

21<sup>st</sup> April 2023

Biodiversity Conservation Act Review  
Department of Planning and Environment  
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Parramatta NSW 2124

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### RE: Statutory Review of the NSW Biodiversity Conservation Act 2016

Animal Care Australia (ACA) is a national incorporated association established to consult with government in advocating for real animal welfare by those who keep, breed and care for pets and companion animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care.

As the keeping of native animals as pets only makes up a portion of the Act most of the focus questions outlined within the consultation paper remain outside of our purview, however, we provide the following feedback.

“ Notably, a strong sentiment of the review panel was that regulations, should be looser (in general) because:

1. we want people to interact with wildlife (common species)
2. breeders can make a big contribution to conservation, and
3. the cost of the licensing process is large relative to its benefits. “

Quote from Dr Hugh Possingham, 2014 Review Panel Member

### **General comment:**

What a shame the National Parks & Wildlife Service (NPWS) staff have no understanding of the intent of the 2014 Review Panels recommendations.

Animal Care Australia acknowledges the Objectives of the Biodiversity Conservation Act 2016, Objectives:

- (g) to regulate human interactions with wildlife by applying a risk-based approach, and*
- (n) to support public consultation and participation in biodiversity conservation and decision-making about biodiversity conservation, and*
- (o) to make expert advice and knowledge available to assist the Minister in the administration of this Act.*

Animal Care Australia is of the strongest opinion that the Department of Environment, predominantly the wildlife licensing sections within the NPWS have consciously and rigorously chosen to ignore the intent and outcomes of the three Objectives outlined above.

While we acknowledge consultation has occurred, information provided by the experts who keep native wildlife (as pets) has been selectively ignored and to this day has been withheld from being delivered to the Ministers responsible for overseeing the Department. Note: As you will be aware this includes three Ministers: 1) Minister Gabrielle Upton; 2) Minister Matt Kean; and 3) Minister James Griffin.

To support this statement, a significant consultative process, which included an array of stakeholders, some with expertise in the keeping of native birds, reptiles, amphibians, and mammals, was conducted by Mr. Robert Oliver and a team of consultants. This process was lengthy covering 2016 through to 2019. For reasons still unclear to many of us, stakeholders that were not directly involved in the keeping of native wildlife as pets were included in this process, and whom were of differing positioning to those keeping native wildlife. Some who actively oppose the keeping of ANY native animal in captivity. It is our opinion this provided the Department with the perfect opportunity to implement constant buffers and excuses to not implement or bring to fruition the aims of implementing wildlife licensing with a risk-based approach.

That almost four-year process cost the taxpayer around \$2.5 million which resulted in a package of half-baked risk-based licensing reforms, that excluded reptile keeping and an expansion to native mammal keeping, while including a proposed system for future consultation. The package was presented to consulted stakeholders by Mr. Oliver as being ready for implementation.

During the period 2020 through 2022, Animal Care Australia in conjunction with and support of other stakeholders began politically lobbying for answers, or an outcome, including filing a GIPA request for all information relating to Mr. Oliver's review. That request provided evidence that a package had been drafted to be presented to the Minister. For reasons unknown to most of us the package was never progressed by NPWS. That is not one Minister was ever presented with something to approve.

Following multiple broken promises and blatant misleading by Senior Staff within the department, a further review was commenced in 2022. This review has again been buffered, delayed, and interfered with by what appears to us to be department staff with ideological views when determining the factors that go into determining what constitutes a risk. (i.e., risk-based)

These ideologies 'may' apply to protecting wild animals but do not apply to captive-bred and kept populations. Again, we find the consultation process being muddied by elements that are simply not scientifically supported and irrelevant to a review of the wildlife licensing for native animals as pets.

It should be noted to date, the 2022 Review is now 6 months behind its scheduled timetable and has so far been budgeted at a further \$750,000. With a new government (and fourth Minister) now involved, there is no telling when or if a Risk-based Native Wildlife Licensing System will be implemented in NSW.

Animal Care Australia can provide copies of documented evidence to support all the above, that we would happily make available to the Review Team and welcome the opportunity to meet with the Review Team to outline our concerns in greater detail.

Animal Care Australia is also aware that the Canary & Caged Bird Federation of Australia has substantial documentation that outlines the ongoing interference, delays, and a detailed, lengthy timeline, that we support and encourage the Review Team to take note of.

### **Specific feedback on Focus Questions:**

Relating to our area of expertise: Regulating impacts on, and caring for, native animals (and plants).

*The Act protects all native birds, reptiles, amphibians, and mammals (except the dingo) and many species of native plants across NSW.*

*Licences and codes of practice are the Act's principal tools regulating a range of activities that have potential to harm protected plants and animals, such as keeping native animals as pets, trading in wildlife, controlling wildlife that damages property, translocating wildlife, and rehabilitating sick, injured or orphaned wildlife.*

**We would like it noted that Animal Care Australia has members (both organisation/Associations and individuals) that keep, breed, trade – that is sell/purchase but are not commercial traders, translocate wildlife between states as part of expanding their hobby, as well as members who care for, rehabilitate, and rehome native animals.**

Animal Care Australia has concerns when we see the statement:

*“The Act needs to play more of a role in protecting the welfare of native animals”.*

As a nationally recognised animal welfare organisation the inclusion of this statement within the section of the Act focused on wildlife licensing and keeping of captive-bred animals raises alarm bells. Animal welfare, while vitally important, does not belong within this section of Act. The NSW Prevention of Cruelty to Animals Act protects the welfare of all animals – with focused codes of practice, husbandry, and enclosure related regulations.

Animal Care Australia is a key stakeholder in the review of POCTAA in NSW and we are secure and comfortable in the knowledge that the protection of welfare for native animals as pets is met, and will continue to be improved within POCTAA (Likely to be renamed NSW Animal Welfare Act 2023)

We do acknowledge welfare should be considered when associated to native wildlife populations in the wild, in areas such as land clearing, habitat protection etc.

#### **Focus Question 20 - How could the Act best support the protection of native animals and plants.**

For Animal Care Australia we are seeking to include the reverse aspect of this question. That is:

*“How can the keeping of native animals by the public support the protection of native animals ...”*

As an organisation we find the NPWS view native animal keepers as the ‘deliverers of animal extinction’. They are evil, they take from the wild, they cage them up, they destroy habitats in their pursuits to make money selling the animals ...

We could go on, and before anyone jumps up and down stating that is not true, Animal Care Australia representatives and members who were present during the consultation processes from 2016 through to the very last meeting have all been subjected to the statements above from NPWS staff.

Our point is – the opposite is true – and the expertise of keepers should be included in the Act. Provisions requiring that expertise to be part of consultation committees, consulting for land clearing committees and most importantly with threatened species committees etc.

There are many aviculturists who have provided their knowledge to the zoo fraternity and husbandry techniques adopted by that fraternity. Private keepers have continued to save species from the brink of extinction, for example, Woma, Rough Scale and Oenpelli Pythons. Of course, there are a lot more, because breeders love their animals and spend years getting captive populations established at great cost to themselves. This knowledge and attempts to further the development of captive populations are constantly inhibited and in certain cases prohibited (Oenpelli Python) by the ‘ideological dreamings’ of departmental bureaucrats.

#### **Focus Question 21. Are the requirements and conditions for biodiversity conservation licences in the Act suitable? Do you have any suggestions for improvements?**

Short answer no they not suitable. They are too restrictive. The NPWS continually cites a clause somewhere in the Act (where it is we don’t know) that states they can develop any additional provision or regulation to better regulate the licensing of native wildlife.

Better regulate? Not exactly a risk-based statement!

Currently the Review has just drafted a Code of Practice (COP) for the Trading of Birds in NSW. This COP has more conditions than the Licensing Conditions. Also, we are no longer keepers – we are Traders – not be confused with Commercial Pet Shops though – as they have their Trading COP!

Over the past 5 years we have seen provisions added to Licenses that have NOT been consulted. Just to name a few:

- Once if you wanted to Upgrade your license you had to have 2 years' experience with that lower level of license. That being 2 years on an R1 then you could apply for an R2.
  - Today you must advise which species you want to upgrade for and have had more than 2 years keeping a similar species. They only approve an R2 for that species that you want to upgrade to.
  - This is absurd! Not only are there higher-level species that DO NOT have lower common species BUT also the department has introduced layers of licensing where it is absolutely NOT necessary. Again – not Risk-based and not cutting back on red-tape!
- Once you only had to submit your records once a year – at the end of March.
  - Today you must record all your incoming and outgoing animals within 7 days or you are in breach of your license conditions. NPWS are ACTIVELY contacting breeders stating they will revoke licenses if the records are not updated.
- Organisers of Bird Shows can run their shows any time they want.
  - Herpetological Associations and Societies MUST apply for an Expo Permit. They must pay a fee for said permit. They must provide a list of breeders who will be selling at that Expo. Breeders are contacted by NPWS and threatened with removal of license if they have not submitted records in the last 7 days. Reptile Societies are threatened that they cannot hold the Expo without all breeders meeting those requirements, as well as floor plans of the Expo, detailed outlines of any breed shows etc.

The fact the department sees reptile keepers in a different way highlights their lack of understanding on captive-keeping and on the species and perpetrates a clear bias against keepers and the keeping of reptiles as pets. This bias was even reflected in Mr Oliver's recommendations where there were to be no changes (including moving some to a Coded species list) for reptile licensing.

The NPWS just makes the rules up as they go with no consultation or justification.

Additionally, there are multiple species of animals in NSW that have had approved Import Permits but are not available for online record keeping because the species list hasn't been updated for a very long time.

### **Focus question 22 How should wildlife licencing be modified to allow for climate-adaptation conservation activities?**

This question is partially answered by our response to Focus Question 21 – providing provisions for wildlife license holders to be included in conservation consultation and activities.

We also acknowledge it includes other license categories – however those fall outside of our purview.

### **Focus Question 25 – Additional Feedback**

Please see our General Comment, plus:

- Animal Care Australia feels it is important to repeat that Animal Welfare should not be used as a hinderance or tool used to prohibit the keeping of native animals as pets or the relaxing of licensing.
- Native Mammals have been unjustifiably removed from the current review into native wildlife licensing – despite having been included in the 2014 recommendations AND under instruction by Minister Upton to be included. Most stakeholders support native mammals being kept on license.
- The Mammal Society of NSW proposed a licensing scheme that not only reflected the keeping of native mammals in both Victoria and South Australia, but included stronger layers of license grading, actual Codes of Practice for their keeping, and training qualifications for keeping certain species, such as large kangaroo and wombats.

- The removal was unprofessional and irresponsible – and yet retrospectively indicative of a department that is ideologically driven and predisposed against the keeping of native animals as pets. This followed an advertising campaign by a pseudo welfare organisation claiming we were all attempting to sell and own wombats in a cardboard box! (Yes you're reading that correctly).
- Attempts to have species added to the approved lists have been rejected because there is no method of assessing those species in place and has not been for more than a decade. It is still in draft form.

Again, Animal Care Australia can provide copies of documented evidence to support all the above, that we would happily make available to the Review Team and welcome the opportunity to meet with the Review Team to outline our concerns in greater detail.

We thank you for the opportunity to provide feedback. Please do not hesitate to make contact if we can assist further.

Kind regards,



Michael Donnelly  
President  
0400 323 843

#### References:

The 2023 Review:

<https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/overview-of-biodiversity-reform/statutory-review-of-the-biodiversity-conservation-act-2016/biodiversity-conservation-act-review?>

2014 review of biodiversity legislation in NSW - Final report:

<https://www.environment.nsw.gov.au/research-and-publications/publications-search/a-review-of-biodiversity-legislation-in-nsw-final-report>

#### About Animal Care Australia

As a nationally recognised animal welfare organisation, ACA encourages continued development of animal welfare standards and Codes of Practice for animal husbandry, breeding, training, sale, and sporting exhibitions for a wide range of animal species, including pets, animals used for educational or entertainment purposes or kept for conservation, and in particular native birds, reptiles, and mammals.

ACA was founded in early 2018 to establish an organisation run solely by volunteers to lobby for real animal welfare. With extreme animal rights and animal liberationist ideologies influencing government legislation, regulation, and policy at our expense and to the detriment of our animals and pets, it has become necessary to provide government with a balancing voice.

By uniting the broad spectrum of animal groups, collectively we offer an experienced, sensible approach to animal welfare. We estimate our foundation ACA clubs currently represent well over 150,000 members and that is just in NSW alone!

By educating our members and the public about the importance of treating animals with kindness and respect for their needs and promoting the humane treatment of animals to improve animal welfare outcomes, Animal Care Australia is in the unique position of lobbying and advocating for all animals within our care.

Animal Care Australia provides priority to the following:

- lobbying government for stronger welfare outcomes
- lobbying government to increase education of the public in animal welfare and best care techniques

- educate the public on handling their animals with kindness & respect and the importance of their needs
- educate the public in the differences between animal welfare and animal rights