

Supplementary submission to the review of the *Wildlife (Game) Regulations 2012* (“the 2012 Regulations”)

QUAIL

The 2012 Regulatory Impact Statement (“the RIS”) process was seriously flawed and misleading regarding Quail in the following respects:

1. The RIS failed to mention that new electronic quail-callers would be permitted under the 2012 regulations.
2. The RIS failed to consider the impact of these new bird-callers on the sustainability of the Stubble Quail species
3. In the absence of population data for this species, the RIS made unsubstantiated claims that hunting has no impact on population size. It acknowledged the “probable declining population” (p117) but failed to even consider the possibility of a smaller bag size.
4. The RIS supported a new 14-day free hunting licence for overseas residents who could then shoot quail unsupervised. However, it failed to mention that the one game species (Stubble Quail) is easily confused with four other native species of quail that are protected, and the Plains-Wanderer which is critically endangered (Werribee Zoo has a captive breeding program to try to rescue the Plains-Wanderer from extinction).
5. The RIS ignored the impact of recreational hunting on other members of the community. There was no media release regarding “public consultation” and the minimum period of 28 days was inadequate for community consideration of a 150-page document of discussion and draft legislation. Three weeks later the proposed Regulations were rushed into law.

These matters will be addressed in more detail below.

1. Introduction of electronic quail-callers

The use of electronic quail-callers was permitted from 2012 onwards by changing two provisions of the former *Wildlife (Game) Regulations 2001* (“the 2001 Regulations”) – namely the former Reg 33 which prohibited the use of electronic devices for hunting, and the former Reg 29 which prohibited the use of callers to attract game, except for waterbirds and deer. However, this was never spelled out in the RIS. On p125, it stated there would be “no change” to Reg 29 and on p126 it described the change to Reg 33 as” Wording changes and removal of prescriptive requirements.”

On p12, the 2012 RIS listed proposed “Key Changes” and fails to mention electronic quail-callers or their impact by describing this change as follows:

- “Broaden the use of electronic devices permitted to accommodate technological and market advances (e.g., two-way radios, GPS collars for hounds).”

There was no way that non-hunters would be alerted to this change by reading the RIS. So, this change was never subject to public consultation. This breach of government requirements for regulatory change means that this change was never valid and should not be taken for granted in 2022. Although quail shooters will predictably be outraged by the potential rolling-back of this change, we, the regional Victorians who were never consulted about this, feel even more outraged.

It is particularly concerning that the RIS was signed off by Mr Toop, understood to be a keen quail shooter, who clearly had a conflict of interest that was not disclosed. On 16 July 2012, the Victorian Competition and Efficiency Commission (VCEC) wrote to Mr Toop stating that the RIS met adequacy requirements. VCEC’s letter appears at the front of the RIS. However, it stated that its view was “based on the adequacy of the evidence presented in the RIS and is focused on the quality of the analysis... (and) does not represent an endorsement of the proposal.” As there was no discussion of quail-callers in the RIS, clearly VCEC could not have considered this aspect in its assessment.

2. Failure to consider the impact of electronic quail-callers on quail sustainability

As these new devices were not mentioned at all in the RIS, clearly their impact on sustainability was not mentioned either.

However, on p24, the RIS discussed the concept of “fair chase”. It states that it would not be considered ethical to shoot game fleeing from smoke or fire. It comments that previous methods such as trapping or netting game birds have been outlawed because they are inhumane and could lead to “unsustainable hunting practices”.

Regional landowners are now finding electronic quail callers left behind in their paddocks. This is clear evidence of the well-known problem of shooters trespassing, but also dismays our farmers who consider that this method of tricking quail and then blasting them with shotguns, is unethical, unfair, and unsustainable. How is this “fair chase”? Shooters lobbied for the legalisation of these devices because it makes their job easier, tilting the odds further away from the quail and in favour of the shooter. Shooters already have the advantage of a shotgun and (in over 50 per cent of cases¹) a dog.

The impact on sustainability is further discussed in the next section.

3. Species decline

On p33 of the RIS, we see bar graphs for the so-called “harvest” of game ducks and quail. We rural folk consider the term “harvest” applies to crops, not to living, sentient creatures. So, we shall refer to this as the “toll” – meaning the death toll of wildlife caused by recreational shooting.

The only data available on quail populations is the annual toll, and shooter survey commenced in 1991 to estimate the annual toll. The quail graph shows that the media toll was around 320,000 for the two decades to 2011. In 2011 there was a record toll, presumably due to the breaking of the Millennium Drought and the improvement in habitat.

However, by referring to the annual reports available on the GMA website, it is clear to see that subsequent tolls are much reduced. All tolls since 2011 have been well below 200,000, and the

¹ RIS, p26

median value is 139,105 (if the abnormally low year 2020 is excluded due to COVID). Clearly our quail are in decline. Anecdotally, our farmers tell us: “There are no quail anymore.”

The RIS acknowledges (p117) some factors contributing to species decline, including changes to agricultural practices and use of herbicides that reduce available habitat. However, climate change and the impact of our Black Summer fires are highly relevant also. The GMA never takes climate change into account when allowing the default setting for a quail season. There were only 4,800 quail killed by shooters in 2020 and this small toll was attributed to COVID restrictions, but it is also likely that the record fires were devastating for quail in some areas. GMA has done no research on this.

Regional residents have long resented the influx of recreational shooters who destroy our wildlife, shoot too close to our homes and animals, trespass on our property, and leave a trail of human waste, bird parts and litter. Individual complaints to the authorities got nowhere and people were afraid to speak out against the men with guns (often the offenders were intoxicated men with guns). Our organisation, Regional Victorians Opposed to Duck Shooting Inc, had not been formed in 2012 when the hunting regulations were last reviewed. The RIS was written entirely from a shooters’ perspective. No quail season has been shortened and a full bag of 20 quail has been allowed every year despite the clear decline of this species and the risk to other “lookalike” species.

However, we now have a voice, and we ask that electronic bird-callers be banned, and the default bag limit be drastically reduced. We also ask that a species identification test be urgently introduced, as Victoria has at least four other native quail species that resemble the Stubble Quail, and the critically endangered Plains-Wanderer is also at risk from quail shooters. The GMA website does not even show a picture of those other species that can easily be confused with Stubble Quail, especially in poor conditions. (There is now a picture of a Plains-Wanderer which has no background to give any idea of the relative size of the bird.)

The hunting regulations are authorised under the Wildlife Act 1975 (currently under review) that aims (s1A) to protect and conserve wildlife, prevent extinctions, and promote sustainability of wildlife. That Act contains harsh penalties for shooting threatened or protected wildlife. So, it is quite contrary to that Act to have hunting regulations that permit shooters to target quail without first having to demonstrate their ability to distinguish one species from another. There should be no shooting of quail in poor light. Currently they can do this in the gloom from half an hour before dawn until half an hour after sunset. Even in the daylight hours, fog and rain can affect visibility. Shooting wildlife should be prohibited at any time when visibility is poor.

The RIS (p110) claims that the shooting seasons are timed to avoid periods of vulnerability, such as breeding, moulting, extreme temperatures, and food shortages. However, in terms of the quail shooting season timing, it acknowledges but then glosses over the fact that quail have two peak breeding seasons. It notes that CSIRO² recommends a season from May to July but shooters preferred April to June, so simply to please the shooters, the RIS supports an April-June season. It is curious that a 2019 research report from the GMA in conjunction with the Arthur Rylah Institute and DELWP³ claims (p47) that the quail shooting season is from May to July! The CSIRO scientists found

² Frith, H. J. and Carpenter, S. M., 1980, Breeding of the Stubble Quail, *Coturnix pectoralis*, in south-eastern Australia. *Australian Wildlife Research* 4: 85-90

³ *Ageing and sexing Victorian native game birds using plumage characters*, March 2019: ARI, GMA and DELWP.

that quail breeding frequently extends into April, and April often finds many young birds still unable to fly strongly. The GMA may have plans to undertake some quail research, but in the meantime, the quail season should be shortened to a maximum of May-June.

Quail shooting is not a popular activity in Victoria. The year 2019 yielded the highest toll (188,015) since the RIS, yet according to GMA data, only 2,157 quail shooters participated. As the average was 69 birds each, and some shooters bagged no birds at all, it is clear that some shooters massacred a huge number of birds – presumably with the help of their electronic bird callers.

4. Roll-back needed: 14-day free hunting licence for overseas visitors

The RIS said nothing about the likely confusion between Stubble Quail and other species - four other native species of quail and the critically endangered Plains-Wanderer - especially in poor light. So effectively there was no proper public consultation on the proposal to offer a 14-day free licence to non-residents of Australia. The RIS tried to justify this new licence by saying that no testing is required for local quail shooters, and the overseas visitors would still have to obey our hunting laws.

But two wrongs do not make a right. As discussed above, local quail shooters should be tested to see if they can tell one species from another. The current situation is simply contrary to the aims and spirit of the Wildlife Act 1975. Further, the GMA's Knowledge Survey in 2020 showed that bird shooters have the lowest knowledge of our hunting laws and good practices. So why expect an overseas visitor to have better knowledge or compliance with our law? This simply does not pass the "pub test".

5. The RIS and its "consultation" process

The RIS was based on the views of 14 hunting groups and a few government agencies. It did not reflect the views of non-shooters or the impact of recreational hunters on regional residents, our businesses (loss of tourism), our stock (animals are frightened by gunshot) and our families. It certainly did not reflect our concern about sustainability of species or the cruelty involved in wounding birds and disrupting nesting. It did acknowledge (pp110-11) that quail can breed at any stage of the year in favourable conditions.

It is scandalous that there was no media release to alert the public to the so-called "public consultation" process. It is scandalous that the minimum period of 28 days was allowed for this consultation. The RIS claimed this brief period was justified because the changes were minimal and would reduce "regulatory burden" (on shooters, not the rest of us who subsidise the killing). However the process was running late. Consultation closed on 20 August 2012 and after a one-year extension, the old regulations were due to expire on 11 September 2012. There was only a three-week window to consider submissions. The main change after that "consultation" was to impose a draconian fine on wildlife rescuers at wetlands; shooters campaigned hard to push for that measure at the last minute and it was never subject to community consultation.

Thus we believe the 2012 regulatory review process was seriously flawed. The shooters who worked on this RIS and helped draft the new regulations should not be surprised that the public wants significant roll-back of the changes that were introduced.

SUMMARY:

- Electronic calling devices must be banned for quail. Prior to 2012, they were also banned for waterbirds and that ban must also be reinstated, for similar reasons to those outlined here.
- A species identification test is urgently required for quail shooting. There should be no further quail seasons until that test is implemented.
- The GMA website must focus on the various species that resemble quail, with quality moving images to illustrate the differences.
- Quail shooters (and duck shooters) should not be allowed to shoot in poor light at any time of day. The default hours for shooting in clear light should be 8am to 4pm.
- Quail shooting licences for Non-Residents must be discontinued unless they can pass the species identification test introduced for local shooters.
- The default bag size should be halved, as the annual toll has fallen to less than half the median toll for 1991-2011 that formed the basis of the 2012 RIS.
- There should be no further quail shooting seasons until a comprehensive system of hunter bag checks is established. Currently we have no way of assessing the impact of quail hunting on protected and threatened species.
- The default quail shooting season should be shortened, considering the extensive and variable periods for breeding of quail.