

## **RSPCA NSW comments on OEH Discussion paper – Towards a risk-based approach**

RSPCA NSW does not support the proposed discontinuation of licensing based on significant animal welfare concerns. RSPCA NSW considers that the proposed alternative risk-based approach will not adequately protect the welfare of native animal species. RSPCA NSW supports the retention of the current licensing system with additional strengthening to address a number of animal welfare risks identified within the current structure.

### **Should licensing be retained for all activities currently requiring a threatened species licence?**

Yes. In RSPCA NSW's view, licensing must be retained for all activities currently requiring a threatened species licence.

The discussion paper states that the NSW Government is aiming to reduce or eliminate the need to issue licences to harm flying-foxes. RSPCA NSW is strongly opposed to reducing or eliminating the need to issue licences to harm flying-foxes. Any activity that involves the killing of an animal presents severe animal welfare risks and consequences including inhumane killing, pain, suffering and distress. For this reason, any activity involving harm/killing of animals must be strictly controlled and closely monitored through a licensing system to effectively safeguard animal welfare.

Licensing is necessary to first assess whether there is sufficient scientific evidence to justify the culling action, investigate all non-lethal alternatives first, check the training and competency of the licence holder and to ensure humane killing. RSPCA NSW considers that it is unacceptable on animal welfare grounds to remove the need for licensing relating to harm to flying foxes or any other threatened species and that replacing licensing with a Code of practice is also unacceptable.

### **Are there any lower risk activities formerly managed by TSC Act section 95 certificates that could be suitable for regulating under an enforceable BC Act code of practice?**

No, RSPCA NSW considers that given that these issues relate to threatened species, it is important to retain all licensing.

### **Do you support the retention of licensing for emu farming?**

Yes RSPCA NSW supports the retention of licensing for emu farming.

### **Can you suggest any improvements to emu farming licence conditions?**

Yes, RSPCA NSW suggests that the Code relating to emu farming be reviewed every few years by a Committee including the RSPCA to ensure it reflects contemporary animal welfare science standards and meets community expectations.

### **Should all nominated shooters be listed on the landholder's licence to harm, rather than issuing nominated shooters a separate licence to harm, to reduce administrative effort?**

No, in RSPCA NSW's view each nominated shooter must obtain a separate licence to harm. Any activity that involves the killing of an animal presents severe animal welfare risks and consequences including inhumane killing, pain, suffering and distress. For this reason, any activity involving harm/killing of animals must be strictly controlled and closely monitored through a stringent licensing system to effectively safeguard animal welfare.

Licensing, in general, provides a number of conditions including pre-checks and background information that provide critical animal welfare safeguards. For example, the discussion paper under section 4.2 notes that Licences specify the maximum number of animals the licensee is authorised to harm, and the method of harm and that if shooting is the proposed method of control, licence applications must include the applicant's firearm permit number and/or the name, address, date of birth, firearm permit number and signature of up to two nominated shooters. The paper goes on to state other Licence conditions that relate to animal welfare including:

- the activity must comply with specified animal welfare standards for the type of animal harm
- a record of the number of animals harmed must be provided to OEH
- no more than two shooters are permitted to operate on the property at any one time OEH must be notified within 24 hours if a species not covered by the licence is harmed

It is vital to retain licensing, in general and including for any harmful activities as licensing provides critical animal welfare elements.

#### **Can you suggest any improvements to standard conditions of a landholder's licence to harm?**

Standard conditions of licensing should additionally include:

- Landholders should be required to demonstrate that all humane non-lethal methods have been attempted prior to considering using lethal methods.
- Evidence should be provided to demonstrate and justify the need to use lethal methods.
- Landholders should be required to demonstrate training and competency.
- Landholders should be required to use humane methods only.

#### **Do you support the retention of licensing for harming protected birds?**

Yes, RSPCA NSW strongly supports the retention of licensing for harming protected birds. Any activity that involves the killing of an animal presents severe animal welfare risks and consequences including inhumane killing, pain, suffering and distress. For this reason, any activity involving harm/killing of animals must be strictly controlled and closely monitored through a licensing system to effectively safeguard animal welfare. Licensing is necessary to first assess whether there is sufficient scientific evidence to justify the culling action, investigate all non-lethal alternatives first, check the training and competency of the licence holder and to ensure humane killing.

According to Table 7 the number of protected birds harmed in 2017 was 32,312. This is a significant number of birds and it is critical that licensing is retained to strictly monitor the number of animals being harmed and under what specific circumstances.

#### **Can you suggest any improvements to the licence conditions for harming birds?**

Yes animal welfare improvements including the following:

- Applicants should be required to demonstrate that all humane non-lethal methods have been attempted prior to considering using lethal methods.
- Evidence should be provided to demonstrate and justify the need to use lethal methods.
- Applicants should be required to demonstrate training and competency.
- Applicants should be required to use humane methods only.

Committees including independent members from animal welfare organisations and the veterinary profession should be formed to assess applications for harm to animals. These committees could act similarly to Animal Ethics Committees (AEC) to assess whether all non-lethal methods have been

attempted first, whether there is sufficient evidence to use control methods or lethal methods, to check the training/competency of the applicant and to ensure that any methods used are humane.

### **Should codes of practice be developed for harming birds in specified circumstances as an alternative to licensing?**

No. In RSPCA NSW's view, Codes of practice must not replace licensing as they will not provide sufficient protection to the animals involved. Codes will not provide adequate pre-screening of licensees or provide adequate records relating to harm activities. Current licensing requirements provide animal welfare safeguards for animals and this must be retained.

However, a Code of practice could be developed and made a condition of licensing in addition to the other current licensing requirements and the proposed improvements by RSPCA NSW.

### **Should licensing for harm to wombats and other protected animals be retained?**

Yes, in RSPCA NSW's view it is imperative to retain licensing for harm to wombats and other protected animals. Harming/killing animals presents severe risks to their welfare.

Licensing provides critical animal welfare safeguards and the close monitoring necessary.

Additional conditions for licensing should be implemented including:

- Applicants should be required to demonstrate that all humane non-lethal methods have been attempted prior to considering using lethal methods.
- Evidence should be provided to demonstrate and justify the need to use lethal methods.
- Applicants should be required to demonstrate training and competency.
- Applicants should be required to use humane methods only.

Committees including independent members from animal welfare organisations and the veterinary profession should be formed to assess applications for harm to animals. These committees could act similarly to Animal Ethics Committees (AEC) to assess whether all non-lethal methods have been attempted first, whether there is sufficient evidence to use control methods or lethal methods, to check the training/competency of the applicant and to ensure that any methods used are humane.

### **Should relocating possums from residences, building and parks be regulated under an approved code of practice, rather than licensing?**

No, in RSPCA NSW's view relocating possums from residences, building and parks should be regulated by licensing which provides important animal welfare safeguards.

### **If licensing is retained, should the holder of the catch and release licence be required to obtain the landholder's consent, rather than requiring the landholder to obtain a landholder's licence to harm?**

Obtaining the landholders consent to relocate is likely a reasonable approach provided there is an OEH record of the landholder's details.

### **Can you suggest any improvements to minimum standards for relocating possums as set out in the OEH Possum Management Policy and current licence conditions?**

Ensuring no other possums are left trapped in the building/residence.

### **Should licensing for reptile handlers be retained?**

Yes, licensing for reptile handlers should be retained.

**How can licence eligibility criteria and licence conditions be improved to ensure licensed handlers have the competency and knowledge to safely catch and relocate reptiles?**

Compulsory continuing education in the form of annual training workshops and competency assessments should be made a condition of licensing.

A Code of practice could be developed which would be an additional condition of licensing.

**Do you support the proposed staged approach to implementing a risk-based approach to regulating native animal keeping?**

No, RSPCA NSW does not support a risk-based approach to regulating native animal keeping. We consider that the licensing system should be retained based on animal welfare grounds and that the current system needs strengthening to ensure each individual animal is covered by the system.

**Can you suggest any changes to the draft revised NSW Animal Keepers' Species List to ensure specific species are subject to the appropriate level of regulation?**

In RSPCA NSW 's view, current licensing provisions should be strengthened by ensuring no animal species are exempt from licensing.

**Do you have any suggestions for improving the animal welfare and record keeping requirements in the draft codes of practice?**

The Codes should be reviewed every few years by a working group including the RSPCA and veterinary profession to ensure standards meet contemporary animal welfare science and community expectations.

**Do you support a risk-based approach to annual records for licensed keepers including simplified returns for Class 1 and advanced keepers, but retention of current animal record book requirements for keepers of venomous snakes?**

No, in RSPCA NSW 's view records must be kept for each individual native animal. We do not consider a risk-based approach to record keeping to be an acceptable mechanism based on animal welfare grounds.

**Do you support the retention of licensing for pet shops that sell native animals and expanding the list of species they may sell?**

RSPCA NSW supports the retention of licensing for pet shops that sell native animals.

RSPCA NSW does not support expanding the list of species they may sell.

**Can you suggest any changes or improvements to the licence conditions for licensed dealers and expos?**

The dealers should be required to record and provide details of the source of the native animals.

**Should licensing also be required for persons undertaking the business of selling native animals over the internet or from their homes?**

Yes RSPCA NSW strongly recommends that licensing be required for persons undertaking the business of selling native animals over the internet or from their homes.

### **If so, what criteria should be applied to identify where online and home-based breeding and dealing is undertaken as a business, rather than incidental to keeping native animals as a hobby?**

The discussion paper raises the issue of online sales and associated risks and states that 'improving regulatory supervision of online dealing by licensed keepers requires drawing a line between dealing incidental to keeping animals as a hobby, and dealing undertaken as a business'. RSPCA NSW does not agree with drawing a distinction between a 'hobby' and a 'business'. Anyone dealing, selling or giving away a native animal online must be subject to the same requirements regardless of the context. Welfare problems can occur in any context and being a 'hobbyist' does not guarantee proper welfare standards or that animals have not been sourced from the wild.

In RSPCA NSW's view, any online dealing must require a licence and those licence details must be present in any advertisement for sale or transfer online or through any other medium. Additionally any prospective buyer must hold a relevant licence to keep native animals including 'hobby' keepers prior to purchase.

Requiring a licence number in the advertisement will identify the dealer enabling traceability, transparency and accountability. The OEHL would retain a database of licence numbers with names, physical addresses and other details. This needs to be combined with some public awareness and education, advising that animals should only be bought from those with a legitimate licence number.

New laws will be introduced in NSW requiring advertisements for animals to include identification information so that the traceability and transparency of animals such as dogs being bought and sold can be transparent. These mechanisms are designed to protect animal welfare and address irresponsible and cruel practices such as puppy farming. Requiring licence numbers in advertisements and sale/transfers of native animals will provide a similar safety mechanism against issues such as illegal capture from the wild and dealing by unlicensed irresponsible persons.

RSPCA NSW re-iterates that licensing for online activities must apply to each individual operating online regardless of whether the person identifies as a 'hobby' or 'business'.

### **Do you support the retention of import and export licences to monitor interstate movements of native animals?**

Yes, RSPCA NSW supports the retention of import and export licences to monitor interstate movement of native animals.

It is also proposed in the discussion paper that lower risk species that can be kept in accordance with a code of practice would not require a NSW import or export licence. Currently applications for an import or export licence must include the names and licence numbers of the applicant and the interstate party, the number and species of animals and details of the import or export licence or permit held by the interstate party. RSPCA NSW is of the view that import/export licences should be retained as this provides a mechanism for tracking animal movement across state/territory borders and hence enables cross border transparency and accountability.

### **Should lower risk species be exempted from licensing, such as species regulated by a code of practice?**

The Discussion paper references perceived 'lower risk' activities and 'lower risk' species and suggests that these categories should generally no longer require licensing under the proposed approach. However the paper does not explain how lower risk is defined or the evidence base for deeming certain activities or species lower risk. For example, Companion and Class 1 animal keeping are said to pose relatively lower risks but it is not clear if this refers to a perceived lower risk of poor animal

welfare or other types of risk such as biodiversity or conservation risk, or the risk of animals being taken illegally from the wild.

In RSPCA NSW's view, risks to animal welfare are present for each individual animal regardless of species or activity and inadequate conditions or cruelty can occur in both small-scale (including where only one animal is kept) and large-scale operations. We also consider that all native species are at risk of illegal capture from the wild (even those widely available from captive-bred sources). Therefore RSPCA NSW considers that licensing must be retained regardless of species and whether it is considered lower risk or not, in order to adequately safeguard animal welfare. Furthermore, it is important to keep records and identify each individual animal including any that are categorised as lower risk.

The Discussion paper goes on to state that under the risk-based approach lower risk activities will be exempted from specified wildlife offences. RSPCA NSW considers exemptions from offences based on a perceived lower risk to be unacceptable. Irrespective of the activity, if an offence occurs, it is critical to retain the capacity to apply penalties or other consequences.

The issue of lower risk is also raised under the Damage Mitigation Licences section. The paper states that risks to biodiversity and animal welfare from harming birds to mitigate risks to safety and property vary due to the species' populations, the method of harm and location. As a result, the paper suggests that consideration could be given to replacing licences with codes of practice for harming specified protected bird species in specified circumstances and locations that present lower risks to biodiversity, such as:

- harm of protected birds and specified protected animals at airports
- removal of white ibis nests and eggs from public parks by councils
- control of common native bird species at grain storage facilities.

RSPCA NSW is strongly opposed to replacing licences with codes of practice for harming specified protected bird species. Any activity that involves the killing of an animal presents severe animal welfare risks and consequences including inhumane killing, pain, suffering and distress. For this reason any activity involving harm/killing of animals must be strictly controlled and closely monitored through a licensing system to effectively safeguard animal welfare. Licensing is necessary to first assess whether there is sufficient scientific evidence to justify the culling action, investigate all non-lethal alternatives first, check the training and competency of the licence holder and to ensure humane killing.

#### **Should import and export licences be discontinued for interstate movements of animals kept by zoos, wildlife parks and tourist attractions?**

No, import and export licences should not be discontinued for interstate movements of animals kept by zoos, wildlife parks and tourist attractions.

#### **Do you support the retention of licensing for taxidermists to enable effective monitoring of the sources of preserved native animals?**

Yes, RSPCA NSW supports the retention of licensing for taxidermists to enable effective monitoring of the sources of preserved native animals.

#### **Can you suggest any changes or improvements to the licence conditions and reporting requirements for licensed taxidermists?**

The source of the animals should be recorded and verified.

### Should persons and organisations holding preserved specimens be exempted from licensing?

No, they should not be exempt and the source of the animals recorded and verified.

### Do you support the proposed changes to scientific licence classes?

No, RSPCA NSW does not support the proposed changes to scientific licence classes. Licensing of Bush regeneration, bat and bird banding and licensing of NSW schools should be retained.

Codes of practice should not replace licensing however Codes could be introduced as a condition of licensing.

### Do you have any suggestions to simplify the conditions for scientific licences?

No the conditions for scientific licences should be retained.

## Additional comments

### Tracking system

From an animal welfare perspective, it is critical to maintain a formal system such as the current licensing system that records and monitors the keeping, trading and treatment of native animals. As stated in the *Discussion Paper*, if the proposed discontinuation of licensing occurs the OEH would no longer record the names and addresses of keepers of species regulated by codes. This is a major animal welfare concern because without a system that identifies individual keepers, their addresses and their animals it would not be possible to ensure keepers are abiding by the codes, as their existence would be unknown to the relevant authorities. The paper does not explain how compliance with the code will be monitored and enforced. The current licensing system protects thousands of native animals across NSW and this protection must be maintained.

A tracking system that identifies each individual keeper or dealer and their animals (and other interactions as described in the discussion paper) is vital for traceability, transparency and accountability reasons. Similar protections are in place to monitor cats and dogs and breeders and sellers of cats and dogs. Cat and dog identification via microchipping and registration, and breeder registration provides a formal tracking system for authorities to monitor these species and the people who keep, breed and sell them. New laws will be introduced in NSW requiring advertisements for animals to include identification information so that the traceability and transparency of animals such as dogs being bought and sold can be transparent. These mechanisms are designed to protect animal welfare and address irresponsible and cruel practices such as puppy farming.

Other sectors also recognise the importance of a formal tracking system such as the national livestock NLIS system which enables authorities to trace each individual farm animal (cattle, sheep and goats) back to the property they originated from and additionally, a system of microchipping and registering horses in NSW is in development. Removal of a formal licensing system will negatively affect the detection and enforcement of breaches in native animal trading and welfare.

## **Dealers and suppliers**

Currently records and supporting documentary evidence such as receipts must be kept of the acquisition of animals, including the date and the supplier's details, to demonstrate the animals have been legally sourced. RSPCA NSW considers that it is imperative to retain dealer/supplier licences to ensure native animals have been legally sourced and have not been taken from the wild with documents to verify this.

Requiring evidence of the supplier's details and requiring buyers to hold the relevant license enables transparency, traceability and accountability in the trading of native animals and is consistent with new laws in NSW for other animals such as dogs. RSPCA NSW supports the proposal to retain dealer licences and additionally we consider it necessary to strengthen current provisions to ensure all animals and species are included, without exemption. Currently 41 bird species such as common species of parrots, lorikeets, cockatoos, finches and doves, are exempt from dealer licensing which presents unacceptable risks to bird welfare including illegal capture from the wild.

The discussion paper stated that some stakeholders considered that persons undertaking illegal trading and taking from the wild were not likely to comply with licensing requirements anyway. RSPCA NSW does not consider this to be a valid reason to remove the licensing structure. By retaining a mandatory requirement for dealers/suppliers to hold a license and provide their details/source of the animals to prospective buyers and requiring buyers to also hold a license, this structure in itself provides a necessary and strong market drive mechanism for responsible acquisition and ownership and it is critical to retain that structure to safeguard animal welfare. Education initiatives should be combined with the current licensing system to raise awareness regarding issues such as avoiding buying from a person without a current licence and taking steps to ensure animals have not been captured from the wild (such as checking breeder details).

RSPCA NSW does not support a proposal to expand the list of species that may be sold by licensed dealers (including pet shops) to include all native bird and reptile species that may be kept under an approved code of practice and companion and Class 1 licences, a small number of native frog species, and the two species of mammals included on the NSW Native Animal Keepers' Species List.

Finally, the discussion paper raises the issue of online sales and associated risks and states that 'improving regulatory supervision of online dealing by licensed keepers requires drawing a line between dealing incidental to keeping animals as a hobby, and dealing undertaken as a business'. RSPCA NSW does not agree with drawing a distinction between a 'hobby' and a 'business'. Anyone dealing or giving away a native animal online must be subject to the same requirements regardless of the context. Welfare problems can occur in any context and being a 'hobbyist' does not guarantee proper welfare standards or that animals have not been sourced from the wild. In RSPCA NSW's view, any online dealing must require a licence and those licence details must be present in any advertisement for sale or transfer online or through any other medium. Additionally any prospective buyer must hold a relevant licence to keep native animals including 'hobby' keepers prior to purchase.

## **Data collection**

The current licensing system provides invaluable statistics regarding the number of keepers/dealers and animals thereby enabling the relevant authorities to monitor the scale of native animal keeping and trading and the scale of other interactions with native animals. The data obtained through the licensing system are vital to make informed decisions relating to the management of native animals across NSW and to assess the current situation accurately and also population and demographic



trends overtime. Without the statistics generated by the OEH licensing system, the number of people keeping or trading native animals or interacting with native animals in other ways such as damage mitigation, and the number of animals involved would be unknown. A significant number of native animals are kept by keepers across NSW. According to Table 9 a total of 31, 407 animal keeper licences exist in NSW as at February 2018 which involves tens of thousands of native animals. Removing a significant proportion of the licensing system will present significant welfare risks to tens of thousands of animals and likely have a significant negative impact on their well-being due to loss of monitoring and transparency.

### **Impulse buying**

RSPCA NSW considers that the need to obtain a licence prior to purchase likely assists in preventing people from impulse buying native animals which assists in promoting responsible pet ownership.

### **Strengthening the current system**

Rather than discontinuing the licensing system, RSPCA NSW strongly supports its continuation and additionally, the strengthening of certain aspects of the current system which we consider are inadequate in relation to safeguarding animal welfare.

There should be no exemptions from the licensing system. Currently, 41 species of bird are exempted from the dealer and keeping licensing system. This poses unacceptable risks to the birds involved as there is no tracking system to identify their source (i.e. verification that they have not been caught from the wild), their existence and whereabouts or to monitor the adequacy of their husbandry and care. In RSPCA NSW's view, all bird species and animal species must be included in the licensing system and be covered by enforceable codes.

Currently, codes of practice exist for birds and reptiles however there are no specified welfare requirements for amphibians and mammals. All species of animals should be covered by a relevant code. Furthermore, the current codes of practice do not adequately meet contemporary science-based animal welfare standards or community expectations. For example, enclosure sizes for reptiles are unacceptably small for long-term housing. RSPCA NSW recommends that the current codes be reviewed (including input from animal welfare groups such as the RSPCA) to ensure the standards reflect best practice and that new codes are developed to cover all species of animals involved.

Licensing conditions (or registration if licensing is discontinued) should require compliance with the relevant code for all species and activities.

### **Registration system**

Finally, if the risk-based approach is introduced and aspects of the licensing system are discontinued, RSPCA NSW considers that it is vital to implement a registration system to enable continued data collection, monitoring, traceability and transparency in the keeping, dealing and treatment of native animals (as outlined in the discussion paper) to ensure ongoing accountability and to safeguard animal welfare. The registration system could be simplified relative to the licensing system to create less of an administrative burden whilst still continuing the vital monitoring functions of the licensing system.