

## Barristers Animal Welfare Panel

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### The *Wildlife (Game) Regulations* 2012

#### Introduction

1. The Department of Primary Industries, Victoria is seeking public comment on the *Wildlife (Game) Regulations* 2012, herein after the 'Regulations'. The new Regulations include proposals put forward by Field and Game Australia, including that children as young as 12 be allowed to hunt with rifles and shotguns.

#### Summary

2. The proposed Regulations appear to do little more than promote the growth of the game hunting industry by reducing the regulatory burden imposed on existing hunters, and facilitate the entry of new and less experienced hunters. In so doing, the Regulations unfortunately result in an increased likelihood of injury to wildlife and fail miserably to meet, and in fact are contradictory to, the Government's objectives of ensuring humane and ethical hunting opportunities, not to mention broader Government objectives of ensuring and protecting animal welfare.

#### The Regulations

3. The regulations seek to manage problems in three key categories, namely
  - a. The sustainable and equitable management of game resources;
  - b. humane and safe hunting; and
  - c. competency and accountability
4. The Panel notes the objectives of the regulations specifically include the provision of continued sustainable, equitable, humane, ethical and safe hunting opportunities.

#### Submissions

5. By way of preliminary observation, we note that the issue of whether or not game hunting ought be permitted in Victoria is outside the scope of the Regulatory Impact Statement and thus this submission however, the Panel is opposed to game hunting in any form and notes that these regulations do not provide for or promote the humane and ethical treatment of wildlife but rather, seek purely to grow the industry.

#### *Sustainable management of game resources*

6. In 2009 the restricted Open Season for both Russa Deer and Chita Deer was expanded to year-round. In 2012, the further expansion of the Open Season for both the Red Deer and the Sambar Deer is contrary to the aim of promoting sustainable opportunities for recreational hunting. In particular, extending the Open Season for the Red Deer from two months to year-

round is excessive, particularly in light of the fact that there is no bag limit applicable to this species.

7. The Panel refers to the requirement that any live game be *immediately* killed and applauds the extension of this section in the proposed Regulations to require that the live game be killed *humanely*.
8. Despite the fact that a “large majority of Victorians (75%) think that the shooting of native water birds for recreational purposes should be banned in Victoria”<sup>1</sup>, the current game hunting industry contributes some \$96 million per annum to the Victorian economy and, for purely economic reasons alone, will remain legal under the current Government regime. Yet, curiously, penalties for hunting Hog Deer without the appropriate Tags, or with being found to be in possession of a Hog Deer carcass to which an appropriate Tag has not been affixed, have not increased since the current Regulations were brought into force. In Victoria, these offences attract a penalty of 20 penalty units versus 50 penalty units for the same offence in New South Wales.
9. The Regulations are weighted too heavily in favour of promoting the game hunting industry. There is a clear reduction in the regulatory burden for hunters on the one hand, and a clear failure to provide further disincentives or appropriate penalties for causing injury to inhumane treatment of wildlife on the other. It is in this regard that these Regulations are unable to meet Government’s broader animal welfare objectives.
10. The Panel considers it to be a positive improvement that the number of areas in which the hunting of deer is prohibited has been extended from three to five.

### *Humane and Safe Hunting*

11. We refer to the proposed regulation to hunt game birds with a shotgun gauge of no greater than 10 and are instructed that hunting with shotguns invariably cause wounding of animals that are hit by pellets and escape or fail to be retrieved by the hunter.<sup>2</sup> A shotgun, unlike a rifle, fires a cluster of pellets rather than a single bullet and, as the pellets scatter widely, we are further instructed that many ducks hit by these pellets are not killed instantly and may undergo significant suffering. Studies estimate that up to 50% of birds hunted by shotgun are wounded rather than killed<sup>3</sup>, meaning that thousands of birds are inflicted with such suffering every season.
12. The panel opposes any exemption allowing any shooters to use lead shots in hunting in Victoria. The use of toxic lead results in the poisoning of wildlife and pollution of ecosystems. Lead poisoning of birds occurs when shooting has occurred over both wetland and upland sites.<sup>4</sup> Birds ingest spent gunshot from soil or water resulting in toxemia causing severe central nervous system symptoms, paralysis and ultimately death. Lead shot pellets may remain in mud and soil for many years. Birds of prey and other predators can acquire the lead by feeding on wounded game birds containing lead shot in their body.<sup>5</sup>

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<sup>1</sup> Roy Morgan Research, *Majority Of Victorians Want Duck Shooting Banned*, Finding No. 4239 - November 12, 2007, available at <http://www.roymorgan.com/news/polls/2007/4239/>

<sup>2</sup> Jesper Madsen and Frank Riget, ‘Do Embedded Shotgun Pellets Have a Chronic Effect on Body Condition of Pink-Footed Geese?’ (2007) 71 *Journal of Wildlife Management* 5, 1427.

<sup>3</sup> Henning Noer et al, ‘Reducing wounding of game by shotgun hunting: effects of a Danish action plan on pink-footed geese’ (2007) *Journal of Applied Ecology* 44, 653.

<sup>4</sup> Vernon G Thomas and Raimon Guitart, ‘Limitations of European Union Policy and Law for Regulating Use of Lead Shot and Sinkers: Comparisons with North American Regulation,’ *Environmental Policy and Governancy* 20 (2010) 57.

<sup>5</sup> Vernon G Thomas and Raimon Guitart, ‘Limitations of European Union Policy and Law for Regulating Use of Lead Shot and Sinkers: Comparisons with North American Regulation,’ *Environmental Policy and Governancy* 20 (2010) 58.

13. The proposed regulations fail to restrict the use of toxic shot for the shooting of wildlife other than ducks. The use of toxic shot in any form fails to meet the objectives of humane and ethical treatment of animals and ought be altogether restricted for the reasons outlined above.
14. Similarly, archaic practises including the use of crossbows, recurve bows, compound bows and longbows<sup>6</sup> should be banned in the hunting of all animals, including deer. Even when carried out by a skilled and experienced marksman, the use of a bow increases the likelihood that an animal will be left wounded or maimed and not killed quickly. Studies show that as many as 50% of deer shot with a bow are never recovered and can survive for days or weeks before succumbing to their wounds.<sup>7</sup> Ethically, there is no justification for using a method of killing that causes increased suffering when another more humane method is available.
15. The Panel objects to the use of dogs in any form of hunting to stalk and capture prey. The use of dogs in this manner is appalling and in no way assists in achieving Government objectives. [**outlawed in NSW....**]

#### *Competency and accountability*

16. Duck shooters in Victoria have dwindled from numbers of approximately 95,000 in 1986 to approximately 20,000 in 2010/2011.<sup>8</sup> In an effort to encourage more to join the hunting community, the proposed Regulations seek to reduce the regulation of competency and accountability in hunting in Victoria by way of changes to licencing conditions.
17. The removal of the Game Licence fee for juniors to encourage more younger generations to take up a violent and dangerous activity involving the use of firearms is not compatible with the promotion of humane and safe hunting.
18. In a recent survey, approximately 58.8% of hunters stated that they had no accredited training.<sup>9</sup> For reasons of age and experience, this figure is likely to be much higher amongst junior hunters. The purpose of licence tests is to ensure that hunters can identify target and non-target animals. The combination of a lack of experience and the removal of the test requirements will only increase the risk that juniors will injure and kill more animals, including protected species.
19. The skill of a hunter is a key factor in determining the number of ducks (and other animals) that will be crippled and wounded.<sup>10</sup> There is considerable evidence that a high degree of wounding will take place even amongst experienced shooters – most competent shooters will wound an average of one bird for each bird bagged, and it has been suggested that the “best” average that can be hoped for is one bird wounded for every two bagged.<sup>11</sup> Even shooting groups acknowledge that at least one in every four birds targeted will be wounded.<sup>12</sup> It would

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<sup>6</sup> Draft regulations 34, 35.

<sup>7</sup> See, e.g., Causey, M.K., Kennamer, J.E., Logan, J. and Chapman, J.I., (1978).

<sup>8</sup> Animals Australia, “Duck Shooting Fact Sheet” (undated) available at [www.animalsaustralia.org/factsheets/duck\\_shooting.php](http://www.animalsaustralia.org/factsheets/duck_shooting.php), last viewed on 19 August 2012.

<sup>9</sup> *Ibid.*

<sup>10</sup> RSPCA, “What is the RSPCA’s View on Duck Hunting?” (3 December 2009), available at <http://kb.rspca.org.au/?View=entry&EntryID=136>, last viewed on 19 August 2012.

<sup>11</sup> F Norman, “The incidence of lead shotgun pellets in waterfowl (Anatidae and Rallidae) examined in south eastern Australia between 1957 and 1973”, Australian Wildlife Research, 1976, Vol. 3 (61-71), cited in Animals Australia, n 1 above.

<sup>12</sup> Animals Australia, n 1 above. See also R Meischke, “The 1993 Duck Report” and two earlier reports cited in Animals Australia, n 1 above. These reports demonstrated that in 1991 and 1992 some 40% of retrieved dead birds

therefore be expected that the ratio of wounded birds to bagged birds amongst inexperienced junior shooters would be much higher.

20. Although the draft regulations provide for juniors to be directly supervised by an “appropriately licensed adult”, it is clear that such a requirement will be of limited utility in circumstances where the adult may well be distracted on his or her own hunting activities. No guidance is given in the draft regulations as to the extent to which the supervising adult is required to actively supervise the junior with the effect that the mere presence of a licensed adult with a junior may be taken to be sufficient to comply with this requirement. Such a scenario would be clearly unsatisfactory and do little to reduce the potential for injury to both animals and humans.
21. The increased risk that juniors will injure and kill more animals, including protected species, due to their lack of competence and the absence of testing under the proposed Regulations directly counters the objectives of the Regulations to provide for the efficient and effective management of game hunting in Victoria in ways that inter alia “minimise the destruction of non-game species” and “ensure the protection of wildlife habitats”.
22. The submissions made in the paragraphs above apply equally to non-residents as they do to juniors. Tourists are less likely than members of the Australian hunting community to have undertaken accredited training recognized by Australian standards. Further, the absence of test requirements for tourists who may not be familiar with Australian species of animals is likely to increase the potential for confusion between target and non-target animals and increase the risk that non-target animals will be injured or killed. Such a risk may be further heightened by language barriers and the absence of a requirement for a minimum level of proficiency in English, which may prove dangerous not only to animals but to other hunters. The unsatisfactory nature of the “direct supervision” requirement is again relevant, with no guidance provided by the Regulations as to what “direct supervision” in such circumstances entails.
23. A recent study of game bird farms showed that aside from the table meat market, pheasants and partridges were occasionally sold live by producers to game shooting properties.<sup>13</sup> The number of birds sold for this purpose, however, was low, and the market for such sales erratic, with no producer reported to have sold any birds to shooting properties in 2004 or 2005.<sup>14</sup> The introduction of Game Bird Farm Hunting Game Licence would potentially enliven this market and encourage producers to breed game birds purely for the purpose of being hunted. This would appear to be inconsistent with the goal of the proposed Regulations to “continue to provide sustainable recreational hunting opportunities” – rather than seeking to create a sustainable population of game animals through hunting controls, the Licence goes one step further to encourage the breeding of game birds purely for hunting purposes.
24. The Panel considers the extended requirements for persons to notify the department of any convictions relating to hunting from other states and territories, not just Victoria, as previously required to be a positive improvement.

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had been killed inhumanely (i.e. their injuries indicated that they would have suffered prior to death), and in 1993 the figure was 36%.

<sup>13</sup> Australian Government Department of Agriculture, Fisheries and Forestry, “Chapter 8: Structure and Dynamics of the Game Bird Industry of Australia”, available at [www.daff.gov.au/animal-plant-health/animal/livestock\\_movement\\_in\\_australia\\_and\\_emergency\\_disease\\_preparedness/structure\\_and\\_dynamics\\_of\\_australias\\_commercial\\_poultry\\_and\\_ratite\\_industries/chapter\\_8\\_structure\\_and\\_dynamics\\_of\\_the\\_game\\_bird\\_industry\\_of\\_australia](http://www.daff.gov.au/animal-plant-health/animal/livestock_movement_in_australia_and_emergency_disease_preparedness/structure_and_dynamics_of_australias_commercial_poultry_and_ratite_industries/chapter_8_structure_and_dynamics_of_the_game_bird_industry_of_australia), last viewed on 19 August 2012.

<sup>14</sup> *Ibid.*

**Conclusion**

25. In our view the proposed Regulations in their current form fail to meet the problems they are designed to address. The sustainable and equitable management of game resources is not facilitated by these Regulations as they are weighted too heavily in favour of reducing the regulatory burden on hunters and deriving additional revenue. The problems associated with humane and safe hunting will be, in no way, addressed by these Regulations and we fear additional problems and the further inhumane hunting practices will occur under these Regulations. And finally, competency and accountability Regulations do little more than expand the industry and allow antiquated hunting methods whilst providing no real disincentive for the inhumane and unethical treatment of animals.
26. Taken as a whole, the proposed Regulations are incompatible with, and counter productive to, the Government's broader objectives of ensuring humane and ethical treatment of wildlife and thus ought not be promulgated.