



INDEPENDENT REVIEW OF THE WILDLIFE ACT 1975

**SUBMISSION FROM THE
AUSTRALIAN DEER ASSOCIATION**

JUNE 2021



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Executive Summary

Wild deer have been present in the Victorian landscape since the mid 1860' and have been subject to Victorian Government legislation in some form since that time.

However, the status of wild deer as game animals in Victoria is a source of continued and disproportionate contention. In reality, game status poses no practical impediments to the management of wild deer in places negative impacts occur or have the potential to occur.

Game licensing is a means of managing hunting, not game. It is an enabler that grants licence-holders the privilege of controlled access to public land in exchange for them being part of a system that involves education, regulation and data collection. The entire Victorian community benefits from game hunting through its contribution of hundreds of millions of dollars of revenue and its underpinning of thousands of full-time jobs.

Recreational deer hunters are the dominant killers of wild deer in Victoria by a significant margin. The annual harvest by both paid controllers and commercial operators, whilst important, pales in comparison to the recreational harvest. There is no reason to believe that this fact will change anytime in the foreseeable future. Putting the system that enables recreational deer hunting at risk would, almost certainly, result in less dead deer, not more.

The opposition to game licencing and to game status for wild deer is demonstrably rooted in ideology and identity politics moreso than in evidence and a practical understanding of the dynamics of wildlife and environmental management. People are entitled to their prejudices, but these are not a sound basis for public policy.

The Australian Deer Association welcomes this review of the Wildlife Act and asks that the panel consider the broader context that the act operates within as well as the broad gamut of community values and priorities, not as contradictions and conflicts to be solved, but as a realistic and laudable reflection of our liberal and pluralistic society.

Introduction and background

The Australian Deer Association (ADA) is the peak body representing the interests of Australia's 100,000+¹ deer hunters. The ADA was established in Melbourne in 1969 and has grown over the past 50 years to include 32 active and established branches covering every state and territory of Australia.

The interest of deer hunters in the management of wild deer is broad, complex and often dismissed and misunderstood. Typically, the interest extends far beyond simply killing deer and involves a genuine concern for both the wildlife and the environments they inhabit. Concern over good management of deer is often misconstrued as concern for having enough deer to hunt. Typically, the concern is at least as much about mitigating the degree to which wild deer have negative environmental, agricultural and social impacts as it is about hunting.

Most or all of the regulatory change aimed at addressing overabundant wild deer in Victoria has been driven and supported by the ADA. Since 1969, the ADA has directly lobbied and worked with government on a variety of changes such as:

- extending deer hunter access into National Parks;
- removing the closed season for fallow deer;
- removing the closed season for red deer;
- the unprotection of wild deer other than hog deer on private land; and
- the commercial processing of wild shot venison for both commercial and personal use.

The vast majority, and perhaps all, of the groups calling for the dismantling of game licensing for deer hunters have had either no involvement in these changes, or worse, have actively opposed them. In contrast, ADA members are involved in formal deer management programs across Australia in conjunction with government land managers, non-government organisations and private landholders.² The ADA's official mission is 'To effectively advocate for the sound management of wild deer and public land hunting'.

The proceedings from a national deer management workshop held in Canberra in 2005³ recognised that 'Much research on the ecology of wild deer in Australia has been reported in Australian Deer, the journal of the Australian Deer Association (ADA)' and that 'Most of the work reported in this journal was conducted by ADA members'. The paper goes on to say that, up until then, 'Relatively little work has been published by people employed by State or Federal (e.g., CSIRO) research agencies. This contrasts with New Zealand, where most research on wild deer has been conducted by government agencies'.

A follow-up workshop of state and commonwealth government agencies was conducted in Adelaide on 17–18 November 2016, where many of the same players identified many of the same issues. At this point, it is apparent that limited progress has been made on the subject of practical deer management in Australia over the intermittent 14+ years.⁴

¹ RMCG. (2019). *Economic and social impacts of recreational hunting and shooting*. Final report to the Commonwealth Department of Health.

² Anon. (2019). *Deer Management Initiative*. Australian Deer Association.

³ McLeod, S. et al (2005). *Proceedings of the national feral deer management workshop*. Canberra, ACT. November 2005. Invasive Animals Cooperative Research Centre.

⁴ Forsyth, D. et al. (2016). *2016 National Wild Deer Management Workshop Proceedings*.

Wild deer have been present in the Victorian landscape since the mid 1800s, and they have been subject to state government legislation for around 160 years. A brief summary of the history of regulation of wild deer in Victoria is as follows:⁵

- 1862 First Victorian Game Act; deer and all exotic game protected through the year; native game protected during breeding season
- 1919 Government gazette removal of wild deer from protected list
- 1972 Fisheries and Wildlife Division deer policy approved by government
- 1973 Introduction of the shooters licence (\$2 annual fee) and game stamps (deer stamp: \$10 annual fee); proclamation of an annual closed season for hog deer
- 1975 Introduction of the Wildlife Act, re-enacted with amendments the Game Act 1958 and two sections of the Protection of Animals Act 1966
- 1976 Introduction of a year-round closed season for fallow deer and a one-month open season for red deer
- 1991 Introduction of the game licence
- 2001 Fallow deer closed season revoked
- 2012 Red deer closed season revoked
- 2013 Governor-in-council order unprotecting deer (other than hog deer) on private land
- 2014 Establishment of the Game Management Authority in Victoria
- 2016 Changes to allow the recreational hunting of red and fallow deer alongside sambar deer in National Parks
- 2018 Regulatory changes to allow the commercial processing of wild shot venison
- 2020 Release of the Victorian Deer Control Strategy
- 2021 Release of the Victorian Traditional Owner Game Management Strategy



Fig. Victorian deer stamps 1973–1981

⁵ Bentley, A.R. (1998). *An Introduction to the Deer of Australia*. Australian Deer Research Foundation.

Game vs Pest

The ADA argues that wild deer in Victoria should continue to be managed as game animals under a game licencing regime.

An inordinate level of discussion about the management of wild deer in Victoria concerns their legal status. In practice, what the Government calls them seems to be of more concern to some people than how they are actually managed.

Game licencing is a mechanism for managing hunters, not deer. It is, in part, a recognition of the value placed on the deer by hunters and the motivation that value gives for engagement in regulation, education and communication with government.

There are negative impacts associated with overabundant wild deer – we do not deny that. However, these negatives tend to be discussed devoid of context and using hyperbolic statements, such as ‘deer are the new cane toads’⁶ and ‘six species presently occupy less than 10 per cent of Australia, but are projected to spread to almost the entire continent’.⁷ The negative impacts of wild deer are highly variable and are dependent on numerous factors, such as species, density, habitat and climate. Wild deer also have positive impacts. In low densities, they are widely valued both aesthetically and culturally. Recreational deer hunting provides clear triple-bottom-line benefits to the Victorian community. Hunters also report higher levels of general health, personal well-being and social capital than the general population.⁸ Victorian game-licensed deer hunters contribute \$201 million annually to the Victorian economy and underpin 1,761 full time jobs.⁹ In 2019, recreational deer hunters harvested as many as 213,500 wild deer in Victoria, the majority being female and on public land.¹⁰

Hunting laws, such as the Wildlife (Game) Regulations 2012¹¹ and the Code of Practice for the Welfare of Animals in Hunting,¹² set out minimum standards and practices to prevent cruelty and ensure hunting is undertaken humanely. The declaration of wild deer as pests has occurred in five states and territories with the stated intent of reducing their population and impact. In all jurisdictions, it has failed to achieve this result by any objective measure. Those jurisdictions also have no knowledge of the scale of deer hunting or the size of the recreational take as well as no workable framework for the engagement and effective regulation of recreational hunters.

In 2016/17, the Victorian Parliament conducted a comprehensive inquiry into the control of invasive animals on Crown land.¹³ The inquiry made a number of relevant findings and observations about game licencing for deer hunters, including the following:

- Finding 49: The game licencing system provides an important regulatory safeguard on game hunters. However, the Game Management Authority has limited capacity

⁶ Anon. (2018). *Are deer the new cane toads?* Victorian National Parks Association.

⁷ Luke, S. (2021). ‘Deer should be declared, feral pest’, according to Senate report. Quotation from Andrew Cox, Invasive Species Council. Gippsland Times 1 June 2021.

⁸ Anon. (2019). *Regional Wellbeing Survey*. University of Canberra.

⁹ RMCg. (2020). *Economic contribution of recreational hunting in Victoria*. Final report to Department of Jobs, Precincts and Regions.

¹⁰ Moloney, P.D. and Hampton, J.O. (2020). *Estimates of the 2019 deer harvest in Victoria – Results from surveys of Victorian Game Licence holders in 2019*. Game Management Authority.

¹¹ Wildlife (Game) Regulations 2012. Victoria

¹² Code of Practice for the Welfare of Animals in Hunting (revision no.1). Agriculture Victoria.

¹³ Parliament of Victoria (2017). *Environment, Natural Resources and Regional Development Committee Inquiry into the control of invasive animals on Crown land*. Victorian Government Printer.

to provide in-field oversight. (To address this, the inquiry recommended additional resourcing for the Game Management Authority which the Victorian Government has provided).

- Finding 52: The current game classification of deer, and the exemption that allows the destruction of deer on private land, does not restrict the ability of landowners and land managers from (sic) implementing deer management strategies.

In its conclusion on this matter, the committee's report stated:

The Committee agrees that deer management should focus on what methods will effectively reduce the deer population. Under the current regulations, the Committee does not believe a reclassification to pest would facilitate better management. However, it would remove the requirement to attain a game licence to hunt deer, which would be to the detriment of hunting regulation and oversight.

In the record of evidence to that inquiry, Ms Nina Cullen, giving evidence for the Department of Environment, Land, Water and Planning engaged in the following exchange with Mr Tim Richardson MP¹⁴:

Mr RICHARDSON — I just have a couple of questions going towards classifications of deer in particular. What are the practical ramifications of particular species of deer being declared pests as opposed to game? Can you give us a bit of an overview on that? Does that trigger any — —

Ms CULLEN — Yes, it is a very topical matter. Different interest groups have different understandings, approaches and views as to what the implications would be if you declared certain deer to be pest or not. The most common and widespread species of deer in Victoria are listed as game and therefore protected under the Wildlife Act, and under that act it is an offence to take or kill protected wildlife without an authorisation to do so. Therefore Crown land managers do require an Authority to Control Wildlife permit before undertaking deer control. If I understand you correctly, you are asking what are the relevant merits or otherwise of declaring them — —

Mr RICHARDSON — Yes. Does it change anything in particular in terms of managing their numbers?

Ms CULLEN — The critical matter for managing animals on Crown land is the impact that they are having on the biodiversity values. That is the critical matter. I am struggling with how best to answer. As mentioned earlier in the presentation, not declaring something as a pest does not mean you cannot take control action. You can. There is the ability and capacity to do so. However, declaring it as a pest does not necessarily entail that it then impacts on the numbers other than what is trying to be achieved as part of an invasive animal control program.

Sambar, red, fallow and hog deer are well established in the Victorian landscape and are present in densities that rule out eradication as a feasible state-wide goal. It is imperative that they are managed humanely and that the legislative framework governing their management does not impede or diminish the significant triple-bottom-line benefits that are realised through well-regulated recreational game hunting.¹⁵

¹⁴ Parliament of Victoria (2016). *Environment, Natural Resources and Regional Development Committee Inquiry into the control of invasive animals on Crown land – Public hearing – Melbourne – 5 September 2016*. Victorian Government Printer.

¹⁵ Department of Environment, Land, Water and Planning (2020). *Victorian Deer Control Strategy*.

The zealotry with which a pest declaration is pursued by groups purporting to have an interest in wild deer management is totally disproportionate to any conceivable benefits of such a change. Further, its pursuit breeds mistrust and suspicion amongst Victoria's >45,000 recreational deer hunters and hinders and diminishes the possibility for meaningful collaborations on practical wild deer management.

Issues Paper Discussion and Questions

This submission is not an attempt to answer all of the questions raised in the issues paper. Instead, we have taken the approach of addressing the issues that are relevant to our stakeholders and regarding which we believe we have information or perspectives to offer that could aid the panel in its considerations.

1.1 Does the act reflect contemporary values towards wildlife?

The issues paper notes that 'wildlife is 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'. This is an excellent summation and a great starting point.

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.

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?

There are, unfortunately and unnecessarily, conflicts between the groups with interest in wild deer management in one form or another. There is also a broad intersection of values, interests and expectations among the different cohorts.

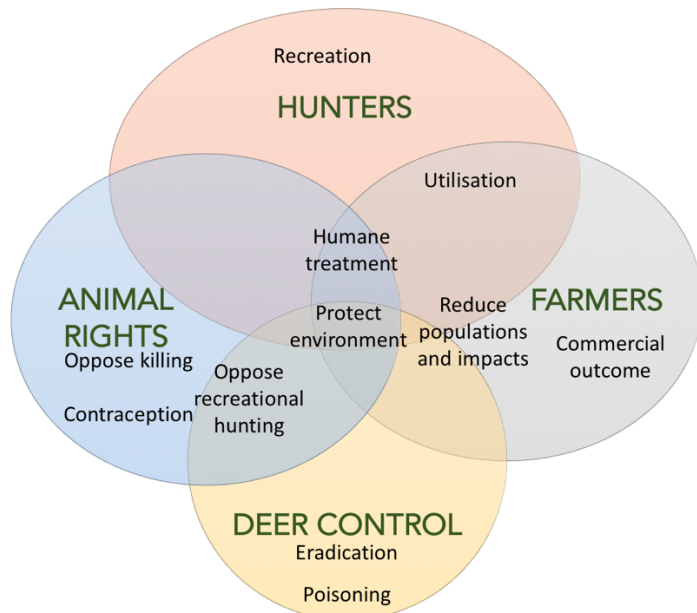


Fig. Venn diagram showing intersecting interests

It is not reasonable to expect primary legislation, such as an act of parliament, to resolve these conflicts. To the extent that providing such resolution is a role of the government at all, it is a role best enacted in a more flexible manner and with adaptive secondary and tertiary instruments, such as regulations and orders.¹⁶ The act should seek to set a broad legislative framework that enables more

¹⁶ Burrows, J. (2011). *Legislation: Primary, Secondary and Tertiary*. New Zealand Legal Information Institute

granular regulatory management that recognises and enables the broad range of community interests.

1.2 Is the intent of the act clear?

The issues paper posits that the stated purposes of the act 'sit uneasily together and, in fact, are often in direct conflict'. We would argue that this is not necessarily a negative thing.

Wildlife management is inherently complex,¹⁷ with an oft-used metaphor for it being that of a three-legged stool, the legs being habitat, resources and people. Remove one of the legs and the stool will fall. Human goals in wildlife management include conservation, preservation, consumption and non-consumptive use.¹⁸ The role of legislation is not to resolve this complexity (it cannot) but rather to make sense of it and to provide a framework according to which it can be managed.

1.2.1 Are the current purposes of the act satisfactory? What should the 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?

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

The ADA believes that the current purposes of the act are satisfactory. They succinctly cover the spectrum of values and interests associated with wildlife.

1.5 Definitions of key terms can be unclear and confusing

In discussion of wild deer management, the term 'protected' is often used erroneously and misleadingly in relation to the powers of the Wildlife Act.¹⁹ The Wildlife Act sets a framework for management – it does not provide any practical protection in and of itself.²⁰

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

Wild deer, ducks and quail are wildlife. The hunting of game is an activity valued by >55,000 Victorians,²¹ and its sound regulation is a critical element of the state's broader wildlife management regime. The concept of 'game' is well understood by the broader community and has been a feature of Victoria's regulatory regime for 159 years.²² The case for changing it seems to be that some people do not like hunting or the things deer are called by government. Otherwise, they may have managed to confuse themselves or to be confused by the misinformation propagated by others. It is their right to hold these opinions, but they are not a sound reason for change.

¹⁷ Organ, J.F. et al. (2012). *The North American Model of Wildlife Conservation*. The Wildlife Society and The Boone and Crockett Club Technical Review 12-04.

¹⁸ Mengak, M.T. (2008). *Wildlife Management*. University of Georgia.

¹⁹ Miller, A. (2021). *Invasive Species Council says deer are a pest, not a game species*. Stock & Land 2 March 2021.

²⁰ Parliament of Victoria (2016). *Environment, Natural Resources and Regional Development Committee Inquiry into the control of invasive animals on Crown land – Public hearing – Melbourne – 5 September 2016*. Victorian Government Printer.

²¹ Anon. (2018). *Game Licence Statistics Summary Report – 2018*. Game Management Authority.

²² Parliament of Victoria (1862). *Game Act*. Victorian Government Printer.

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

Sustainable wildlife management is the sound management of wildlife species to sustain their populations and habitat over time considering the socioeconomic needs of human populations.²³

The ADA can see advantages and disadvantages associated with moving the management of game to a separate act of parliament, and we do not have an ideological or dogmatic predisposition either way.

On the one hand, a separate act would recognise the importance of game hunting to Victoria and establish a clear, independent framework for its administration. On the other hand, it would potentially add to the complexity of the regulatory environment rather than reduce it. Over time, different species of wildlife have moved on and off the game list, and there is no reason to believe that this could or should not continue to be the case. Game hunting is but one element of the broader management considerations for a given species, other elements of which would, logically, remain in the Wildlife Act if a change were to be made.

If the objectives of the Wildlife Act were to be narrowed to essentially exclude the sustainable use of wildlife, then it would become necessary to legislate for game hunting (as well as commercial hunting and overabundant wildlife control) through another instrument. Such an act might well sit more comfortably alongside agricultural legislation than it would alongside environmental legislation.

2.2 Managing wildlife populations that span jurisdictions and land tenures is difficult under the act

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

The notion that a single act of a state parliament can or should solve the complexities of a federation is absurd. The Victorian Parliament should be unfettered in decision making within its jurisdiction. Whilst Victorian legislation should be cognisant of the need to manage issues that cross borders, in our experience, devolution to a common 'standard' inevitably drags everyone down to the lowest common denominator.

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?

The concept of cost recovery is difficult to properly consider without a direct hypothecation of funds to the purpose of the license or permit to counterbalance it. The appropriateness and transparency of the costs accrued by government in relation to the activity in question would also need to be considered. If full cost recovery is expected of the public, then full transparency and a minimalistic approach to spending could also reasonably be expected in return.

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

²³ Convention on Biological Diversity. (2018). *Decision 14/7 Sustainable Wildlife Management*. Proceedings of the Fourteenth Meeting, Sharm el-Sheikh, Egypt, 17-29 November 2018,

It is commonplace that the penalties meted out by the judiciary for game offences are not commensurate with either the expectations of the game hunting community or the commercial value of the game.

There is also a view that game offences are somewhat of a 'victimless crime', which is likely due to a view that wild deer are universally abundant. This is clearly not the case. Illegal hunting puts community safety and animal welfare standards at risk, and in many circumstances, it denies private landholders the opportunity to realise a commercial return from the presence of wild game. It also diminishes the reputation of game hunting in the community and denies opportunities to licenced and law-abiding game hunters.

In jurisdictions in the US, for example, the penalties for illegal hunting vary depending on the potential commercial value of the game to the landholder/manager. In Michigan, in addition to various sanctions, such as cancellations and suspensions of licences and custodial and non-custodial sentences, there is also a mandated financial restitution that exceeds the actual commercial value of the game. For whitetail deer, for instance, the progressive penalty system works as follows:²⁴

- For any deer with or without antlers, the base restitution will be \$1,000.
- For any antlered deer, there will be an additional restitution of \$1,000+.
- For antlered deer with 8 to 10 points, an additional \$500 will be assessed for each point.
- For antlered deer with 11 or more points, an additional \$750 will be assessed for each point.

The current public safety provisions in the Wildlife Act pertaining to the presence of unauthorised persons on wetlands, where recreational duck hunting occurs, have proven to be wholly inadequate at addressing the dangerous and disruptive activities of protesters. The intent of the provisions is routinely subverted by protesters simply through their acquisition of a game licence and a shooters licence.²⁵ A provision that an 'intent to hunt' is necessary should also be added. Whilst citizens have a right to lawful protest, that right should not reasonably extend to the consistent curtailing of the legal recreational activities of other citizens.

²⁴ Anon. (2014). *Fines Increase for Poaching Antlered Deer, Recreational Trespass*. Michigan Farmer.

²⁵ Francis, C. (2021). *Duck hunting 2021: Protestors fined, banned for harassing Victorian hunters*. The Weekly Times June 16 2021.

Response to pro forma submission promoted by the 'Victorian Deer Control Community Network' (VDCCN)

It is not our usual practice to write detailed rebuttals of others' submissions. We have respect for a diversity of views and values, and we recognise that it is the imperative of stakeholders to prosecute from their own perspective. However, when a pro forma submission is being prosecuted by a group that ostensibly speaks with the authority of a tier of government (with the implication of credibility that implies), we feel compelled to make an exception because we view it as an attempt to pervert the review process. This especially true for us in this instance, when the pro forma submission has been distributed to a large number of well-meaning, directly affected groups, and when it provides next to no supporting evidence for its exhaustive and, in our view, largely misinformed and spurious log of claims.

The VDCCN claims to be a forum for community organisations to share information, build capacity, advocate and identify opportunities for collaboration. If the ADA believed that was genuine we likely be an active and enthusiastic supporter and promoter of it. However, based on its communications and activities to date, it could be more accurately described as a group that shares misinformation, coalesces around a common prejudice and seeks to subjugate and exclude relevant stakeholders while ignoring and misrepresenting their perspectives. If one were to read the submission being prosecuted by the VDCCN, one could be forgiven for believing that the game licencing of wild deer is a demonstrable impediment to the sound management of overabundant wild deer, as well as the most significant restraining factor in this respect. However, this is clearly and demonstrably not the case. We would argue that the devolution of the VDCCN's pro forma submission into moral or ethical judgments and its diversion into issues such as recreational duck hunting betray a level of thinking that is rooted more firmly in ideology than evidence.

We would urge the review panel to view all such 'pro forma' submissions as a single submission and to exercise great caution in accepting the veracity or substance of any of their claims.

Feral Deer

<Organisation name> is grappling with the exponentially increasing feral deer population on the peri-urban fringe of Melbourne that is destroying important wildlife habitat. Feral deer are not only destroying biodiversity, but are also dramatically impacting agriculture, the economy, cultural values and human safety, due to increasing deer-vehicle collisions and human interactions. Feral deer are also threatening the water quality of waterways in the Yarra Catchment including Melbourne's water supply. Protozoan parasites (Cryptosporidium and Giardia species) that could cause zoonotic disease in humans and can put wildlife populations at risk ('Giardia and Cryptosporidium in mammalian wildlife – current status and future needs.' *Trends in Parasitology*, 21:8 August 2005), have been detected at low levels in deer faecal pellets in Melbourne drinking-water catchments. If Melbourne's water supply had to be treated for Cryptosporidium it would cost over \$1 billion to upgrade the treatment infrastructure.

The term 'feral deer' is grammatically and semantically inaccurate. 'Feral' could potentially apply to some populations of red and fallow deer in Victoria, but as a catch-all term for wild deer, it is not appropriate. Our view is that the term is widely used because it sets a pejorative tone, while such a heading is not consistent with a fact-based submission.

The fact that non-Victorian Government agencies use the term incorrectly does not legitimise its use. As with many words in the English language, 'feral' has its origins in Latin, where it means 'wild'. These days it seems that many in Australia attach the word to any introduced species,

meaning you end up in the slightly ludicrous situation of considering feral goats and feral pigs as well as feral rabbits, feral foxes and feral deer. Further, if we accept that 'feral' is just another word for 'wild', we can then validly discuss feral kangaroos, feral koalas and feral platypuses.²⁶

One framework from the World Organization of Animal Health,²⁷ a highly respected official body, includes the following definitions:

- Wild animals are those animals that do not live under human supervision or control and do not have their phenotype selected by humans.
- Captive wild animals are those animals that live under human supervision or control but their phenotype is not selected by humans.
- Feral animals are those animals that do not live under human supervision or control but their phenotype is (or has been) selected by humans.

At the same time, none of the widely used and accepted reference guides (Macquarie, Henderson's, Oxford) describe 'feral' in the manner in which it is used in the pro forma submission.

Whilst real and serious, the risk of vehicle collisions with wild deer in Australia is grossly exaggerated. In 2019/20, 84% of vehicle collisions with animals in Australia involved kangaroos, followed by wallabies and wombats. Collisions with wild deer accounted less than 2% of such collisions, and this figure has been stable for a number of years.²⁸

The threat to water supplies, whilst important and subject to monitoring and targeted control, is also overstated and devoid of context. *Cryptosporidium* genotypes have also been detected in seven species of macropods,²⁹ Tasmanian Devils,³⁰ and an array of bird species. Further, *Giardia* is present in a wide range of native Australian wildlife species³¹.

Eastern and Western Grey Kangaroos are the most abundant large mammals inhabiting watersheds in Australia, but, to date, there have been no reports of outbreaks of *Cryptosporidium* or *Giardia* due to the drinking of this water.³²

²⁶ Slee, K. (2018) *What's in a name?*. Australian Deer Magazine, Vol 43 No 6.

²⁷ World Organisation for Animal Health, <oie.net>

²⁸ Anon. (2020). *Bad news for Skippy, good news for Bambi*. Australian Deer Website.

²⁹ Power, M.L. (2010). *Biology of Cryptosporidium from marsupial hosts*. Experimental Parasitology 124, 40–44.

³⁰ Wait, L.F. et al. (2007). *Molecular characterization of Cryptosporidium and Giardia from the Tasmania devil (Sarcophilus harrisii)*. PLoS One 12(4), e0174994.

³¹ Thompson, R.C.A. et al. (2010). *Giardia in Western Australian wildlife*. Veterinary Parasitology 170, 207–211.

³² Spratt, D and Beveridge, I. (2018). *Wildlife parasitology in Australia: past, present and future*. Australian Journal of Zoology, 66, 286-305.

The objectives of the Wildlife Act to protect feral deer for game hunting is totally inappropriate and inconsistent with other government policy and legislation. There is confusion both in government and the community by the fact that feral deer are protected as game under the Wildlife Act, whilst there are exemptions allowing deer to be "unprotected", but only on private land and not including Hog deer. Public land managers currently must seek an 'Authority to Control Wildlife', to permit the removal of an introduced feral pest, to protect biodiversity and wildlife habitat in conservation areas.

Allowing feral deer to remain as 'game' under the Wildlife Act 1975 in Victoria because they are '*already established in the wild in Victoria and beyond eradication with current control methods*', is inconsistent with how we approach other pest animal management eg. rabbits, foxes and pigs. In the wild, feral deer and each of these other animals are invasive pests and should be unequivocally recognised as such.

The assertion that the Wildlife Act 'protect(s) feral deer for game hunting' betrays a shallow understanding of the realities of wild deer management in Victoria. Namely, it implies that the Wildlife Act serves as a material impediment to the control and management of wild deer, which is clearly and demonstrably false. With minor exceptions, wild deer in Victoria can be hunted year-round with no bag limit³³ and can be controlled on private land without the need for a game license.³⁴

The 'bureaucratic hurdle' of public land managers requiring an 'authority to control wildlife' (effectively a permit from their own agency) is something that the ADA has regular, first-hand experience with as a notable contributor to wild deer control programs on public land. The pro forma submission has, once again, completely exaggerated the degree to which this is a limiting factor in control or management, notwithstanding that, this impediment was recognised and is being addressed by a specific action in the Victorian Deer Control Strategy.³⁵

The rationale for maintaining game licencing is not as stated by the pro forma submission. Game licencing is a mechanism for managing hunters, not deer. Hunting laws, such as the Wildlife (Game) Regulations 2012³⁶ and the Code of Practice for the Welfare of Animals in Hunting,³⁷ set out minimum standards and practices to prevent cruelty and ensure hunting is undertaken humanely.

The declaration of wild deer as pests has occurred in five states and territories with the stated intent of reducing populations and impacts. In all jurisdictions, it has failed to achieve that result by any objective measure. Those jurisdictions also have no knowledge of the scale of deer hunting or the size of the recreational take and no workable framework for the engagement and effective regulation of recreational hunters.³⁸

All feral deer species in Victoria need to be removed as 'game' under the Wildlife Act 1975 for the following reasons:

- 1. Feral deer are now an established, self-sustaining invasive pest, destroying Victoria's biodiversity and wildlife habitat, with the potential to establish across the entire continent;**

³³ Wildlife (Game) Regulations 2012. Victoria

³⁴ Governor in Council order under section 7A of the Wildlife Act 1975. 9 July 2013.

³⁵ Department of Environment, Land, Water and Planning (2020). *Victorian Deer Control Strategy*.

³⁶ Wildlife (Game) Regulations 2012. Victoria

³⁷ Code of Practice for the Welfare of Animals in Hunting (revision no.1). Agriculture Victoria.

³⁸ Freeman, E and Finch, N. (2016). *Regulatory Control of Deer in Australia*. Advances in Conservation through Sustainable Use of Wildlife. University of Queensland.

Pejorative and hyperbolic generalisations aside, the assertion about ‘the potential’ of wild deer to ‘establish across the entire continent’, whilst oft repeated, is not credible and is without a sound basis.

This particular piece of apocryphal information seems to have its origins in modelling undertaken by the Invasive Animals CRC (now the Centre for Invasive Species Solutions) in 2011 using the Climatch algorithm.³⁹

Climatch allows researchers to predict a species’ distribution using only climatic variables. Put simply, it is a crude and coarse desktop tool that does not take into account various important factors, such as habitat, food and water sources, predation, disease or means of immigration. The same model would likely tell us that all of Antarctica has the potential for the distribution of polar bears.

The particular mapping from Climatch shows most deer species as having ‘high potential’ where they are not currently present and as having ‘low potential’ in the areas where they have successfully established. A comparison of the actual distribution of wild deer in Australia at the time of the modelling (150 years after their liberation) with the Climatch projections highlights the absurdity of these statements. It is not that there is anything inherently wrong with the Climatch modelling. It is more that it has been applied in a manner that is not logical and that, in our view, is highly alarmist.

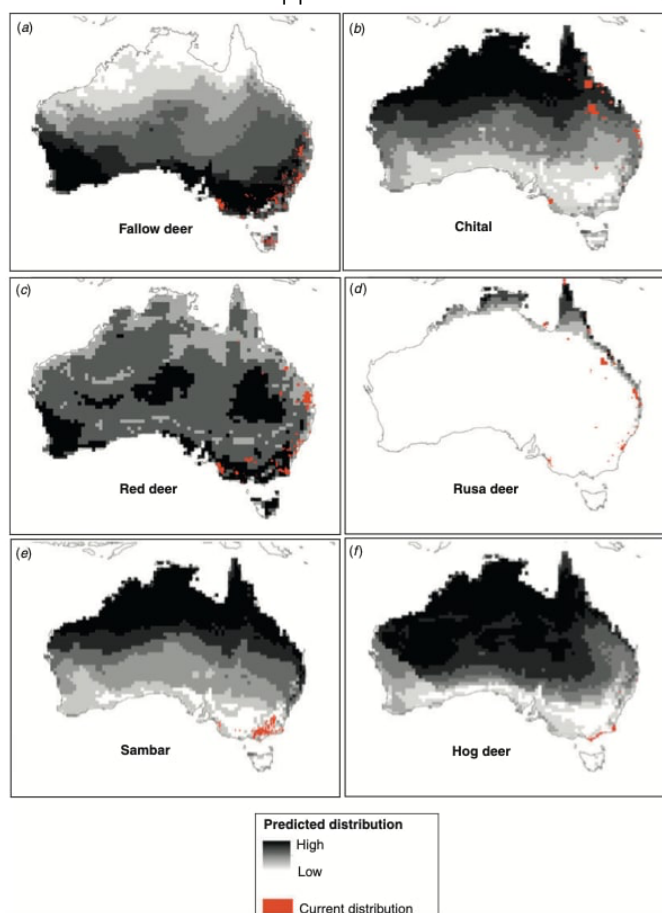


Fig. The distribution modelling from Climatch 2011

³⁹ West, P. (2011). *National mapping of the abundance of established, new and emerging pest animals to improve decision-making and the assessment of Government investment programs. Stage 1: pest animals report* to the Australian Bureau of Agricultural and Resource Economics and Sciences, Department of Agriculture, Fisheries and Forestry. NSW Department of Primary Industries and the Invasive Animals Cooperative Research Centre, Orange.

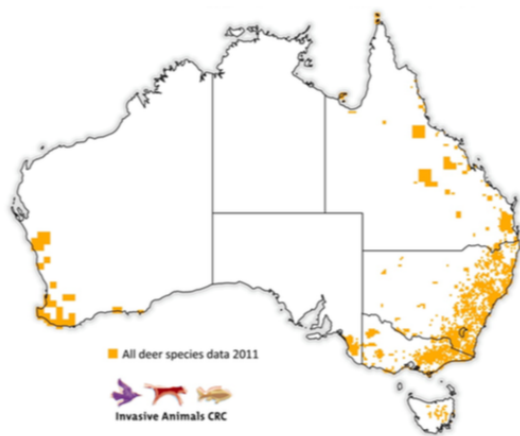


Fig. The actual distribution of wild deer in 2011

2. Legislation and policy for invasive species should be consistent and clear across land tenure. Currently there is confusion in policy and legislation as to how deer should be managed;

This claim ignores the complexity and dynamic nature of wildlife populations and therefore of wildlife management. The term 'invasive species' is also poorly defined. In Australian wildlife management, it is generally accepted that the term refers to a species occurring, as a result of human activities, beyond its historical or normal distribution and that threatens high-value environmental, cultural or agricultural assets.

This definition could equally apply to the koalas on Snake Island⁴⁰ or the kangaroos,⁴¹ wombats and emu's on Wilsons Promontory,⁴² all of which were introduced after European settlement and all of which have had (or are having) negative impacts on assets. It is not credible to argue that invasiveness should be a basis for a change in classification.

The claim about 'confusion' is also nonsensical. The ADA is not aware of any land managers (public or private) that are 'confused' about the legality of management actions in Victoria. In our experience, land managers are generally far more intelligent than the author of the pro forma submission appears to give them credit for.

3. It is important that the legislation and policy for feral deer management is in alignment across Australia to ensure consistency of management practices and best possible options to reduce the serious impacts of feral deer.

This is a bizarre assertion. Without notable exception, legislation managing all facets of society varies in detail, structure and semantics from jurisdiction to jurisdiction. Evidence-based collaboration, information sharing and close cooperation on cross-border issues are the critical factors in advancing

⁴⁰ Gray, D. (2010) *Saving the koalas – and manna gums – of Snake Island*. The Age, December 17 2010.

⁴¹ Whelan, J. (2008). *Are Kangaroos Indigenous to Wilsons Promontory National Park*. The Victorian Naturalist, Vol 125 No 6.

⁴² Garnet, J.R. (2009). *A History of Wilsons Promontory National Park, Victoria, Australia*. The Victorian National Parks Association.

and improving management, not any unrealistic notion of legislative harmony.

4. 'The reduction in biodiversity of native vegetation by Sambar deer' is listed as a Potentially Threatening Process under the Flora and Fauna Guarantee Act 1988;

This is a statement of fact, not a rationale for a change of status. Victoria has 43 listed Potentially Threatening Processes,⁴³ including the impacts of high-frequency fire and the spread of certain species of native flora.

5. The nomination of deer as protected 'game' under the Wildlife Act 1975 was made when deer were far fewer in number and were deemed in need of protection for recreational hunting purposes;

This is misrepresentation (or more likely an ignorance) of the history. The inclusion of wild deer in the Wildlife Act 1975 was a consequence of that act subsuming the Game Act 1958.⁴⁴ Wild deer were, in fact, first considered in legislation in Victoria with the proclamation of the Game Act 1862. Recreational hunting, in a sense comparable to that practiced today, commenced with a removal of protection in a government gazette in November 1919⁴⁵.

The contemporary game licencing arrangements for wild deer coincided with the introduction of a shooters licence in Victoria in 1973, when an annual 'game stamp' for deer was introduced to fund management efforts.

Contrary to the 'protection' rhetoric, the Victorian Government's Deer Policy, written in 1972 and updated coincidentally with the creation of the Wildlife Act in 1975,⁴⁶ acknowledged the risks to natural values of overabundant wild deer and prohibited deer releases (other than by government), explicitly acknowledging the need for 'control and management'.

It may be rhetorically useful to suggest legislation has hampered deer control or even exacerbated expansion and growth, but this contention is not supported by the facts.

6. To dispel the misnomer that this will threaten sustainable game deer populations, given the exponential growth rate of feral deer in Victoria;

This highlights the futility of a change – If it will not have a demonstrable impact on populations (and it will not), then what is the point?

The author gives no explanation in terms of which cohorts or groups hold this alleged misnomer. It is fair to assume that the inference is that it is held by recreational deer hunters. It has not been the ADA's experience that such a concern is held by the broader recreational deer hunting community or their representative groups. As early as 1982, the ADA was publishing material (authored by well-

⁴³ Flora and Fauna Guarantee Act 1988 – Processes list – December 2016.

⁴⁴ Harrison, M. (2010). *Sambar, The magnificent deer*. Australian Deer Research Foundation.

⁴⁵ Bentley, A.R. (1998). *An Introduction to the Deer of Australia*. Australian Deer Research Foundation.

⁴⁶ Fisheries and Wildlife Division, Ministry for Conservation. (1975). *Deer policy 1972 (revised 1975)*.

qualified and credentialed biologists) clearly affirming that extermination (that of sambar deer) is demonstrably impractical.⁴⁷

This argument again betrays a fundamental misunderstanding of the interests of recreational deer hunters when it comes to the management of wild deer in the Australian landscape. It is an assumption that the interest is essentially myopic and that it does not extend beyond the superficial desire to have game to hunt.

On a separate note, dispelling misnomers (as spurious as that idea is) is an erroneous motivation for making significant change to longstanding public policy.

7. It is a contradiction to protect an introduced game species under the same act that also protects Victoria's indigenous wildlife. Feral deer are a direct threat to the wildlife and habitat that the Wildlife Act is aiming to protect;

Wild deer are not either good or bad in and of themselves, and generalisations such as that made in this point are both inane and counterproductive. As outlined earlier, various species of native fauna (and flora) can also have detrimental impacts and pose a threat to conservation values.

It is clearly not a 'contradiction' to have an overarching legislative framework that captures differing species of wildlife whilst still enabling nuanced and dynamic management. On the contrary, that ought to be one of the main goals.

8. Feral deer have also been proven vectors of disease for wildlife and stock and should be legally defined as a biosecurity threat and managed accordingly;

The degree to which wild deer are 'proven vectors' of zoonotic diseases is limited. Most of the literature and research points to 'potential'. A qualitative assessment of disease risk for deer and livestock in Australia found that wild deer generally pose a low risk of transmission of wildlife diseases⁴⁸. And again, native wildlife also poses risks for agriculture.

Foot and mouth disease (FMD) is regularly raised as 'the big risk' when it comes to considering wild deer from a biosecurity perspective. However, most or all mammalian wildlife presents a potential threat for FMD transmission. Of the deer species in Victoria, fallow deer are the only one documented with carrier status for FMD. It is important to note that carrier status does not equal source of infection, and that carrier animals are shown to have 500 times lower virus levels than clinically ill animals. With the exception of the African buffalo, carrier-status wildlife has never been documented to have infected a susceptible animal with FMD.⁴⁹

⁴⁷ Downes, M.C. (1983). *The Forest Deer Project 1982 – A report to the Forests Commission Victoria*. Australian Deer Association.

⁴⁸ Cripps, J.K. et al (2018). *Introduced deer and their potential role in disease transmission to livestock in Australia*. Mammal Review.

⁴⁹ Howlett, B.P. (2018). *Volunteer Recreational Hunters Contributing to Formal Deer Management Programs – Mutual Opportunities and Risks*. NSW Vertebrate Pest Symposium.

In the vast majority of situations, wildlife does not play a significant role in the maintenance of FMD infections. Evidence indicates that, outside of sub-Saharan Africa, effective control of FMD in livestock is the best possible means of ensuring protection for both livestock and wildlife.⁵⁰

A paper published in 2003 examined the verification of an eastern grey kangaroo with FMD in a zoo in West Bengal in India. Two days after the appearance of clinical signs of infection, the animal was dead.⁵¹ This would suggest that eastern grey kangaroos present a markedly more significant biosecurity threat to Australian livestock with regards to FMD than wild deer do. To be clear, we are not suggesting that this is a rationale for the reclassification of Kangaroos, which would be absurd.

9. State government management of feral deer would be more effective, as currently biosecurity officers are not authorised to assist with deer management. At this critical point of feral deer populations increasing, all potential resources should be available to halt further dispersal;

Field-based state government employees typically carry broad authorisations under multiple acts of parliament, including many that are incidental to their core roles. If any officers are lacking authorisations applicable to their role, they can easily be gained by making an application to their department secretary, which is common and routine practice.⁵² The contention here that dedicated biosecurity officers could somehow be diverted from their current duties to play a demonstrably effective role in the management of wild deer is not supported by evidence and lacks a logical basis.

10. More opportunities for research into alternative control methods are likely to be realised;

There is no evidence to support this statement. Research into alternative control methods for wild deer continue internationally. In Victoria, the state government has recently committed \$20 million for deer control and research through the Victorian Deer Control Strategy. The notion that a change in semantics would result in an increase in funding is illogical.

11. Feral deer are also known to spread a *Phytophthora*, which is widespread in the peri-urban areas of Melbourne and causing dieback of native trees and wildlife habitat;

We could find no evidence to support this claim. Victoria's Flora and Fauna Guarantee Act lists two potentially threatening processes related to *Phytophthora cinnamoni*. One relates to the transport and use of contaminated gravel. The other listing, which is related to the spread from public land, makes no mention of wild deer. The federal government has a comprehensive (35-page) threat abatement plan for *Phytophthora cinnamoni*, and it makes no mention of deer whatsoever.⁵³ That is not to say that wild deer pose no potential threat, but the statement that they are a known vector is demonstrably false.

⁵⁰ Yano, T. et al (2018). *The Effectiveness of a Foot and Mouth Disease Outbreak Control Programme in Thailand 2008-2015: Case Studies and Lessons Learned*. Veterinary Sciences December 2018.

⁵¹ Bhattacharya, S. et al (2003). *Identification of foot-and-mouth disease from a captive kangaroo in a zoological garden in India*. The Veterinary Record Vol 153.

⁵² Name withheld. (2021). Agriculture Victoria. Pers Comm.

⁵³ *Threat abatement plan for disease in natural ecosystems caused by Phytophthora cinnamoni*. Australian Government Department of the Environment and Energy.

12. The change of the status of deer in other states, has proven to raise awareness of the serious impact of feral deer and has increased management action by private landholders;

There is no evidence to support this assertion. An investigation in 2016 found that the only notable monitoring of wild deer by private landholders occurred in Western Australia and Tasmania, both of which have discrete populations of wild deer.⁵⁴ In Tasmania, that monitoring is predominately related to property-based game management agreements between private landholders and groupings of recreational hunters. These agreements enable a significant proportion of the total wild deer take in Tasmania⁵⁵ and deliver benefits for both landholders and hunters.

13. The Act should be changed to the 'Native' Wildlife Act, with the protection of 'native' wildlife as the key objective, not the regulation of hunting invasive species;

This is a clear misrepresentation of the objectives of the Wildlife Act. As outlined in the issues paper⁵⁶ related to this review, the key functions of the Wildlife Act 1975 are broad and diverse, with the act setting a framework for the regulation of:

- the keeping and trading of wildlife;
- wildlife management;
- game hunting;
- wildlife care and rehabilitation;
- the creation, management and enforcement of protected areas;
- the granting of permits to conduct wildlife research, tourism and commercial filming; and
- protection of Victoria's whales, dolphins and seals.

14. Pest status would support the establishment of a compliance regime to prevent the deliberate transport of feral deer to new areas;

The release of deer into the wild has been illegal in Victoria since at least 1972,⁵⁷ and likely much earlier than that. Whilst there is some anecdotal evidence of illegal translocation by hunters, it is considered to be exceedingly rare.

Though it is a secondary concern in the broader management picture, escape from deer farms is considered by the Victorian government to have a demonstrably higher risk profile than deliberate illegal release. Action 1.1 of the Victorian Deer Control Strategy makes it clear that the existing regulatory framework is sufficient in this regard.⁵⁸

⁵⁴ Freeman, E and Finch, N. (2016). *Regulatory Control of Deer in Australia*. Advances in Conservation through Sustainable Use of Wildlife. University of Queensland.

⁵⁵ Department of Primary Industries, Parks, Water and Environment submission to the Tasmanian Legislative Council Inquiry into Wild Fallow Deer, 2016.

⁵⁶ DELWP. (2021). *Independent Review of the Wildlife Act 1975 – Issues paper – April 2021*.

⁵⁷ Fisheries and Wildlife Division, Ministry for Conservation. (1975). *Deer policy 1972 (revised 1975)*.

⁵⁸ Department of Environment, Land, Water and Planning (2020). *Victorian Deer Control Strategy*.

15. It would allow for local laws to be created to require deer control on private land if necessary;

South Australia and Queensland are the only jurisdictions where local governments have any responsibilities with regard to wild deer control, and these are peripheral.⁵⁹ We could find no evidence of a local council prosecuting landholders in relation to the control of wild deer on private land in Australia, and the notion that this would occur is, frankly, fanciful.

16. It is unethical to maintain and protect pest animal populations that are causing environmental destruction and economic hardship for the Victorian community.

This statement is hyperbolic and misleading. As we have clearly demonstrated, the game status of wild deer does not protect them from control or demonstrably hinder any management or control efforts. In our view, this statement serves to highlight the degree to which this pro forma submission is rooted in ideology as opposed to evidence.

It is also important that the Wildlife Act Review considers the recently released recommendations from the *Senate Inquiry into the Impacts of Feral Deer Pigs & Goats in Australia*, particularly Recommendation 8. Relevant recommendations include:

- **Recommendation 6:** The committee recommends 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 7:** The committee recommends that the Department of Agriculture, Water and the Environment report annually to Parliament on the status of all Key Threatening Processes (KTPs) listed under the *EPBC Act*, along with information on what monitoring and management activities have been undertaken under Threat Abatement Plans associated with KTPs.
- **Recommendation 8:** The committee recommends 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:** The committee recommends 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.

It is neither important nor relevant for the independent expert panel to consider a political report from another jurisdiction. There is also a relevant and recent Victorian Parliament report⁶⁰ that, logically, has a far greater level of insight on Victorian management issues and includes findings that directly contradict those of this senate report.

This particular Australian Senate inquiry was established and driven by the Australian Greens political party, largely as an effort to bypass the sovereignty of the states and territories when it comes to wildlife management. If the recommendations of that inquiry were to be implemented, the likely result would be additional bureaucracy, additional expenses and no additional practical, on-ground

⁵⁹ Freeman, E and Finch, N. (2016). *Regulatory Control of Deer in Australia*. Advances in Conservation through Sustainable Use of Wildlife. University of Queensland.

⁶⁰ Parliament of Victoria (2017). *Environment, Natural Resources and Regional Development Committee Inquiry into the control of invasive animals on Crown land*. Victorian Government Printer.

management of the wildlife in question.⁶¹ Many of the inquiry's recommendations are illogical, unfeasible and contradictory of each other.

We assume that had the Victorian Government wanted the Wildlife Act reviewed by a committee of a parliament, it would have referred it to a committee of the Victorian Parliament for investigation. It did not do that.

Other important issues

The Wildlife Act review also needs to consider:

- The protection of viable wildlife populations, the genetic variations of each species and their habitats;
- The impacts of Climate Change and the necessity to protect ecosystems and larger connected vegetation patches, to ensure more resilient and sustainable wildlife populations;
- Enforcement of the Act, along with increases in penalties, including prison;
- The Act needs to increase protections for wildlife and wildlife habitat by providing new tools such as "wildlife protection zones" and "wildlife protection orders".
- All native wildlife should be defined and protected as native wildlife, including our native ducks and quails, especially considering waterbird populations have dropped by 90% in the last 4 decades (Kingsford.R., 2019).

Enabling legislation that can be used to support the efforts of Local Government, Community and State Government agencies to protect wildlife and wildlife habitats is critical.

Thank you for the opportunity to make a submission to the Wildlife Act 1975 Review.

This begs the question as to why a group with an ostensibly narrowly defined and deer-specific focus is prosecuting views on issues such as the hunting of game birds. It further demonstrates the degree to which this pro forma submission is rooted in a narrow ideology rather than evidence. In addition, it highlights disjointed and absurd reasoning – that game status simultaneously affords game (deer) too much protection and (ducks) no protection at all.

The Eastern Australia Waterbird Survey (EAWS) is a coarse, longitudinal study that primarily serves to provide the essential baseline information with which to assess changes and impacts on the environment, particularly wetlands and rivers. It also provides some long-term objective data on waterbird populations in Australia.⁶² One of the EAWS' lead researchers has publicly stated that the EAWS provides insufficient data to determine whether or not hunting has any appreciable impact on duck numbers.⁶³ In recognition of the limitations of the EAWS in setting sustainable game hunting seasons, the Victorian Government commissioned the Arthur Rylah Institute to conduct a more granular aerial survey to provide rigorous and transparent input regarding the setting of game seasons and to ensure the sustainability of recreational duck hunting in Victoria.⁶⁴ The application of this research has already resulted in a realignment of duck season arrangements for 2021,⁶⁵

⁶¹ Anon. (2021). *Pest industry gravy train chugs into Canberra for some fuel*. Australian Deer Magazine Vol 46 No3.

⁶² Porter, J.L. et al. (2020). *Aerial Survey of Wetland Birds in Eastern Australia – October 2020 Annual Summary Report*. University of New South Wales.

⁶³ Philips, S. (2016). *Lake Elizabeth hunting ban: Key duck wetland closed ahead of Victorian season*. ABC News Victoria Friday 18 March 2016.

⁶⁴ Ramsey, D.S.L and Fanson, B. (2021). *Abundance Estimates for Game Ducks in Victoria – Results from the 2020 Aerial Survey*. Arthur Rylah Institute for Environmental Research.

⁶⁵ Davis, R. (2021). *Victorian duck hunters allowed to bag more birds each day, prompting anger*. ABC Gippsland 15 April 2021.

increasing the harvest from that set using the EAWS as the dominant data input. Data-driven decisions around game seasons for waterfowl ensure that a large proportion of the recreational harvest is compensatory rather than additive⁶⁶ and that hunting seasons are sustainable in the long term. Whilst arguments about duck hunting based on an ideological or animal rights perspective persist, arguments about sustainability from a conservation perspective are invalid.

⁶⁶ Seding, J.S. et al (2010). *Assessing Compensatory Versus Additive Harvest Mortality: An Example Using Greater Sage-Grouse*. The Journal of Wildlife Management Vol 74 No 2.



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