be enforced. Even readily assessed environmental matters, such as protection of tree root-zones on building sites, are at present neglected.

Final comment

The review committee draws attention to the considerable range of Acts that apply to aspects of the conservation and protection of biodiversity. FoL certainly finds the current situation confusing. The Wildlife Act, applying as it does to a non-obvious subset of biodiversity, may simply contribute to complexity. However, if the definition of wildlife is widened, then a new or revised Act could serve a useful purpose if it.

- provides an overview of, and a directory to, the various bits of legislation and their context, and
- establishes the mechanisms and rules for managing biodiversity in a changing climate.

FoL believes that wildlife research and monitoring should be expanded to provide a better evidence base for decision making.