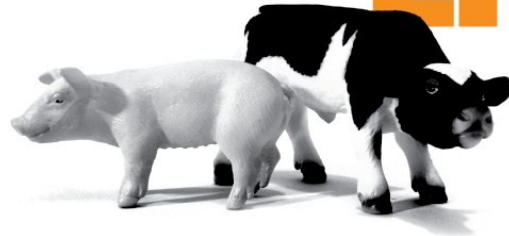


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19 December 2019

Dear Ministers,

**Submission regarding the 2020 hunting season for indigenous game birds (waterfowl)**

Lawyers for Animals Inc. ('LFA') makes this submission to the Ministers for their urgent consideration. LFA is aware that the Game Management Authority ('GMA') is currently conducting a last-minute consultation with animal welfare groups, prior to issuing its recommendations to the Ministers concerning the 2020 duck shooting season. LFA has elected not to participate in what it fears may be a sham consultation by the GMA, in which rational arguments based on fact and science will be ignored in favour of a pre-determined outcome: the continuance of duck shooting, albeit with minor modifications to the 2020 hunting period and bag limits, which feign sustainable management. Despite recent indications that more sophisticated management is emerging at the GMA in the form of more qualified board members<sup>1</sup> and revisions to its website, its recent past

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1 The GMA's 2019 report: 'Considerations for the 2020 duck season' deals honestly with both the crisis in water-bird numbers - finding that 'existing populations constitute core breeding stock' - and with the dire climatic predictions for the Summer ahead and desperately low water storage levels. However, it appears to reveal bias in stating up-front [at p.2] that the Ministers may 'modify' the existing 2020 season, failing to mention that they may suspend it, altogether, or revoke Part 3 of Schedule 3 of the *Wildlife (Game) Regulations 2012* (Vic). With at least two of the GMA's management - the CEO and one board member - having worked for animal industry bodies (the Victorian Farmers Federation and Field and Game Australia, respectively), but none having worked in animal welfare, the GMA's dominant tilt appears fixed for now.

conduct - characterised by one-eyed promotion of game hunting at the expense of many of its core legislative functions<sup>2</sup> - has undermined LFA's confidence in a fair and reasonable outcome arising from the present consultation. Instead, LFA chooses to bypass the GMA to make this submission directly to the Ministers, urging them to exercise their joint powers to revoke Part 3, Schedule 3 to the *Wildlife (Game) Regulations 2012*, which specifies the existing 'open season' for hunting indigenous waterfowl; or (at a minimum) prohibit absolutely the hunting of indigenous waterfowl the nominal 2020 season concludes.<sup>3</sup> Further, we recommend that the Ministers collaboratively direct the GMA to avoid engaging in activities which promote hunting - which is not the duty of a publicly funded, statutory regulator - and instead fulfil all of its legislated functions with diligence and impartiality. Not unless the management of Victoria Police were to take up the promotion of gambling and prostitution - is there likely to be a worse example than the (long term) conflict of interest of the GMA. Unfortunately, it would appear that the GMA's advice to the Ministers simply cannot be trusted, at present, to be wholly rational or truthful, in view of their past actions.

### **Who we are**

Formed in 2005, Lawyers for Animals ("LFA") is a not-for-profit incorporated association based in Victoria, run by an executive committee of lawyers and with members in various Australian States and Territories. LFA is staffed entirely by volunteers.

LFA's objectives include:

1. alleviating the suffering of animals by engaging with those who create or administer laws in Australia to strengthen legal protections for animals;
2. promoting better animal welfare practices amongst animal-related industries in Australia; and
3. undertaking educational activities in an effort to dispel myths and increase awareness relating to animals and the law.

Since April 2013 LFA has also worked in partnership with the Fitzroy Legal Service to operate the Animal Law Clinic: a free legal advice service run with the primary objective of improving animal welfare.

### **The rationale for LFA's core recommendation**

LFA recommends the immediate revocation or (at a minimum) suspension of the current open season for hunting indigenous game birds (waterfowl) in Victoria, for the following key reasons:

- The killing of native water-birds presently threatens the viability of numerous native species (including non-target, protected species) at a time when Victoria (and planet Earth) is experiencing its sixth mass-extinction event.<sup>4</sup> The GMA's 2019 report: 'Considerations for the 2020 duck season', refers to hotter and drier climatic conditions persisting, notwithstanding occasional rain bursts in isolated areas; and to a continued and significant long-term decline in abundance, breeding and habitat of indigenous water-birds. In relation to this Summer preceding the 2020 duck shooting season, the GMA acknowledges:

*December to February is likely to be drier than average for most of eastern Australia...  
Summer (December to February) days are likely to be warmer than average, with*

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2 It has previously fulfilled its functions to issue game hunting licences pursuant to Section 6(b) and also made repeated recommendations to the Ministers to declare public land open to duck shooting pursuant to Section 6(i)(iii) of the *Game Management Authority Act 2014* (Vic).

3 Pursuant to s.86(1) of the *Wildlife Act 1975* (Vic)

4 Gerardo Ceballos, Paul R. Ehrlich, and Rodolfo Dirzo, 'Biological annihilation via the ongoing sixth mass extinction signalled by vertebrate population losses and declines', *Proceedings of the National Academy of Sciences journal* (US), 25 July 2017 114 available here: <https://www.pnas.org/content/114/30/E6089>

*probabilities exceeding 80% for approximately two thirds of Australia. This will result in greater rates of evaporation and the drying of shallow, ephemeral wetlands...*

*Excluding 2016, there has been very little large-scale waterbird breeding since 2013 and **the existing populations constitute core breeding stock...** Waterbird abundance, breeding and habitat availability are showing long-term declines. [our emphasis]*

- The shooting of native water-birds for recreational purposes is extremely cruel and unnecessary in any civilised society. The current Victorian Government formally acknowledged the sentience of animals in its Animal Welfare Action Plan, released in January 2018.<sup>5</sup> Scientists tell us that 'birds possess the neurologic components necessary to respond to painful stimuli and they likely perceive pain in a manner similar to mammals.'<sup>6</sup> Shotguns are used to shoot ducks because these graceful creatures are too small and fast-moving a target for rifles to be effective. But sprayed shot is frequently too small and imprecise to cause a swift death. Based on local and international research, RSPCA Australia estimates that 'between 26% and 45% of birds shot will be wounded' - not killed outright and/or retrieved - and 'a proportion of wounded birds will travel some distance before finally succumbing.'<sup>7</sup> Civilised humans have no wish to be complicit in the extraordinary pain likely to be suffered by these gentle, human-shy creatures (and their close family members) as they die prolonged, agonising deaths, or gradually regain sufficient health to survive with embedded shot. Clubs for sporting target shooters are available throughout Victoria, and farmed duck-meat is widely available for purchase. Hunters are likely to expend a similar amount on weapons, gear and accommodation to that which they might otherwise expend on farmed duck-meat. Hence the core motivation of the duck hunter does not appear to be either free meat or target shooting, but a desire to inflict lethal violence on innocents. LFA believes that governments' role is to actively discourage gun culture, violence and animal cruelty, to incrementally achieve a more civilised, peaceful and environmentally aware society.
- The shooting and killing of native water-birds for recreational purposes helps to perpetuate gun access and violence (including family violence, self-harm and suicide). For instance, between 1996 and 2005, the number of Australian households with firearms fell by around 57% following the introduction of tighter gun control laws; this correlated with a 62% decrease in the number of Australian gun deaths (by homicide, suicide or accident) during the same period.<sup>8</sup> The specific link between cruelty to animals and family violence is well established.<sup>9</sup> As at 30 June 2019, Victoria Police reports that there were 856,052 registered firearms attached to 226,528 current firearm licences in Victoria.<sup>10</sup> With a statistical breakdown of the claimed use of these weapons not publicly available, LFA can only speculate as to their purpose, but it seems likely that the vast majority are in the hands of those who enjoy inflicting cruelty on the innocent animals they hunt.
- The continued legality of duck-shooting is highly undemocratic. It preferences the interests of around 0.39% of Victorians who are licensed to hunt ducks, over the 99.61% of Victorians who do not hunt ducks<sup>11</sup>, the vast majority of whom support a full ban on duck-shooting.<sup>12</sup>

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5 See: [http://agriculture.vic.gov.au/\\_\\_data/assets/pdf\\_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf](http://agriculture.vic.gov.au/__data/assets/pdf_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf) at p.7

6 Abstract of article by Douglas JM, Sanchez-Migallon Guzman D, & Paul-Murphy JR, 'Pain in Birds: The Anatomical and Physiological Basis', Jan 2018, available at: <https://www.ncbi.nlm.nih.gov/pubmed/29146030>

7 See: <https://kb.rspca.org.au/knowledge-base/what-are-the-wounding-rates-associated-with-duck-hunting/>

8 Alpers, Philip and Amélie Rossetti. 2016. 'Australia — Gun Facts, Figures and the Law' Sydney School of Public Health, The University of Sydney. GunPolicy.org, 31 August. Accessed 15 December 2019 at: <http://www.gunpolicy.org/firearms/region/australia>

9 See: <https://lucysproject.com/articles-and-links/research-and-stats/>

10 Victoria Police, Annual Report 2018-2019, available here: [https://content.police.vic.gov.au/sites/default/files/2019-11/VicPol%20Annual%20Report%202019%20Accessible.pdf#\\_ga=2.188847279.565355213.1576395342-1292954609.1576395342](https://content.police.vic.gov.au/sites/default/files/2019-11/VicPol%20Annual%20Report%202019%20Accessible.pdf#_ga=2.188847279.565355213.1576395342-1292954609.1576395342) at p.67

11 These figures are based on there being 25,918 Victorian game licence holders who were entitled to hunt ducks as at 30 June 2018 [figure drawn from: [https://www.gma.vic.gov.au/\\_\\_data/assets/pdf\\_file/0007/](https://www.gma.vic.gov.au/__data/assets/pdf_file/0007/)

- Duck-shooting restricts the development of local and international eco-tourism in regional Victoria<sup>13</sup>, while the claimed economic contribution of recreational hunting to Victoria's economy appears to be wildly exaggerated. For instance, the estimate of a \$439 million contribution to the Victorian economy by recreational hunters is drawn from a report titled 'Estimating the economic impact of hunting in Victoria in 2013', commissioned by the former Victorian Coalition Government in 2014. LFA wishes to highlight the lack of credence of this figure, which was calculated by extrapolating the self-reported (unsubstantiated) answers of 1,000 game licence holders to a survey, asking them to estimate their own on-trip and off-trip expenditure.
  - The figure of \$439 million includes an estimated \$262 million in flow-on – rather than direct – employment. As the report states:
 

*The total expenditure for hunting game animals was estimated to be \$282 million. When pest hunting by game licence holders is included the estimate is \$417 million. 42% was on off-trip expenditure items and 58% on on-trip expenditure items... There were an estimated 1,115 jobs (full-time equivalent) generated directly by hunting-related expenditure with a further 1,268 jobs stemming from flow-on employment, giving a total employment impact of 2,382 jobs. When pest hunting (by game licence holders) is included, that is, to give the economic impact of all hunting by game licence holders, the direct impact is \$177 million, flow-on impact of \$262 million, with a total impact of \$439 million.*<sup>14</sup>
  - That all sounds fairly promising - leaving aside how hunting non-game pest animals could contribute \$135 million when such hunting is likely to be undertaken on-farm without any need for a game licensing. The utility and credence of the survey worsens once the method is subjected to scrutiny:
 

*A list of possible expenditure items related to hunting was created and categorised into on-trip and off-trip expenditure. For items such as vehicles, boats, clothing etc. that could be used for other purposes, respondents were asked the proportion of that item used for hunting.*<sup>15</sup>
  - LFA contends that this survey method is significantly flawed. For instance: it asks participants to estimate their capital expenditure on significant items such as cars and boats, and then attributes a portion of that value to the recreational hunters' contribution to the Victorian economy, despite the fact that cars and boats would likely be purchased by the survey participants even if they were not used for recreational hunting. In relation to boats, for instance, we note that 86.8% of the hunters surveyed reported that they also participate in fishing.<sup>16</sup> The survey also fails to identify the time-scale over which the estimates of capital expenditure are apportioned – the survey purports to estimate an annual contribution, but cars and boats are not purchased annually, nor is the specialised clothing and equipment used by hunters. It is unclear how the longevity of goods has been factored in – if it has. The indirect employment

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481363/Game-Licence-Statistics-Summary-Report-2017-18.pdf accessed 15 December 2019] and subtracting that number from Victoria's estimated population of 6,566,200 in March 2019 [figure drawn from: <https://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/3101.0> accessed 15 December 2019] before calculating the relevant percentages.

12 For instance, see November 2007 poll by Roy Morgan Research reporting up to 87% opposition to duck-shooting in Victoria, available here: <http://www.roymorgan.com/findings/finding-4239-201302262309>

13 For evidence of the deterrent effect on tourism of duck-shooting, for instance, see: Rod Campbell, Richard Denniss and David Baker, 'Out for a duck - An analysis of the economics of duck hunting in Victoria', Australia Institute, Policy Brief No. 44 December 2012, available here: <http://www.rspcavic.org/documents/Campaigns/duck/RSPCA-Out-for-a-duck-Dec-2012.pdf> pages 6-7

14 Department of Environment and Primary Industries (Vic), 'Estimating the economic impact of hunting in Victoria in 2013', 2014, available here: [https://www.gma.vic.gov.au/\\_\\_data/assets/pdf\\_file/0010/481717/Estimating-the-economic.pdf](https://www.gma.vic.gov.au/__data/assets/pdf_file/0010/481717/Estimating-the-economic.pdf) accessed 15 December 2019

15 Ibid

16 Ibid

generated by recreational hunting is also of dubious assistance, given the potential for employment to be generated by other activities – nature tourism, for example – were recreational hunting not dominant in certain areas of the State. The report fails to take account of the opportunity costs generated by recreational hunting, in terms of the greater value which might be derived from alternative income-generating activities, were recreational hunting not permitted. The potential bias of the survey participants towards exaggerating expenditure in order to strengthen the profile of recreational hunting in Victoria, is not factored in. In short, the survey appears to have been undertaken primarily to boost the popularity of recreational hunting with the public at a time when the Victorian Government was under heavy criticism for its failure to ban duck-shooting. The results are heavily compromised by these facts and the GMA is, in turn, compromised by its previous promotion of such flawed data.

- The GMA, despite a boost in funding, appears to either be unwilling or unable to monitor hunting compliance and bagging rates, even at a limited number of public wetlands.<sup>17</sup>
- Victoria has failed, to date, to take adequate advantage of its natural assets in the form of wetlands, native flora and fauna to attract nature tourists, including birders, to regional Victoria. Duck-shooting also restricts the development of local and international eco-tourism in regional Victoria<sup>18</sup>, while the claimed economic contribution of recreational hunting to Victoria's economy appears to be wildly exaggerated. The small town of Sea Lake is merely the tip of the iceberg for Chinese tourism<sup>19</sup>, should clever marketing reveal the plethora of sites of particular beauty and interest, and the Government act to secure these areas from duck-shooting.

In addition to having reviewed the GMA paper on the 2020 duck season, LFA has reviewed the submission to the GMA made by Regional Victorians Opposed to Duck Shooting on 13 December 2019 (copied to the Ministers) and endorses the analysis in that submission regarding:

1. habitat, distribution and abundance of waterbird species, noting the overall decline in bird numbers as indicated by the East Australia Annual Waterbird Survey;
2. environmental conditions that impact negatively on bird populations;
3. critical sustainability factors; and
4. insufficient regulation and monitoring, rendering game hunting regulations effectively unenforced, perpetuating the widespread killing of non-target animals and continued excess killing for killing's sake - without collection of the massacred birds.

### **Subsequent reform recommendations**

At present there appears to be an Order of the Governor in Council declaring various indigenous waterfowl to be 'game' under Section 28G of the Wildlife Act 1975 (Vic). In order to secure the future viability of native water-bird populations, LFA renews its call (made to the former Minister for Agriculture in its 2016 submission regarding the Animal Welfare Action Plan) that this Order be rescinded; and that in due course there be amendments made to the *Wildlife (Game) Regulations* 2012 (Vic) and *The Code of Practice for the Welfare of Animals in Hunting* which to condemn the legal shooting of indigenous waterfowl to Victoria's history.

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17 See: Regional Victorians Opposed to Duck Shooting, submission made to GMA, 13 December 2019, copied to the Ministers

18 For evidence of the deterrent effect on tourism of duck-shooting, for instance, see: Rod Campbell, Richard Denniss and David Baker, 'Out for a duck – An analysis of the economics of duck hunting in Victoria', Australia Institute, Policy Brief No.44 December 2012.

19 See: <https://www.abc.net.au/news/rural/2016-03-24/sea-lake-chinese-tourism-drought-grain-rural-environment-water/7272248>

## **Conclusion**

The shooting of native water-birds for recreational purposes is cruel, threatens the viability of native species (including non-target, protected species), and likely perpetuates a culture of animal cruelty, gun access and associated human violence (including family violence, self-harm and suicide). The legality of duck-shooting is also highly undemocratic, as it prioritises the interests of the 0.39% of the Victorians who hold a duck shooting licence over the vast majority who do not hunt and/or support a ban on duck shooting. Licensed duck shooters - always a small minority - are fortunately declining as a proportion of the Victorian population as a whole, as confirmed by GMA estimates.<sup>20</sup>

LFA notes that recreational duck shooting has long been banned in three Australian jurisdictions, namely Western Australian (since 1990), New South Wales (since 1995) and Queensland (since 2005). It is noted that New South Wales and Queensland have and continue to experience similar climatic conditions impacting bird populations and habitat as that being experienced in northern Victoria, with wetland habitat and water systems deeply interconnected across eastern Australia. This interconnection is clearly manifest in the GMA duck season 2020 paper. It is inconsistent with national priorities in sustainability and co-operation between the Eastern States that Victoria remain anomalous and recalcitrant by continuing to allow duck shooting.

The environmental fragility and threat to water-bird populations is clear and unequivocally discussed in the GMA paper on duck season 2020. Notwithstanding any advice to the contrary that GMA may provide, LFA strongly urges the Ministers to act independently, in the interests of water-birds and their long-term survival due to the overwhelming stresses environmental conditions and hunting are placing on their habitat. To avoid accelerating the extinction of Australia's native waterfowl by further depleting what the GMA, itself, describes as 'core breeding stock'; and given that dry, hot conditions are predicted to continue impacting bird population in the longer term; LFA strongly recommends an immediate halt to the 2020 season.

In 2020, LFA further recommends the revocation of all orders and laws permitting duck shooting, noting that it has long since ceased to be justified by economics - undermining the growth potential of regional eco-tourism and sapping innovation; or by science. Duck shooting is an annual blight, causing of shame and sadness to non-violent, environmentally-minded Victorians. Its cessation should prove popular and rewarding for the Premier and his Ministers, should they choose the honest, decent and frankly, conservative, path. To do otherwise, in the present environmental circumstances, will indicate grave cowardice.

LFA thanks the Ministers and their advisors for considering this submission. Should there be any queries, please do not hesitate to contact the lead authors of this submission via their emails, below.

Yours faithfully,

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<sup>20</sup> Game Management Authority, 'Considerations for the 2020 duck season', 6 December 2019.