



**SUBMISSION TO THE SELECT COMMITTEE
HUNTING OF NATIVE BIRDS
SOUTH AUSTRALIA**



19 May 2023

Table of Contents

EXECUTIVE SUMMARY	3
1. <u>Recommendations</u>	4
2. <u>Our contradictory behaviour towards native birds</u>	5
2.1 Native ducks are sentient	5
2.2 Our contradictory behaviour	5
3. <u>Community attitudes and perspectives</u>	6
3.1 Successive polls support a ban	6
3.2 Social and recreational aspects - shotguns plus alcohol plus defenceless wildlife	6
3.3 Frustrated community members attend to wounded birds & document non-compliance	7
3.4 Duck shooters' behaviour tarnishes the reputation of (non-animal) sporting shooters	8
4. <u>Animal welfare aspects of native bird hunting-shotguns tend to wound, not kill</u>	8
4.1 Shotguns spray pellets into flying animals - wounding is inevitable	8-9
4.2 Minimum standards duck hunters must comply with under the Code	9-11
4.3 Media airs footage and claims of non-compliance every year	11
4.4 Academic studies link the shot-gunning of birds to high wounding rates	11-12
4.5 Australia's peak animal welfare bodies oppose recreational duck hunting	13
4.6 Shot-gunning birds cannot be made humane	13-14
5. <u>High wounding activities are inconsistent with the intent of the Animal Welfare Act</u>	14
5.1 The Review provides an opportunity to address the contradiction	14-15
6. <u>The Act does not and cannot protect SA's native birds during Open Season</u>	15
6.1 Legislation hunters must comply with	15
6.2 In practical terms - the AW Act cannot protect native birds during hunting season	15-16
6.3 Even where evidence is captured, proving breaches is difficult	16-17
6.4 Duck hunting is un-regulatable and adding more regulation won't change this fact	17-18
7. <u>Economic considerations</u>	18
7.1 Claims that duck hunters' expenditure is significant are unfounded	18
7.2 Avitourism and ecotourism are the future - duck shooting is the past	18-19
7.3 Ecotourism businesses are negatively impacted by duck-hunting	19
8. <u>Other Australian jurisdictions</u>	20
9. <u>Conclusion</u>	20

Note: For the purpose of readability, some terms may be abbreviated after their first use

EXECUTIVE SUMMARY

The RSPCA welcomes the Select Committee's inquiry into the hunting of native birds in South Australia and appreciates the opportunity to make this submission.

The RSPCA is uniquely positioned to comment on many of the terms of reference of this inquiry. We are the principal prosecuting authority for the *Animal Welfare Act 1985* and we have a deep understanding of the strengths and weaknesses of the current legislation. The RSPCA investigates over 4,000 reports of animal cruelty every year, and is also active in advocating for improved protections from suffering for animals. RSPCA bases all policies on science, evidence and community expectations. We position ourselves to represent broad community attitudes towards animal welfare, as reflected by our 120,000 registered supporters in South Australia.

The body of our submission addresses a number of the terms of reference of the inquiry, but we will not address the parts of term (C) that relate to 'sustainability and environmental aspects' of native bird hunting', since we believe the inevitable wounding (and resultant bird suffering) inherent to native bird hunting renders it unethical and unacceptable, regardless of the conclusions drawn about its sustainability or environmental impact. We will also not address term (e), as we have no credentials to speak on the perspective of First Nations peoples.

The RSPCA's view is that recreational duck and quail hunting has persisted for too long already. As South Australians we want to believe our state is progressive, with animal welfare standards that reflect contemporary animal welfare science and its recognition that native birds are sentient and their physical and mental needs must be considered. They experience emotions ranging from contentment to fear and anxiety, and we have a duty of care to protect them from the high rates of wounding, pain and distress associated with recreational hunting.

Duck hunters use shotguns, not rifles. When a shotgun is aimed at flying birds (e.g. 30 m. from the shooter) and the trigger is pulled, 120-200 pellets scatter into a dense pattern about a metre wide. Wounding is common, especially to birds on the pattern's periphery. Academic research found (on average):

- 27% of ducks were wounded, but *not retrieved* by shooters, and
- 7.5% of (juvenile) ducks had pellets embedded (x-ray study, VIC, 2022).

But its important to note that the **wounded but not retrieved ('cripples')** are only one of three categories of wounded. The other two are:

- the **wounded but still flying, with pellets embedded** - numbers unknown.
- the **wounded and retrieved ('bagged')** - numbers that are killed inhumanely are unknown.

For the flying wounded, whilst some may fly on, others will soon die from pellet related infection or injury, and there is no way of measuring the frequency of this. Similarly, for the wounded and retrieved, the frequency with which retrieved birds are not humanely killed is not detected or measured.

The *Animal Welfare Act 1985* aims to enhance the welfare of all animal species. But in practical terms, the Act and relevant Code of Practice fail to protect our native duck and quail from high levels of wounding, debilitating injuries (broken wings, legs, bills) and slow (often painful) deaths during SA's hunting season.

There is a temptation to believe that introducing more regulation and shooter training may reduce wounding and reverse community opposition to duck hunting. But more regulation and training won't change the physics of how shotguns work on flying ducks or alter the fact that shooters operate, largely unmonitored in remote locations. Similarly, more regulation won't help overburdened regulators who have so far failed to enforce the *Animal Welfare Act* for our hunted duck and quail. Regulating duck hunting in relation to animal welfare is impossible and the logistics responsible for this difficulty will remain, regardless of regulatory tweaks. Native bird hunting does not meet community expectations for the welfare of our native birds, and it must end.

1. Recommendations

The RSPCA is strongly opposed to recreational native bird hunting and believes it should be prohibited.

1. Science has identified our native birds as sentient - so a high wounding activity, whether practiced for fun or for food, is no longer acceptable.
2. Academic studies found an average 27% of ducks are wounded and not retrieved, but this figure does not include the flying wounded with embedded pellets (approx. 7.5%-12%), and the welfare impacts they suffer.
3. Recreational duck shooting is not a mental health tool for Australian men. The last thing a person with a mental health issue needs is to be handed a shotgun. SA polling found 73% support to end duck hunting.
4. Unlike rifles, shotguns scatter 120-200 pellets each time the trigger is pulled - the physics of this means wounding is inevitable, and introducing more regulation will not change the physics.
5. Birds at the periphery of a shotgun's pellet spread suffer smashed bills, wings and legs. Wounded, downed birds who are retrieved - some will be killed, some will suffer slow deaths by shooters failing to kill them before continuing to shoot. Many others will suffer distress as shooters use the popular (but unreliable) method of "neck twirling" in an effort to cause death.
6. Wounded, downed birds who are not retrieved - (often hiding in vegetation) are likely to suffer a slow death by starvation, infection, dehydration or predation. Wounded but still flying birds with pellets embedded may later perish from pellet induced infection or injury. Its impossible to measure the frequency of this important category of wounding, but it must be acknowledged.
7. The Code details how hunters must deal with injured ducks and the conditions they must not shoot under. It also cautions hunters against committing an offence of 'ill treatment' under the *Animal Welfare Act* (e.g. by killing the animal in a manner that causes it unnecessary pain). But by their 'scattergun' nature, shotguns are high wounding - which potentially breaches this provision.
8. Peak animal welfare bodies, the AVA and the RSPCA oppose recreational duck hunting on the grounds it causes unnecessary pain and suffering and cannot be made humane. When two animal welfare peak bodies speak out, change should occur.
9. The temptation for the Committee to recommend additional regulation in the expectation this will reduce wounding and secure social licence should be resisted. More regulation won't change the physics of how shotguns wound, or achieve a social licence.
10. Native duck and quail hunting is un-regulatable in relation to animal welfare. Neither DEW or RSPCA has sufficient resources, expertise or staff safety assurance to effectively monitor this remote, potentially dangerous activity. There are also significant impediments to collecting sufficient evidence to prosecute under the *Animal Welfare Act*. Realistically, native duck and quail have no effective legal protection against serious cruelty. The only way to protect them is to prohibit native bird hunting.
11. Research by the Australia Institute (2012) found duck hunters' economic contribution to regional (VIC) towns was not significant, and that if duck hunting was banned, shooters would spend money on comping and other activities. The SA government recognises the economic potential of ecotourism and avitourism. Continued hunting seasons will obstruct this potential.
12. South Australian businesses and animal industries need our state to have a progressive reputation for animal welfare. Until recreational duck hunting is banned, we will lag behind QLD, WA and NSW.

2. Our contradictory behaviour towards native birds

RSPCA SA Recommendation 1:

1. Science has identified our native birds as sentient - so a high wounding activity, whether practiced for fun or for food, is no longer acceptable.

2.1 Native ducks are sentient

Scientific evidence confirms that native birds are sentient. Being sentient means the animal experiences a range of feelings from positive to negative.¹ Positive emotions include for instance, contentment and joy whilst negative emotions include fear, anxiety and helplessness. Pain is a physical and emotional experience, and there is growing evidence showing that birds experience pain in a similar way to mammals.² Sentient animals also have ability to perceive the changes around them (i.e. perception), learn from experience and make choices.

It is important to assess the animal welfare impact of human activity on all sentient animals. A contemporary tool to enable this assessment is Professor David Mellor's 'Five Domains' of animal welfare.³ Besides measuring nutrition, environment and health, this tool also focuses on the animal's behavioural interactions and mental state. The tool recognises that for every physical experience, the animal will have a corresponding emotional or subjective experience. The emphasis on the animal's mental state is particularly important to acknowledge in the context of duck and quail hunting, since academic literature shows these prey animals are being pursued by predators (humans and gun dogs) and are often non-fatally wounded.⁴ It also shows that some wounded ducks are left un-retrieved to die slowly and painfully, whilst others will continue flying, wounded, with pellets embedded.

Wounded ducks who are not promptly killed may suffer hunger, thirst, dehydration, infection, anxiety, fear, panic, isolation, helplessness and predation.⁵ Given the grave animal welfare impacts that recreational shooting has on our native duck and quail, the question must be asked:

Does the community accept the disturbance of native animals and local residents and the inevitable wounding of so many birds - for the hunting pleasure of a few?

2.2 Our contradictory behaviour

Many of us have childhood memories of lovingly watching ducks at our local park and now, as adults, we drive slowly past signage that warns us to slow down to avoid hitting them. Increasingly we use our spare time volunteering for wildlife rescue groups, and help lines for injured wildlife are becoming busier. But hampering all of these protective efforts, South Australia still allows native duck and quail who are protected for 9 months of the year to be blasted out of the sky (leaving many injured) for the other 3 months.



Above: Hunter attempting to kill a bird using the twirling method.
(photograph: Doug Gimesy)

¹ Broom, D. M. (2016). Considering animals' feelings: Précis of Sentience and animal welfare (Broom 2014). *Animal Sentience*, 1(5), 1.

² Danbury, T. C., Weeks, C. A., Waterman-Pearson, A. E., Kestin, S. C., & Chambers, J. P. (2000). Self-selection of the analgesic drug carprofen by lame broiler chickens. *Veterinary Record*, 146(11), 307-311.

³ Mellor, D. J. (2017). Operational details of the five domains model and its key applications to the assessment and management of animal welfare. *Animals*, 7(8), 60.

⁴ Norman FI & Powell DGM (1981) Rates of recovery of bands, harvest patterns and estimates for black duck, chestnut teal, grey teal and mountain duck shot during Victorian open seasons, 1953-77. *Australian Wildlife Research* 8:659-664.

⁵ <https://kb.rspca.org.au/knowledge-base/how-many-ducks-and-quail-are-wounded-due-to-recreational-hunting/>.

3. Community attitudes and perspective

RSPCA SA Recommendation 2:

Academic studies found an average 27% of ducks are wounded and not retrieved, but this figure does not include the flying wounded with embedded pellets (approx. 7.5%-12%) and the welfare impacts they suffer.

RSPCA SA Recommendation 3:

Recreational duck shooting is not a mental health tool for Australian men. The last thing a person with a mental health issue needs is to be handed a shotgun. SA polling found 73% support to end duck hunting.

3.1 Successive polls support a ban

Some hunters shoot for fun and some for food, but either way, recreational duck shooting is a discretionary activity that wounds many birds.

Some wounded are downed and left unretrieved (27%). Others continue to fly, but perish some time later from embedded pellets (frequency uncounted).⁶

Duck can be purchased from a supermarket, there is no need to target native duck and expose them to a high level of wounding. Further, native ducks are not overabundant, indeed data from the University of NSW Waterbird Surveys show that most of the target species are in long term decline.⁷

It is also important to distinguish the difference between recreational hunting permits and destruction permits. If recreational duck shooting is banned, destruction permits still exist for the control of ducks where there is evidence that ducks have caused serious damage and non-lethal methods have failed to mitigate the problem.

Polling confirms that the inevitable wounding of our native duck and quail is unacceptable to the community. Polls in both South Australia and Victoria found the majority of respondents supported an end to recreational duck and quail shooting. **Seventy three percent** of the South Australians polled by ReachTEL in 2020 wanted duck and quail hunting stopped, and **seventy four percent** said they would support their state MP to push to end it.⁸ 1016 respondents were surveyed in three marginal SA electorates.

Similar polling results were captured by Kantar in Victoria between 2019-2023. **Sixty six percent** of Victorians surveyed opposed recreational duck hunting and only **sixteen percent** supported it. This survey also found the level of opposition to duck hunting between urban and regional respondents was similar.

Recreational duck shooters make up only a tiny fraction of both the South Australian and the Victorian population. In both cases it is less than half of one percent, and those numbers are still falling as less recreational duck shooting permits are being issued each year.

3.2 Social and recreational aspects - shotguns + alcohol + defenceless wildlife

The blasting of shotguns on Crown land adjacent to National Parks (like Lake George) and in Game reserves doesn't just disturb and traumatise the non-target wildlife that are sometimes killed in the crossfire. It also denies the recreational rights of local residents and families who are forced to live with the noise and prevented from enjoying the amenity for several months each year during hunting season.

⁶ Norman FI & Powell DGM (1981) Rates of recovery of bands, harvest patterns and estimates for black duck, chestnut teal, grey teal and mountain duck shot during Victorian open seasons, 1953-77. *Australian Wildlife Research* 8:659-664 and <https://www.gma.vic.gov.au/research/duck-research>.

⁷ <https://www.unsw.edu.au/research/ecosystem/our-research/rivers-and-wetlands/eastern-australian-waterbird-survey>

⁸ <https://www.rspcasa.org.au/shotguns-in-tranquil-wetlands-get-greenlight-again/>

Some hunters argue that shooting native wildlife is a social activity that benefits their mental health. This is a nonsense, the last thing you would want to give a person struggling with mental health is a shotgun. It is also not supported by academic literature, in fact, some American studies suggest that hunting is likely to have a negative social impact, especially given that shooters often consume alcohol whilst shooting at wildlife.⁹

‘Hunting in the United States exists within the larger culture of gun ownership, supported by legal history and lobbying organizations that serve to reinforce the historical, social, and cultural relationship between guns, masculinities, and violence. Frequent drinking with male friends has been linked to the development of a type of masculinity that serves to objectify women, endorsing male behavior that may lead to physical and sexual violence against women.’



3.3 Frustrated community members attend to wounded birds and document non-compliance

Community frustration at the inevitable wounding of wildlife every year is clear. Wildlife Victoria’s CEO, Lisa Palma, had this to say on the first day of the 2023 Victorian hunting season:

*“I find it extraordinary that in the first few hours of the first day of duck hunting, with a public inquiry looming, we have once again found substantive evidence of non-compliance with duck shooting regulations,” she said.*¹⁰

Similarly, an observer attending the first day of the 2023 duck hunting season in Beachport, South Australia, made this observation to media:

“I went because I have an interest in the safety of animals and I’ve never actually seen it first hand,” she said. “I had presumptions that the hunters would shoot a duck and it would die. “I had heard statistics about one in four were injured with the presumption being the rest of them die instantly.” However, she believed the statistic of injured birds was much higher.”¹¹



⁹ Hall-Sanchez, A. K. (2018). Male hunting subcultures and violence against women. In *The Routledge international handbook of violence studies* (pp. 329-338). Routledge.

¹⁰ <https://www.heraldsun.com.au/leader/endangered-species-under-fire-on-first-day-of-shooting-season/news-story/dc68d2cb0504b44c1624e1e1bb9a9740>.

¹¹ (<https://borderwatch.com.au/news/2023/03/25/duck-hunting-row-continues/>)

3.4 Duck shooters' behaviour tarnishes the reputation of (non animal) sporting shooters

Every Open Season South Australian and Victorian media shows visual evidence suggesting non-compliant duck hunters are leaving wounded ducks to die slowly, attempting to kill wounded ducks using unreliable killing methods and even shooting endangered bird species and then attempting to hide the evidence. Given the negative media these generate, prohibiting recreational duck hunting will also safeguard the reputation of (non-animal) sporting shooters who do not want their sport tarnished.

Some wounded are downed and left unretrieved (27%). Others continue to fly, but perish some time later from embedded pellets (frequency uncounted).⁶

4. Animal welfare aspects of native bird hunting - shotguns tend to wound, not kill

RSPCA SA Recommendation 4:

Unlike rifles, shotguns scatter 120-200 pellets each time the trigger is pulled - the physics of this means wounding is inevitable, and introducing more regulation will not change the physics.

RSPCA SA Recommendation 5:

Birds at the periphery of a shotgun's pellet spread suffer smashed bills, wings and legs. Wounded, downed birds that are retrieved - some will be killed, some will suffer slow deaths by shooters failing to kill them before continuing to shoot. Many others will suffer distress as shooters use the popular (but unreliable) method of "neck twirling" in an effort to cause death.

RSPCA SA Recommendation 6:

Wounded, downed birds that are not retrieved - (often hiding in vegetation) are likely to suffer a slow death by starvation, infection, dehydration or predation. Wounded but still flying birds with pellets embedded may later perish from pellet induced infection or injury. Its impossible to measure the frequency of this important category of wounding, but it must be acknowledged.

RSPCA SA Recommendation 7:

The Code details how hunters must deal with injured ducks and the conditions they must *not* shoot under. It also cautions hunters against committing an offence of 'ill treatment' under the *Animal Welfare Act* (e.g. by killing the animal in a manner that causes it unnecessary pain). But by their 'scattergun' nature, shotguns are high wounding - which potentially breaches this provision.

RSPCA SA Recommendation 8:

Peak animal welfare bodies, the AVA and the RSPCA oppose recreational duck hunting on the grounds it causes unnecessary pain and suffering and cannot be made humane. When two animal welfare peak bodies speak out, change should occur.

4.1 Shotguns spray pellets into flying animals - wounding is inevitable

Its important to note that native duck and quail are shot with a shotgun, *not* with a rifle. Rifles aim to deliver a single bullet, usually to the head of an animal. The bullet from a properly aimed and powered rifle delivers a percussive shock to the animal's head, which delays the onset of pain. Where killing is justified, ground shooting with an appropriate rifle by a trained shooter within a monitored, bonafide program is considered by many as the most humane means to kill wild animals.¹²

In contrast, when the trigger of a shotgun is pulled, 120-200 small pellets spray into the air in a clump that spreads about a metre wide. The pattern of pellets is random and unpredictable, it has some

¹² See the Pestsmart website and also: <https://kb.rspca.org.au/knowledge-base/is-recreational-hunting-an-effective-form-of-pest-animal-management/>.

dense sections and some gaps. Ducks in the gap area may be missed or only wounded, whereas ducks hit by a dense part of the cluster may die.¹³

Shotguns are often aimed at flying groups of ducks, so it is likely that those on the periphery of the pellet spread will only be wounded, not killed. To kill a duck, the bird's vital areas (i.e. brain or heart or lung) must be hit by pellets, but the chance of achieving a fatal shot decreases the further the bird is from the shooter. If the bird is flying alone and shot from a relatively close range, a large number of pellets are likely to hit vital organs increasing the chances of causing death rapidly. Death occurs from damage to vital organs, bleeding and shock. However, if a bird is shot at by a hunter from too far away, the pellets will spread further out and, coupled with the reduced pellet velocity, this will result in the wounding of both the target bird and the birds surrounding it, inevitably leading to pain and suffering. And if duck hunters shoot at a group of flying birds rather than aiming for an individual bird, there will always be a high risk of wounding, irrespective of how competent the shooter is. There are three main categories of wounding:

- a. **Wounded, downed and retrieved (by shooter or shooter's gun-dog)** - Code requires shooter to retrieve and kill duck quickly and humanely, by a second shot or by a heavy instrument to the rear of its skull. Shooter must then confirm death. In contrast, vision is released to SA and VIC media every year showing shooters using non approved (unreliable) killing methods e.g. 'neck twirling' and appearing not to check for signs of death before leaving the bird on a pile/on their hide unattended, resulting in suffering and slow deaths.¹⁴
- b. **Wounded, downed and not retrieved** - (e.g. duck hides in vegetation), duck will likely die slowly from starvation, infection or dehydration, or more quickly by predation;
- c. **Wounded, but still flying with pellets embedded** - the severity of the entry wound and/ or injury varies. Some ducks will succumb to the infection or injury rapidly, others will fly on for some time.

4.2 Minimum standards duck hunters must comply with under the Code

South Australia's *Code of Practice for the humane destruction of birds by shooting* applies to all native species (protected and unprotected) as well as duck species and Stubble quail as specified for hunting season.¹⁵ The Codes stated purpose is: 'sets an achievable standard of humane conduct and details the minimum required of persons shooting birds in South Australia'

Parts of the Code directly related to the hunting of birds include:

- **The Animal Welfare Act 1985:**
'states that a person who ill-treats an animal is guilty of an offence. This includes, but is not limited to;
 - having injured an animal fails to take reasonable steps to alleviate any pain suffered by the animal, or
 - kills an animal in a manner that causes the animal unnecessary pain.'
- **Meeting your obligations under this Code You should take a shot only if:**
 1. it is safe to do so,
 2. the animal is clearly visible,
 3. the animal can be positively identified by the shooter,
 4. your firearm/shot size combination meets the requirements of this Code of Practice,

¹³ <https://kb.rspca.org.au/knowledge-base/how-many-ducks-and-quail-are-wounded-due-to-recreational-hunting/>.

¹⁴ <https://www.abc.net.au/news/2023-03-23/rspca-beachport-duck-hunting-video-ahead-of-inquiry/102130602>.

¹⁵ https://cdn.environment.sa.gov.au/environment/docs/cop_humanedestructionbirds.pdf.

5. the point of aim and firearm combination meets the requirements of this Code of Practice (refer to diagrams),
6. the target animal is within your personal shooting range capability, and
7. you are confident of killing the animal. If in doubt, do NOT shoot. Shooting should be avoided at times when birds are nesting and there are dependent young present. Only one bird should be targeted at any one time. Shooting at a flock is not an acceptable practice. Birds must not be shot from a moving vehicle or other moving platform such as a boat.

- **'Injured birds:**

The shooter must ensure that prior to shooting, he/she has the necessary equipment to kill any bird that is injured but not killed on the first shot. Injured birds must be killed as quickly and humanely as possible by; • second shot, or • a blow with a heavy instrument to the rear of the skull (the bird should be either restrained or immobile). Ensuring animals are dead. Death must be confirmed before animals are disposed of or left unattended.'

- Shooting should only take place during daylight hours.
- **Firearm, optimum range, maximum range and shot size for different bird species:**
 - Small birds to Stubble quail size - .410 shotgun, 12 gauge shotgun, optimum to maximum range 15-25m, 9s-10s shot size.
 - Birds up to Teal size (ducks) - 12 gauge shotgun, " range 30-35m, 3s-6s shot size.
 - Birds up to Mountain duck size - 12 gauge shotgun, " range 30-35m, 3s-5s.'

With three different categories of wounding: Wounded, downed birds that are retrieved; Wounded, downed birds that are not retrieved, and Wounded flying birds with pellets embedded, as well as an estimation from the GMA that wounding can be as high as 40% - the need to *at least* enforce the Code's minimal standards is critical. But realistically, who enforces this? Which regulatory agency will provide its staff with the training, safety assurances (in a potentially volatile environment where they may have to confront shooters), security backup and equipment to collect the evidence required to properly enforce the Act, in a large number of remote wetlands?

Given the layers of impediments to effective monitoring, it is unlikely that breaches of the *Animal Welfare Act* (e.g. by failing to kill the wounded in a manner that doesn't cause unnecessary pain) or of the Code will be detected. Effectively then, who will detect: endangered species being shot; shooters targeting flocks of birds; hunters not having the (approved) equipment or skill to humanely kill wounded birds; hunters shooting from moving vehicles or boats, and perhaps most importantly, how will anyone know about the wounded birds left unattended; or the shooters who fail to kill injured birds promptly or by approved methods?

Submission to the Select Committee

There are also some glaring inconsistencies. For instance, the Code specifies that 'Shooting should only take place during daylight hours', yet the DEW department's website advises that:

*'The open season begins 30 minutes prior to sunrise on Saturday 18 March 2023 to 30 minutes after sunset on Sunday 25 June 2023.'*¹⁶

4.3 Media airs footage and claims of non-compliance every year

After the Opening weekends of the South Australian and Victorian 2023 duck hunting seasons, media in both states aired claims of serious non-compliance and potential cruelty issues.

The Victorian press ran stories about the corpses of illegally shot endangered bird species who were found hidden in tree logs.¹⁷ It also featured a story about multiple dead native ducks dumped in a paddock (one appearing to be shot in the face), without their breast meat having been removed, suggesting these native ducks were probably shot for fun.¹⁸

Similarly, the South Australian Press ran stories about the experiences of observers who claimed to have witnessed shooters wounding native ducks, using unreliable killing methods and being slow to kill the wounded, as well as one shooter appearing to offer a wounded duck to his dog.¹⁹

4.4 Academic studies link the shot-gunning of birds to high wounding rates

South Australian duck shooters admit to wounding ducks. For instance, in April 2023, Rob West, Vice President of CHASA (Conservation & Hunting Alliance, SA) told the ABC:

*'Look, sure – we're not disputing the fact that we do get wounding when we hunt ducks with a shotgun,' he said. 'However, we know that with good training, practice and a number of other things that we can significantly reduce the amount of wounding that we have, and once you've got a wounded bird it's how effective you are at disposing of or dispatching it.'*²⁰

Several peer reviewed academic studies confirm not only that wounding is inherent to duck shooting but also that duck hunters wound (as opposed to killing outright) 14% to 33% of the birds they hit. Furthermore, the GMA estimates it could be up to 40%. Academic literature and other sources include:

- a) A Victorian based study of recreational hunting reported 14%-33% of birds were wounded but not retrieved.²¹
- b) An earlier study by the same academics x-rayed trapped live ducks (mixed species) in Victoria (1957-1973) and reported between 6% and 19% of ducks contained embedded shot.²²

¹⁶ (<https://www.environment.sa.gov.au/topics/plants-and-animals/sustainable-use-of-animals-and-plants/hunting-information/open-season/duck-hunting>)

¹⁷ <https://au.news.yahoo.com/disgraceful-find-inside-tree-sparks-outrage-over-controversial-hobby-074827723.html>.

¹⁸ <https://au.news.yahoo.com/dead-ducks-dumped-geelong-industrial-070823200.html>.

¹⁹ <https://www.abc.net.au/news/2023-03-23/rspca-beachport-duck-hunting-video-ahead-of-inquiry/102130602>.

²⁰ Ibid.

²¹ Norman FI & Powell DGM (1981) Rates of recovery of bands, harvest patterns and estimates for black duck, chestnut teal, grey teal and mountain duck shot during Victorian open seasons, 1953-77. *Australian Wildlife Research* 8:659-664.

²² Norman FI (1976) The incidence of lead shotgun pellets in waterfowl (Anatidae and Rallidae) examined in south-eastern Australia between 1957 and 1973. *Australian Wildlife Research* 3:61-71.)

Submission to the Select Committee

- c) A Minnesota (USA) based study reported approximately 33% of ducks were injured but escaped the shooter.¹
- d) A GMA X-ray study following the 2022 VIC season, which found 7.5% of juvenile (1st year) ducks had pellets embedded.²
- e) In communications about the draft Waterfowl Wounding Reduction Plan, the Victorian Game management Authority (GMA) acknowledged research showing a duck wounding rate of 6%-40%.³

Important categories of wounding not covered by the research

It must be noted that the academic studies above don't include data on:

- the number of ducks who continued flying after being hit, but perished some time later from pellet induced infection or injury, or*
- the number of wounded, retrieved ducks killed by unreliable/unapproved killing methods and/ or*
- the number of wounded, retrieved ducks dumped (on piles or hides) by shooters who failed to check for signs of death before leaving them unattended.*

It should also be noted that the same physics apply when shotguns are used on other native or pest birds, including Galahs, Corellas and others. Inevitable wounding still occurs, making this an inhumane weapon that should not be used to control or hunt other bird species either.

Serious wounding and horrific injuries treated by veterinarians

Veterinarians who treat ducks wounded by shotguns during hunting season typically care for and euthanise ducks with their wings blown off, with bones sticking out and with their bills smashed. Speaking about duck hunting, veterinarian and AVA President, Dr Bronwyn Orr, said:

*'The practice is inhumane and results in many animals being critically injured and left to die in the wild. As veterinarians, our goal is to protect the health and welfare of animals,' Dr Orr said. Hunting ducks with shotguns often results in non-fatal injuries, where the birds are hit with the outer cluster of pellets, but not retrieved. This results in an ethical animal-welfare problem, as the bird may live for a number of weeks with a crippling injury, receiving no veterinary treatment.'*²³

²³ <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/waterfowl-hunting/>)

¹ Szymanski, M. & Afton, A. (2005). Effects of spinning-wing decoys on flock behavior and hunting vulnerability of mallards in Minnesota. *Wildlife Society Bulletin*, 33 (3) 993-1001.

² <https://www.gma.vic.gov.au/research/duck-research>.

³ <https://www.gma.vic.gov.au/hunting/duck/reduce-wounding#:~:text=An%20important%20part%20of%20this,of%20actions%20to%20reduce%20wounding>.



4.5 Australia's peak animal welfare bodies oppose recreational duck hunting

RSPCA policy

RSPCA policy states:

*'The RSPCA opposes the recreational hunting of ducks because of the inherent and inevitable pain and suffering caused. Every year, during the government-declared 'open season' many thousands of ducks are shot over the wetlands of Australia in the name of sport. Some of these ducks will be killed outright. Some will be wounded, brought down and killed on retrieval. Many others will be crippled or wounded and will die within a few hours or days. Some will suffer prolonged pain before they die.'*²⁴

Australian Veterinary Association (AVA) policy

Similarly, the AVA has released a policy opposed to duck hunting that states:

*'The hunting of waterfowl using shotguns is opposed, as it often causes unnecessary pain and suffering to the birds.'*²⁵

Animal Welfare Advisory Committee to the South Australian Minister

It should also be noted that South Australia's AWAC Committee also has a policy that opposes recreational duck hunting.

4.6 Shotgunning birds cannot be made humane

Some commentators have claimed that obtaining meat from duck hunting is no different to obtaining meat from abattoirs. These two methods are entirely different, given that unlike duck hunters, abattoirs are required to use a standardised, reliable killing method, are not permitted to allow injured animals to escape, have some regulatory oversight of the killing process, and have a reporting mechanism. The unregulated nature and high wounding rate associated with duck hunting cannot be justified purely on the basis that some of the ducks shot will be eaten. If animals going through an abattoir escaped injured, and the facility's employees routinely used unreliable killing methods, with no oversight mechanism - there would be outrage.

²⁴ <https://kb.rspca.org.au/knowledge-base/what-is-the-rspcas-view-on-duck-hunting/>.

²⁵ <https://www.ava.com.au/policy-advocacy/policies/hunting-and-fishing/waterfowl-hunting/>.

Even gun manufacturer Winchester's own study reinforced the fact that wounding cannot be avoided when shot-gunning ducks.²⁶ By artificially creating conditions in which a shotgun is perfectly aimed (and timed) at captured ducks, suspended from a trolley at different distances, this experiment reinforced that wounding is inevitable regardless of the distance. For instance, when the shotgun was perfectly aimed at hanging ducks who were 27 metres away, 9% were not killed instantly and when it was perfectly aimed at ducks who were 36 metres away, 31% were not killed instantly. And in reality potential wounding statistics are likely higher, given that this experiment used a perfectly aimed and timed shotgun, which is not realistic for 'in field conditions'.

Wounding reduction plan

It must be noted that a wounding reduction plan has no capacity to address either:

- the unretrieved birds that cannot be found by the shooter (hiding in vegetation) or
- the wounded birds that fly on with pellets embedded and varying levels of pellet induced infection or injury.

The RSPCA SA believes there is no acceptable level of wounding and we doubt that the South Australian community will be willing to embark on a resource-intensive wounding reduction program, since it is impossible to eliminate the wounding of ducks hunted by shotguns.

5. High wounding activities are inconsistent with the intent of the Animal Welfare Act

The intent of South Australia's Animal Welfare Act 1985 is to enhance animal welfare. The South Australian government, Department for Environment and Water website states:

*'Animals in South Australia must be treated in accordance with the **Animal Welfare Act 1985** (the Act) and the **Animal Welfare Regulations 2012**. The Act applies equally to all animals regardless of their value or status (ie threatened or pest species). Compliance with the requirements of the Act is mandatory. Under Section 13 of the Act, anyone who ill-treats an animal is guilty of an offence. The Act lists the types of actions which constitute ill-treatment. This Act is enforced by the **RSPCA**, departmental wardens, livestock animal health officers, biosecurity officers and the police.'*²⁷

Given the predictably high wounding rate of recreational duck hunting - this is an activity that contradicts the intent of our state's *Animal Welfare Act*.

5.1 The Review provides an opportunity to address this contradiction

The *Animal Welfare Act* is currently under review and our state government has produced a consultation paper. The paper explains that the government's intention is to understand current community expectations and to amend the Act to reflect contemporary practices and public expectation. The government states:

*'Our approach to treating, using, caring for and interacting with animals is shaped by our understanding of what animal welfare is..... The Five Freedoms and Five Domains of Animal Welfare and our understanding of animals' ability to experience feelings are useful in framing expectations around the welfare of animals. It is also useful in understanding the role legislation can play in promoting the welfare of animals.'*²⁸

A recent comparison of Australian state animal welfare legislation identified South Australia as having some of the weakest law in the country. Modern laws are increasingly important to demonstrate to our trading partners that South Australian industries are committed to good animal welfare practices. It is embarrassing that our state lags behind Queensland, Western Australia and New South Wales, all of whom stopped the high wounding activity of recreational duck shooting decades ago.

²⁶ Kozicky, E., & Madson, J. (1973). Nilo shotshell efficiency test on experimental mallard ducks, 1972-73. In *The sixty-third convention of the international association of game, fish and conservation commissioners* (Vol. 63, pp. 100-117).

²⁷ <https://www.environment.sa.gov.au/topics/plants-and-animals/animal-welfare/animal-welfare-legislation>.

²⁸ <https://yoursay.sa.gov.au/animal-welfare-act-review>.

The last update to South Australia's Animal Welfare Act (2008) added a recognition of pain, suffering and distress to the definition of harm. The government's consultation paper suggests the next update may recognise animals' ability to experience feelings (i.e. sentience), and that this recognition will help define the role legislation can play to promote animal welfare.

6. The Act does not and cannot protect SA's native birds during Open Season

RSPCA SA Recommendation 9:

The temptation for the Committee to recommend additional regulation in the expectation this will reduce wounding and secure social licence should be resisted. More regulation won't change the physics of how shotguns wound, or achieve a social licence.

RSPCA SA Recommendation 10:

In terms of animal welfare, native bird hunting is un-regulatable. Neither DEW or RSPCA has sufficient resources, expertise or staff safety assurance to effectively monitor this remote, potentially dangerous activity. There are also significant impediments to collecting sufficient evidence to prosecute under the *Animal Welfare Act*. Realistically, native duck and quail have no effective legal protection against serious cruelty. The only way to protect them is to prohibit native bird hunting.

6.1 Legislation hunters must comply with

Hunters must comply with a Code of Practice, this is one of the conditions of their duck hunting permit:

*'A permit to destroy wildlife issued under Section 53(1)(c) of the National Parks and Wildlife Act 1972 is required and compliance with this Code of Practice is a condition of permit.'*²⁹

They must also comply with legislation. The government website lists three Acts that duck and quail hunters must comply with in South Australia, including the *Animal Welfare Act*:

*'It is important to act lawfully in accordance with the National Parks and Wildlife Act 1972 and regulations, the Animal Welfare Act 1985, the Firearms Act 2015 and other legislation that may apply.'*³⁰

Minister Susan Close recently emphasised the community expectation that anti cruelty laws be enforceable:

*'We recognise this legislation needs updating to reflect community expectations that laws against cruelty should be enforceable.'*³¹

6.2 In practical terms - the AW Act *cannot* protect native birds during hunting season

The RSPCA does not believe SA's *Animal Welfare Act* protects native duck and quail against cruelty during annual hunting seasons. In practical terms, the nature of duck hunting makes it virtually impossible for the Act to protect these and other wildlife from serious cruelty during the (approximately) three month long hunting season. Some of the reasons for this include:

²⁹ https://cdn.environment.sa.gov.au/environment/docs/cop_humanedestructionbirds.pdf.

³⁰ <https://www.environment.sa.gov.au/topics/plants-and-animals/sustainable-use-of-animals-and-plants/hunting-information/open-season/duck-hunting>.

³¹ <https://www.premier.sa.gov.au/media-releases/news-items/have-your-say-on-animal-welfare-laws>.

- Duck and quail hunting occurs in remote locations - so hunters are unlikely to be observed.
- Shooters don't wear numbers on their clothing - so even if a member of the public does witness cruelty, it's highly improbable that they will manage to record the cruelty and then follow the hunter back to their car to record the hunter's number plate.
- Enforcement of the *Animal Welfare Act* is already severely under-funded. The RSPCA does not have the resources to monitor this high (bird) wounding shooting activity in remote wetlands, or to attend if they are called to a duck maimed or wounded by a shooter.
- The National Parks and Wildlife rangers are not focused on detecting breaches of the *Animal Welfare Act* and even if they were, they have insufficient staff to attend all wetlands and are unlikely to have the equipment to detect and record animal welfare breaches. It is also doubtful that they would have the backup to ensure their safety if they had to confront non-compliant or aggressive shooters.



6.3 Even where evidence is captured, proving breaches is difficult

If, as often occurs, animals are not killed instantly with a shotgun, the situation may give rise to a breach of the *Animal Welfare Act 1985*.³²

Killing or wounding an animal in the course of duck shooting may constitute ill-treatment of an animal and therefore a breach of section 13 of the *Animal Welfare Act 1985*. Ill treatment of an animal may occur in various ways, but in the context of duck hunting, the following particulars of ill treatment provided under section 13(3) of the Act are relevant:

- (3) *Without limiting the generality of subsection (1) or (2), a person ill treats an animal if the person—*
- (a) *intentionally, unreasonably or recklessly causes the animal unnecessary harm, or;*
 - (g) *kills the animal in a manner that causes the animal unnecessary pain; or*
 - (h) *unless the animal is unconscious, kills the animal by a method that does not cause death to occur as rapidly as possible.*

Practicalities in proving any of these three particulars beyond reasonable doubt limit the circumstances in which suspected ill treatment offences may be prosecuted. These are not limited to the following difficulties in proof:

- i. Difficulty in proving the identity of the actual shooter responsible for wounding/killing an animal, including proving the source of the shotgun pellets used.
- ii. For (a), proving that the person was intentional, unreasonable or reckless in causing the animal unnecessary harm - this requisite mental element is difficult to prove in the context of a regulatory regime which effectively permits a practice which by its very nature has harm as a consequence. Whether that harm is unnecessary is a

³²<https://www.legislation.sa.gov.au/legislation/lz/c/a/animal%20welfare%20act%201985/current/1985.106.auh.pdf>.

Submission to the Select Committee

question of fact and the test is an objective one of the reasonable person. In the context of a regulatory regime which permits duck hunting, this test may be difficult to meet.

- iii. For (h), when an animal shot with a shotgun finally dies, difficulty in proving that death was not immediate.
For (h), when an animal shot with a shotgun finally dies, difficulty in proving that the animal was still conscious prior to death.

Assertions that a hunter attempted a clean kill, and could not locate the wounded bird post shot would be difficult to refute. This defence itself seriously undermines the ability to protect animals using the *Animal Welfare Act*.

Further, the defence provided in section 13(5) may be available. This provides:

(5) It is a defence to a charge of an offence against subsection (2) if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Of further note is the relevant Code and its interaction with the Animal Welfare Act.³³ Section 43 of the AWA provides that “nothing in this Act renders unlawful anything done in accordance with a prescribed code of practice relating to animals”, effectively providing legal protection to those who have complied with the Code. A duck hunter who is alleged to have ill-treated a duck (or quail) contrary to s 13 of the Act may claim that he/she has complied with this Code and that the alleged conduct is therefore not unlawful.

The Code sets out permitted methods of killing and expressly seeks to limit the suffering of animals destroyed under the Code. This creates further legal uncertainty in any proposed prosecution for ill treatment.

The ill treatment offences in the Act clearly indicate the government’s intention that animals should not be subject to unnecessary harm. Yet when unnecessary harm is frequently impacted on wounded animals by the use of shotguns, this legislation is proving ineffective in providing adequate protection for animals. On the one hand, we have a regulatory regime, which permits such hunting, and on the other, an Animal Welfare Act, which prohibits the inescapable consequences of the conduct. The effect is a situation of legal uncertainty for the RSPCA and DEW in properly administering the Animal Welfare Act. The result is that enforcement through the Animal Welfare is an impractical and ineffective approach to providing native duck and quail with adequate protection from duck hunters, in a practice that far too often does not result in instant death.

RSPCA proposes adding a provision to Section 14 of the Act (i.e. Prohibited Activities section) to prohibit the use of shotguns for the purpose of hunting or killing native birds.

6.4 Duck hunting is un-regulatable and adding more regulation won’t change this fact

The RSPCA strongly advises the Select Committee against introducing more regulation in the belief this will make duck hunting with shotguns acceptable. The physics of the shotgun and its inevitable wounding will not change in response to added regulation and neither will the inability to regulate it. In terms of regulating duck hunting, it is likely that the Victorian Game Management Authority is better resourced than its South Australian counterparts, but a 2017 Pegasus Economics report into the GMA’s compliance and enforcement function shed doubt on its capacity.³⁴ It found that the

³³ https://cdn.environment.sa.gov.au/environment/docs/cop_humanedestructionbirds.pdf.

³⁴ (REF https://www.gma.vic.gov.au/_data/assets/pdf_file/0011/481682/Assessment-of-the-GMAs-compliance-and.pdf.)

Authority's own staff didn't believe they could ensure compliance with hunting laws or effectively punish hunters who breached them.

The only way to stop duck and quail from suffering and stop the illegal shooting of (non target) protected species is to prohibit recreational duck and quail hunting altogether.

7. Economic considerations

RSPCA SA Recommendation 11:

Research by the Australia Institute (2012) found duck hunters' economic contribution to regional (VIC) towns was not significant, and that if duck hunting was banned, shooters would spend money on camping and other activities. The SA government recognises the economic potential of ecotourism and avitourism. Continued hunting seasons will obstruct this potential.

7.1 Claims that duck hunters' expenditure is significant are unfounded

Despite the fact that duck shooters comprise less than half of one percent of the population in both SA and VIC, claims have been made that they contribute significantly to the economy of regional towns with wetlands. This claim has been refuted by the 2012 Australia Institute's research, which found:

*'Claims that the expenditure of duck hunters is economically significant are unfounded - if duck hunters didn't hunt ducks, they would still spend their money in Victoria, most likely on fishing, hunting other animals or camping.'*³⁵

A second finding of the Australia Institute was consistent with the 2020 South Australian ReachTEL poll, which found 70% of respondents would not visit an area where shooters were present. This second finding was:

*'Non-hunting tourism is vastly more important to the Victorian economy and to regional areas. Around half of tourists are less likely to spend their holidays - and their money - in areas where duck hunting occurs.'*³⁶



7.2 Avitourism and ecotourism are the future - duck shooting is the past

Research shows bird watching and ecotourism are highly profitable, injecting much-needed funds into regional economies.

Our native birdlife and wetlands already exist, and little infrastructure is needed for regional economies to benefit. Research in 2011 showed bird watchers in America spent almost 41 billion dollars on bird watching.³⁷

³⁵ https://australiainstitute.org.au/wp-content/uploads/2020/12/PB-44-Out-for-a-duck_0.pdf.

³⁶ Ibid.

And it's not just international tourists - Tourism Australia's National Visitor Survey shows a growing number of Australians engage in bird watching domestically, spending money in regional economies.



South Australia is blessed with the natural assets to become a bird watching hub. Our state's tourism plan, 'NATURE LIKE NOWHERE ELSE: Activating Nature Based Tourism in South Australia' demonstrates the intention to protect natural assets and grow eco-tourism:³⁸

'Investing in emerging niche markets, including geo-tourism, bird watching, mountain biking and heritage tourism.'

7.3 Ecotourism businesses are negatively impacted by duck-hunting

Eco-tourism businesses in South Australia offer a range of experiences from bush walking and rock climbing to guided tours of wetlands, river boating and kayaking. But the blast of shotguns during the recreational duck hunting season and the potential for tourists to find (still live) wounded and dead wildlife left by shooters negatively impacts their operations. One SA ecotourism business that wrote to RSPCA, but did not wish to be named had this to say:

*'We feel physically anxious as men shoot near our property, and our dog has pushed the flyscreen door in trying to escape the noise of shotguns. We close our tourism business at peak duck shooting times because it does not fit with our eco-tourism image. This decision affects the local economy beyond our own income because tourists spend with many other businesses when they visit.'*³⁹

A Victorian wetland that is setting an example for others to follow is the Winton Wetlands near Benalla, three hours north east of Melbourne.⁴⁰ This wetland offers bird watching and wildlife education, and despite being hampered by COVID related closures in 2020/2021, it managed to generate almost 4 million dollars in revenue from operating activities in 2021. Winton Wetlands is also the first wetland outside of the USA to be nominated by the Society of Wetland Scientists as a 'wetland of distinction'. This recognition places it on the international stage.

³⁷ <https://digitalmedia.fws.gov/digital/collection/document/id/291/rec/2>.

³⁸ <https://cdn.environment.sa.gov.au/parks/docs/nature-based-tourism-strategy-gen.pdf?v=1610572485>, p. 9.

³⁹ Communication to RSPCA from a South Australian ecotourism operator, that did not wish to be named.

⁴⁰ (REF https://wintonwetlands.org.au/wp-content/uploads/2022/04/Winton-Wetlands-Annual-Report-2020-21_LOW_RES.pdf).

8. Other Australian jurisdictions

RSPCA SA Recommendation 12:

South Australian businesses and animal industries need our state to have a progressive reputation for animal welfare. Until recreational native bird hunting is banned, SA will lag behind QLD, WA and NSW.



When Queensland's then-Premier, Peter Beatty, announced the ban on duck hunting more than a decade ago, he said it was:

"not an appropriate activity in contemporary life".

In announcing the ban in Western Australia in 1990, then-Premier, Dr Carmen Lawrence said:

"Our community has reached a stage of enlightenment where it can no longer accept the institutionalised killing of native birds for recreation".⁴¹

Yet, more than 30 years later, this activity continues here in South Australia, despite broad community support for a ban.

9. Conclusion

To echo the words of former WA Premier, Carmen Lawrence, 'Our community has reached a stage of enlightenment where it can no longer accept the institutionalised killing of native birds for recreation'.

The RSPCA encourages the Select Committee to meet community expectations and prohibit recreational duck and quail hunting under our state's Animal Welfare Act before 2024.

⁴¹ <https://www.duck.org.au/wp-content/uploads/2021/08/1.-WA-MR-3.9.1990-8.pdf>.