

Discussion Paper

Towards a risk-based approach
to wildlife licences



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Abbreviations

ABBBS	Australian Bird and Bat Banding Scheme
BC Act	<i>Biodiversity Conservation Act 2016</i> (NSW)
BC Regulation	Biodiversity Conservation Regulation 2017
DPI	NSW Department of Primary Industries
EPA	NSW Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)
NPW Act	<i>National Parks and Wildlife Act 1974</i> (NSW)
NPWS	NSW National Parks and Wildlife Service (part of OEH)
NRC	Natural Resources Commission
OEH	NSW Office of Environment and Heritage
POCTA	<i>Prevention of Cruelty to Animals Act 1979</i> (NSW)
SACEC	NSW Schools Animal Care and Ethics Committee
TSC Act	<i>Threatened Species Conservation Act 1995</i> (NSW)

1. Introduction

1.1 Purpose of this discussion paper

The purpose of this discussion paper is to seek stakeholder comments on proposed changes to licence classes to implement a risk-based approach to regulating human–wildlife interactions under the *Biodiversity Conservation Act 2016* (BC Act).

This section provides background information on current licence classes and the objectives and components of the risk-based approach under the BC Act.

Sections 2 to 6 of this discussion paper include for each of the current licence classes:

- an overview of the activities permitted under the licence, the licence conditions and fees, and available data on the number of affected animals and plants
- proposals for changes to the licence, including whether the licensing should be retained or fully or partly replaced by a code of practice or exemption
- consultation questions to help stakeholders provide comments on the proposals.

Section 7 explains the BC Act provisions for licence fees and seeks comments on the proposed approach to setting fees for different types of licences.

Stakeholder comments will be considered in finalising changes to licence classes. Approved changes to licence classes and approved codes of practice and exemptions will be progressively implemented from the second half of 2018.

1.1.1 Proposed codes of practice

Three proposed BC Act codes of practice are issued for consultation along with this discussion paper. They include draft codes of practice for:

- keeping native amphibians
- keeping native reptiles
- keeping native birds.

A draft revised Animal Keepers Species List is also issued for consultation. It sets out the species that are proposed to be regulated by the draft codes of practice and the species for which a keeper's licence will continue to be required.

The discussion paper also identifies a range of licensed activities that may be more appropriately regulated by a code of practice, rather than a licence.

Have your say

You can provide your written submission in any of the following ways:

By email Email your submission to: wildlife.reforms@environment.nsw.gov.au

By mail Post your written submission to:
Wildlife Licensing Consultation, National Parks and Wildlife Service
PO Box 1967, Hurstville, NSW 1481

Online Make a submission online via the OEHS website

The deadline for submissions is **24 July 2018**.

1.1.2 Related reviews

This discussion paper seeks comment on all currently licensed activities except for activities that are subject to separate review processes during 2018.

- **flying-fox camp management** – a draft BC Act code of practice for flying-fox camp management was issued for public consultation on 24 April 2018.
The proposed code is intended to help local councils and other public land managers to act quickly to minimise the impacts of flying-fox camps on local communities.
- **kangaroo management** – the Natural Resources Commission’s statewide review of pest animal management recommended the Government review native animal management, with an emphasis on kangaroos.
The Government is considering options for improving management of kangaroos in New South Wales.
- **wildlife rehabilitation** – a separate review of NSW’s volunteer wildlife rehabilitation services is being undertaken with the objective of implementing a new accreditation scheme under the BC Act by the end of 2018. Existing licences remain valid until the new scheme is implemented.

1.2 Overview of current wildlife licences

Under the former *Threatened Species Conservation Act 1995* (TSC Act) and *National Parks and Wildlife Act 1974* (NPW Act), the NSW Office of Environment and Heritage (OEH) issued a range of licences to regulate interactions between humans and native wildlife.

These licences cover a diverse range of activities including:

- activities that impact threatened species and threatened ecological communities
- commercial activities involving native animals and plants including activities regulated by Commonwealth wildlife trade laws
- harming native animals (other than threatened species) that pose threats to safety and property
- keeping and dealing in native animals, including preserved specimens
- undertaking scientific, conservation and educational activities involving wildlife.

A summary of these licence classes and numbers is given in Table 1.

Table 1 Overview of wildlife licence classes and numbers, 2017

Wildlife activity	Number of licences
Threatened species licences	
Harm to threatened species	23
Harm flying-foxes to mitigate crop damage	5
Wildlife trade management licences	
Kangaroo Management Program licences	3,646
Cut flower and whole plant licences	37
Emu farmer licence	5
Damage mitigation licences	
Harm kangaroos	2,151

Wildlife activity	Number of licences
Harm other protected animals	333
Catch and release possums	95
Catch and release reptiles	50
Animal keeper and dealer licences	
Companion animal keeper	4,182
Class 1 animal keeper	26,184
Advanced animal keeper	834
Advanced animal keeper – venomous snakes	207
Reptile dealer	9
Bird dealer	5
Interstate import and export licences	1,351
Taxidermy and holding preserved specimens	82
Emu egg carving	22
Scientific, conservation and education licences	829
Wildlife rehabilitation licences	34

Source: OEH licence databases. Licence number data includes:
 number issued during 2017 for licences with terms of one year or less
 number in force as at February 2018 for licences with a term longer than one year.

From 25 August 2017, Part 2 of the BC Act and the Biodiversity Conservation Regulation 2017 (BC Regulation) replaced the wildlife protection and licensing provisions of the TSC Act and the NPW Act and regulations.

Current licence classes and conditions have been temporarily retained under the BC Act. This is to allow time for stakeholder consultation on this discussion paper’s proposals for the implementation of the BC Act’s risk-based approach to regulating human interactions with wildlife. Existing licences will remain valid until they expire.

1.3 Risk-based approach to human–wildlife interactions

1.3.1 Legal framework

Consistent with the former laws, the BC Act Part 2 includes:

- schedules defining the terms ‘protected animals’, ‘protected plants’, ‘threatened species’ and ‘threatened ecological communities’ that define the scope of wildlife offences and licensing requirements
- offences for harming animals, picking plants, keeping and dealing in animals and plants, damaging the habitats of threatened species and threatened ecological communities, and liberating animals without authorisation
- defences against these offences including actions authorised under development, land clearing and other laws, actions authorised by exemptions and actions authorised by a licence.

In addition, the BC Act introduces a new type of defence from wildlife protection offences: actions done in accordance with an approved code of practice.

The objectives of the BC Act include ‘to regulate human interactions with wildlife by applying a risk-based approach’. Under the risk-based approach:

- lower risk activities will be exempted from specified wildlife offences
- moderate risk activities will be regulated by enforceable codes of practice
- higher risk activities will remain subject to licensing
- activities not permitted under exemptions, codes or licensing remain prohibited.

1.3.2 Objectives and benefits of a risk-based approach

The adoption of a risk-based approach was recommended by the Independent Biodiversity Legislation Review Panel. The Panel’s final report noted that wildlife licensing requirements failed to adequately differentiate between low- and high-risk activities, or between individual and commercial activities, and had not kept pace with the significant increase in the keeping of native animals as a hobby.

Adopting the risk-based approach is intended to have significant benefits including:

- reducing administration and compliance costs for lower risk human–wildlife interactions, for both OEH and its customers
- enabling OEH to concentrate enforcement efforts and more effectively regulate higher risk activities.

To further reduce the administrative burden, the NSW Government has provided OEH with funding to develop a new licensing management system to replace four legacy OEH systems and enable online lodgement for all licence applications and data returns.

1.3.3 Assessing the risks of licensed activities

It is difficult to apply a consistent risk assessment method to the wide range of activities and species subject to current licence classes.

For example, over 600 species of native animals may be kept under licence. They range from species that are relatively easy to keep and widely available from captive-bred sources, to high-value species at risk of illegal capture from the wild, species with complex care needs and venomous snakes.

Licences to harm animals are issued for a wide range of species and number of animals, including kangaroos damaging crops, wombats burrowing under houses, magpies attacking school children and removing white ibis nest and eggs in urban parks.

A high-level and common-sense approach to assessing the risks of licensed activities has been adopted, which considers:

- risks to biodiversity including the impact to species populations from:
 - harming animals or taking plants from the wild
 - releasing captive animals to the wild
 - damage to habitats and threatened ecological communities
- risks to human health and safety
- risks to animal welfare.

1.3.4 The use of codes of practice

The term 'code of practice' is used for a range of enforceable and advisory documents in safety and environment regulation. A range of 'codes of practice' are applied as licence conditions under current licences, including:

- animal welfare codes issued by the Department of Primary Industries (DPI) under the NSW *Prevention of Cruelty to Animals Act 1979* which apply to both native and exotic species
- national codes for humane shooting of kangaroos and the welfare of captive-bred emus
- the OEH code for keeping reptiles.

Under the BC Act, approved codes of practice have a specific legal status: actions undertaken in accordance with a code of practice provide a defence against specified wildlife protection offences.

Authorised officers under the BC Act may take the following actions depending on the seriousness of the non-compliance with a code of practice, consistent with a risk-based approach to enforcement:

- issue a direction to comply with the code of practice
- issue a penalty notice
- commence a prosecution for a breach of the relevant wildlife protection offence
- where appropriate, seize the animals or plants.

Consistent with the approach of most codes referenced in current wildlife licence conditions, it is proposed that BC Act codes of practice:

- include a mix of mandatory (enforceable) standards supported by practical guidance material
- where appropriate, are also incorporated into the conditions of BC Act licences for related activities.

This approach is intended to simplify requirements for persons who may keep both higher risk species requiring a licence and lower risk species that are subject to a code.

2. Threatened species licences

Threatened species licences authorise people to harm threatened animal species, pick threatened plant species, and damage the habitats of threatened species, threatened ecological communities and areas of outstanding biodiversity values (formerly 'critical habitats').

There are currently two classes of threatened species licence:

- licences for minor developments and other actions that impact threatened species and are not subject to biodiversity assessments and protections under planning laws.
- licences to harm threatened grey-headed flying-foxes to mitigate damage to commercial orchards.

It should also be noted that:

- some threatened plant species may be cultivated and harvested under licences issued in accordance with approved management plans (see Section 3.2)
- threatened animal species that have been bred in captivity may be sold, bought and kept under animal keeper and dealer licences (see Section 5)
- research and conservation projects involving threatened species such as translocations and bat banding may be permitted under scientific licences (see Section 6).

2.1 Minor developments and actions

Before the commencement of the BC Act, threatened species licences were issued under the TSC Act. Licence applications could result in:

- the issue of a licence (known as a 'section 91 licence')
- if the impacts were not considered significant, the issue of a certificate indicating a licence was not required (known as a 'section 95 certificate').

The BC Act does not provide the option for OEH to issue certificates rather than licences where proposed activities are assessed as not likely to significantly impact threatened species. Instead, under the BC Act, OEH must either grant or refuse licence applications. Licences and certificates issued under the former TSC Act remain valid until they expire.

The number of licence applications has remained steady in recent years. In 2017, OEH received 24 applications (see Table 2 below). Prior to the commencement of the BC Act, most applications resulted in a section 95 certificate.

Licence applications must include detailed information about:

- the scale and nature of the proposed activities
- the nature and extent of impacts on impacted threatened species, ecological communities or areas of outstanding biodiversity values
- actions that will be undertaken to prevent or minimise the impacts.

As well, under the OEH Flying-fox Camp Management Policy, applications concerning flying-foxes should make reference to a camp management plan based on the principle of using the lowest form of intervention required.

Table 2 Applications for threatened species licences, number and type, 2017

Impact of proposed action	Number	Comments
Threatened ecological community	13	Telstra and NBN Co installing cables and other minor civil works
Grey-headed flying-fox camps	5	Generally, councils seeking to manage camps to reduce impacts on residents
Threatened animal species	3	Pest control on Lord Howe Island Stone curlew egg collection
Threatened plant species	2	School removing Sydney blue gum Propagating Hibbertia plants
Application withdrawn	1	
Total	24	

Source: OEH website – TS licence public registers

2.2 Flying-fox orchard damage mitigation

Currently, the only threatened species for which licences to harm are issued is the grey-headed flying-fox for the purpose of mitigating damage to commercial orchards. These licences may also provide for the control of black and little red flying-foxes.

The NSW Government is aiming to reduce or eliminate the need to issue licences to harm flying-foxes. In 2011, the government introduced a scheme funded by the NSW Environmental Trust to subsidise the cost of installing flying-fox exclusion netting for commercial orchardists to prevent the need for lethal control measures. This netting program closed on 30 June 2017.

From 2015, licences are issued only in accordance with OEH policy on Special circumstances for issuing licences to shoot flying-foxes. The policy provides that licences will be issued to new applicants only where:

- the orchard was established before 1 July 2011 (as new orchardists should be aware of the potential flying-fox impacts)
- there is an unprecedented incursion (the flying-foxes are impacting crop types never previously impacted in Australia)
- topographical or physical constraints prevent netting
- the local council declines a development application to install netting
- the flying-fox impact is unprecedented and not regular (licences for a specific orchard can be issued only for three years or fewer in any 10-year period).

Until 1 July 2020, orchardists can apply for licences if they had previously been issued a licence between 1 July 2001 and 30 June 2014.

The application form requires photos and documents to verify these requirements and must list the name, contact details and firearm licence number of all persons that will participate in the shooting.

Licensees are required to comply with the OEH Standard operating procedure for the shooting of flying-foxes and must complete and submit record sheets indicating the actual number killed.

During the 2016–17 season, 15 licences were issued to shoot flying-foxes, and a total of 3728 grey-headed flying-foxes were authorised to be harmed. The number of flying-foxes reported harmed in that year was lower, at 2767.

In 2017–18 to date, five licences have been issued to harm flying-foxes, with 225 grey-headed flying-foxes authorised to be harmed.

Annual reports of licences issued are published on the OEH website.

2.3 Proposals for comment

As a general principle, impacts on threatened species and ecological communities and areas of outstanding biodiversity value are considered a high-risk activity that should remain licensed under the BC Act.

It is proposed to maintain threatened species licence classes under the BC Act, including:

- harm to threatened species, ecological communities and areas of outstanding biodiversity values as a result of developments and activities not otherwise assessed under planning laws
- harm to flying-foxes to mitigate commercial crop damage in accordance with OEH policy on special circumstances for issuing licences to shoot flying-foxes.

To assist local councils and other public land managers to act quickly to minimise the impacts of flying-fox camps on nearby communities, it is proposed to replace licensing with a BC Act code of practice for flying-fox camp management on public land.

A draft BC Act code of practice for flying-fox camp management, based on OEH's Flying-fox Camp Management Policy, was issued for public consultation on 24 April 2018.

As well, in recognition that most applications for licences under the TSC Act were assessed as not having a significant impact, consideration could be given to developing codes of practice for other lower risk activities.

Consultation questions

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

3. Wildlife trade management licences

Commercial activities involving export of native plants and animals are subject to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) requirements for wildlife trade management plans and captive breeding programs.

The objectives of these plans and programs include:

- compliance with international conventions on trade in endangered species and biodiversity
- ensure commercial utilisation of native wildlife is ecologically sustainable
- promote humane treatment of wildlife.

The plans and programs are developed by state or territory government wildlife agencies and set out the licensing requirements that will apply under state and territory laws to achieve these objectives. They are subject to review, public consultation and re-approval by the Australian Government every five years.

OEH has developed and obtained Australian Government approval for NSW management plans and programs that set out NSW licensing frameworks for:

- kangaroo harvesting
- growing and harvesting native plants and cut flowers
- emu farming.

3.1 Kangaroo harvesting program

3.1.1 Commercial Kangaroo Harvest Management Plan

The *NSW Commercial Kangaroo Harvest Management Plan 2017–2021* sets out the licensing and monitoring arrangements for the commercial harvest of kangaroos for meat and skins.

The primary objectives of the Kangaroo Harvest Management Plan are to ensure kangaroo populations in New South Wales remain ecologically sustainable and to ensure the methods of harvesting are humane.

The management plan requires that OEH:

- restricts harvesting to specified species including red kangaroo (*Macropus rufus*), western grey kangaroo (*M. fuliginosus*), eastern grey kangaroo (*M. giganteus*), and common wallaroo (*M. robustus robustus*)
- restricts kangaroo harvesting of these species to specified regions (kangaroo management zones)
- undertakes species population surveys and determines annual harvest quotas for each species and zone
- establishes licensing requirements to ensure compliance with harvest quotas and animal welfare standards including the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes*
- undertakes inspections and audits to monitor and enforce compliance with licensing requirements
- prepares annual reports on harvest quotas and activities that are published on the OEH website.

OEH convenes the Kangaroo Management Advisory Panel, comprising representatives of key stakeholders including industry, environment, animal welfare, veterinarians and Aboriginal communities to advise on the development, implementation and monitoring of the management plan.

The management plan does not cover the culling of kangaroos for the purpose of damage mitigation. Damage mitigation licences are covered in Section 4 of this discussion paper.

3.1.2 Current licence classes

In accordance with the management plan, the licensing regime for kangaroo harvesting includes the following licence classes and conditions:

- **Harvester licences** authorise persons with valid firearm licences that have successfully completed accredited competency and shooting accuracy courses to:
 - harvest kangaroos in accordance with the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes*
 - affix tags issued by OEH to all kangaroo carcasses to enable compliance with quotas to be monitored.

Harvester licence classes include professional harvester licences which allow harvesting on any property for which the harvester has obtained the landholder's consent, and landholder harvester licences which allow harvesting by the landholder on their own property.

Licensed harvesters must apply to OEH for approval of the proposed numbers and species of kangaroos to be harvested. They may only sell carcasses to licensed animal dealers and are not permitted to harvest kangaroos for skins only.

- **Dealer licences** authorise licensees to deal in kangaroo carcasses obtained from licensed harvesters. Carcasses must be kept in chillers registered with OEH to enable inspections for compliance with tagging and weight limit requirements.

Dealer licences may be restricted to authorising the licensees to obtain whole or partially processed carcasses from other licensed wholesalers.

- **Skin dealer licences** authorise persons to obtain and process skins from licensed dealers and keep them at their premises and other registered premises.

Table 3 Numbers, fees and duration of licences and registrations under the Kangaroo Management Program, 2017

Licence or registration class	Number	Fee	Duration
Professional harvester licence	365	\$894	1 year
Landholder harvester licence	23	\$223	1 year
Landholder consents ⁽¹⁾	3,142	N/A	N/A
Dealer licence	10	\$5,571	1 year
Restricted dealer licence	5	\$3,341	1 year
Registration of chiller premises	96	\$390	1 year
Skin dealer's licence	4	\$2,006	1 year
Registration of other skin dealer premises	1	\$390	1 year
Total	3,646		

- Source: OEH Kangaroo Management System
From January 2018, landholder consents replaced previous requirement for landholder licences

Until 1 March 2018, the number of unrestricted dealer licences issued by OEH was capped at ten. Following the removal of the cap on 1 March 2018, the number of unrestricted dealers has increased to 15 and only one restricted dealer licence remains in effect.

Licensed harvesters and dealers are required to submit regular reports to OEH, including information on the species, number, sex, weight and location of harvested kangaroos, to enable OEH to monitor compliance with harvest quotas and licence conditions.

Fees for all licences are designed to recover the costs of administering the program and are revised on an annual basis.

Further information on the Kangaroo Management Program including the approved management plan for 2017–21 and annual reports on the harvest program are available on the [OEH website](#).

Review of kangaroo management

This discussion paper is not seeking comments on the commercial kangaroo management licensing.

The Natural Resources Commission's statewide review of pest animal management recommended the Government review native animal management, with an emphasis on kangaroos.

The Government is considering options for improving management of kangaroos in New South Wales.

3.2 Native plants and cut flowers

3.2.1 Management plans

There are currently two management plans for the commercial use of native plants approved by the Australian Government under the EPBC Act as wildlife trade management plans:

- *Cut flower Sustainable Management Plan 2018–22: protected and threatened plants in the cut flower industry* sets out the licensing and monitoring arrangements for the commercial use of cut flowers and foliage.
- *Whole Plant Sustainable Management Plan 2018–22: commercial harvest, salvage and propagation of protected whole plants* sets out licensing and monitoring requirements for the commercial use of whole plants.

The objectives of the management plans include to:

- protect the viability of native plant populations and minimise impacts on natural ecosystems
- implement ecologically sustainable harvest management practices for commercial use of protected and threatened native plants
- encourage the transition to harvesting plants and cut flowers from artificially propagated sources.

The 2018–2022 plans were developed in conjunction with a consultative committee comprising representatives of industry stakeholders, and were issued for public consultation prior to their approval and commencement on 1 January 2018.

Plant species covered by the management plans

The management plans set out licensing requirements for the commercial use of ‘protected plants’ as listed in Schedule 6 of the BC Act (formerly Schedule 13 of the NPW Act).

There are two parts to Schedule 6:

- species that may be harvested or grown for cut flowers and foliage (Part 1)
- species for which whole plants may be harvested or grown (Part 2).

Both parts are classified into risk-based groups of species, which have different licensing restrictions, tagging and monitoring requirements.

In accordance with the management plans, some threatened plant species may be cultivated for commercial purposes to reduce the risk they may be taken from the wild.

Exemptions from licensing

The management plans and licensing requirements do not apply to the:

- commercial use of native plant species not listed as protected or threatened
- picking or possession of protected plants for non-commercial purposes, including as a hobby, and for Aboriginal cultural or domestic purposes
- picking, possession or sale of protected and threatened plants and cut flowers obtained from a licensed harvester or grower.

3.2.2 Cut flower licence classes

The three classes of cut flower licence and the Schedule 6 Part 1 species groups that may be harvested or grown under each class are described in Table 4.

Table 4 Cut flower licence classes and species groups

Licence class	Species groups for which licences may be issued			
	Group 1	Group 2	Group 3	Group 4
Wild harvester licence Harvest from naturally occurring plants on own property	Yes	Yes	Yes	No
Grower licence Harvest from artificially propagated plants	Yes	Yes	Yes	Yes
Example of species in group	Grass tree foliage	Flannel flowers Wax flowers	Gymea lilies Christmas bells	Waratahs Native daphne

Applications for picker and wild harvester licences require site inspections to verify the availability of the species, and applicants must submit before-and-after photographs to OEHL to ensure harvesting is sustainable.

All licensees must maintain and submit records of harvests to OEHL, and wild harvesters and growers must affix tags issued by OEHL to cut flowers of Group 3 species so their origin can be verified.

For cut flowers of Group 4 species that may only be picked by licensed growers, the grower may use their own tags or tags obtained from OEHL.

3.2.3 Whole plant licence classes

The four classes of whole plant licence and the Schedule 6 Part 2 species that may be harvested or grown under each class are described in Table 5.

Applications for wild and approved sustainable harvester licences must provide maps of harvest site(s) and the total population of target species in each site to ensure the proposed harvest is sustainable. Harvest levels may not exceed 10% for Group 1 species and 1% for Group 2 species.

All wild and approved harvester licensees must also:

- provide documented plans indicating extraction, handling and transport procedures to ensure incidental damage to harvest sites is minimised
- affix tags issued by OEHL to the plants so their origin can be verified
- submit records of harvests to OEHL.

All licensed growers must affix their own tags to plants indicating they are plantation grown (large specimens of some species such as grass trees also requiring tags issued by OEHL) and maintain records of all species under cultivation and the source of all propagating material.

Table 5 Whole plant licence classes and species groups

Licence class	Species groups for which licences may be issued				
	Group 1	Group 2	Group 3	Group 4	Group 5
Wild harvester licence Harvest naturally occurring plants on own property	Yes	No	No	No	No
Approved harvester licence					
Sustainable harvest of naturally occurring plants on private property with the owner's permission	Yes	Yes	No	No	No
Salvage harvest naturally occurring whole plants otherwise destroyed by approved developments	Yes	Yes	Yes	No	No
Seed harvester licence Harvest seeds for the purpose of sale	Yes	Yes	Yes	Yes	Yes
Grower licence Artificially propagate and harvest plants.	Yes	Yes	Yes	Yes	Yes
Example species	Tree ferns Staghorns	Grass trees Cycads	Native palms Pandanus	Native orchids	Wollemi pine

Further information on the 2018–2022 management plans and current licence classes and conditions are available on the OEHL website: [Protected native plant licensing](#).

As the management plans were reviewed and subject to public consultation in late 2017, this discussion paper is not seeking comments on native plants and cut flowers licensing.

3.3 Emu farming

3.3.1 Captive breeding program

Under the EPBC Act, the Australian Government may approve captive breeding programs that enable the export of native animal products.

The objectives of captive breeding programs include:

- animals are reliably reproduced in a controlled environment
- breeding stock is established and maintained to ensure no impact on the sustainability of wild populations
- animal welfare and husbandry standards are maintained.

The NSW licensing regime for emu farmers was approved by the Australian Government as a captive breeding program for a five-year term commencing May 2015.

The approval enables the export of emu meat, skins, oil and other products, from emus bred by licensed emu farmers.

3.3.2 Current licence class

Emu farmer licences authorise the licence holders to:

- possess, buy or sell live emus, emu eggs or other emu products
- kill emus reared or bred under the licence.

Licence applicants must provide details of fencing and other facilities for the holding of stock.

Emus or emu eggs may only be bought or sold from or to persons holding a NSW or interstate licence to possess and trade in emus or emu eggs.

The licence conditions also include:

- complying with the animal welfare standards in the Model Code of Practice: Husbandry of Captive-Bred Emus
- complying with standards for perimeter fencing
- maintaining records indicating the source and date of all emus acquired, including natural and artificially incubated hatchlings and the date and details of all disposals including sales, deaths and escapes
- submitting copies of the records to OEH on an annual basis with a licence renewal application.

There are currently five licensed emu farmers. Licences are valid for a 12-month period from 1 April to 31 March. The fee for an initial licence is \$400, and for a licence renewal is \$250.

3.3.3 Proposals for comment

It is proposed to retain licensing for emu farming in accordance with the approved EPBC Act captive breeding program.

Consultation questions

- Do you support the retention of licensing for emu farming?
- Can you suggest any improvements to emu farming licence conditions?

4. Damage mitigation licences

4.1 Policy on managing impacts of protected animals

'Protected animals' is defined in the BC Act as any amphibians, birds, mammals (except dingos) or reptiles that are native to Australia or that periodically or occasionally migrate to Australia.

Licences to capture and kill protected animals other than threatened species may be issued in circumstances where animals are causing a threat to human safety, damaging property or causing economic hardship.

These licences are issued in accordance with the principles set out in the OEH policy on Managing Interactions with Fauna that may Impact on the Community.

The policy provides that OEH will manage conflict between humans and native wildlife by:

- fostering a tolerant approach to wildlife within the community through information and education programs
- advocating viable non-destructive solutions as the initial, preferred and long-term management response
- issuing licences to harm protected animals only when other options are not practical or economically viable
- ensuring that licences are commensurate with the scale and severity of risks to safety and property and do not impact the sustainability of wild populations
- ensuring that management decisions are based on the best available information, and that animal welfare is not compromised.

OEH provides a wide range of information and advisory services to promote appreciation of native wildlife and assist the community to live in harmony with native wildlife.

The Living with wildlife pages on the OEH website provides practical advice on managing common problems for residents such as possums in the roof, burrowing wombats, swooping magpies, and snakes.

Current licence classes for harming 'protected animals' include:

- landholder's licences to harm
- professional shooter licences
- reptile catch and release licences
- possum catch and release licences.

4.2 Landholder's licence to harm

Property owners or occupiers that wish to control or remove native animals from their property may apply for a landholder's licence to harm (formerly known as a NPW Act 'section 121 occupier's licence'). Licences are not issued under this class to control threatened species.

In accordance with the Managing Interactions with Fauna policy, potential applicants are encouraged to contact their local NSW National Parks and Wildlife Service (NPWS) office to discuss the nature and severity of risks to safety and property and the use of non-lethal measures.

Licence applications must include the estimated population of the target species on the property, the proposed number and species of target animals to be harmed, information

about the damage caused by the target animals and the outcomes of using non-lethal measures to mitigate the damage.

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.

As set out in the Managing Interactions with Fauna policy, there is currently no fee for a landholder's licence to harm. Licence durations may vary from three- to 12-month periods depending on the species and location.

Licences specify the maximum number of animals the licensee is authorised to harm, and the method of harm. Standard licence conditions include:

- the authorised activities may occur only on the property or location named in the licence
- the activity must comply with specified animal welfare standards for the type of animal harm
- animals captured or shot must not be used for a secondary purpose, or sold or traded
- 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
- if shooting occurs within one kilometre of an adjacent property, at least 24 hours' prior notice must be given to local police and NPWS offices and adjacent neighbours
- OEH must be notified within 24 hours if a species not covered by the licence is harmed.

Licences are issued for a wide range of target animals and for a range of purposes across both rural and urban areas, including:

- kangaroos and wallabies damaging crops and fences or competing with livestock for pasture or water
- birds damaging crops, parks and gardens
- wombats causing damage to housing and other property.

Information about the specific conditions attached to licences to harm different types of animal, and damage, are included below.

Proposals for comment

Under current licensing procedures, additional shooters nominated in a landholder's application for a licence to harm are issued their own 'shooters licence' that is restricted to shooting under the landholder's licence.

As well, professional shooters may be granted a 'general licence to harm' that allows them to operate under any landholder's licence to harm with the consent of the landholder. There are currently only eight holders of general licences to harm, as shooting under a landholder's licence to harm is usually undertaken by the landholder and family or friends at no charge.

To reduce administrative effort, it is proposed to discontinue issuing separate licences to shooters and to discontinue the issue of 'general licences' to shooters. Instead, the landholder's licence will include the names, dates of birth and firearm permit numbers of all shooters nominated by the landholder on the licence application form.

Consultation questions

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

4.2.1 Kangaroos and wallabies

The majority of landholder licences to harm are issued to farmers and graziers seeking to shoot kangaroos and wallabies to mitigate damage to crops and fences or reduce competition with livestock for pasture or water.

These licences are subject to additional conditions including:

- all harm must be in accordance with the [National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-commercial Purposes](#)
- the landholder or licensed shooters must attach a tag issued by OEH to each animal shot to enable compliance with licence quotas to be monitored, and unused tags must be returned to OEH within seven days of the expiry of the licence.

In most cases, licences authorise harm to a lower number of kangaroos or wallabies than requested by the licensee, on the basis the outcomes of a limited cull on damage mitigation should be assessed before any licence variation to harm an additional number of animals is issued.

In some cases, licensees may be granted permission to use a small number of carcasses for a secondary purpose such as bait meat for feral animal baiting programs.

The number of landholder's licences to harm kangaroos issued in 2016, and the maximum number of kangaroos to be harmed, is set out in Table 6.

Table 6 Number of licences to harm kangaroos and total number authorised to be harmed, 2017

Species common name	Number of licences	Maximum number to be harmed
Eastern grey kangaroo	2,085	175,653
Red kangaroo	177	29,840
Western grey kangaroo	100	11,815
Wallaroo	166	5,132
Red-necked wallaby	54	1,527
Swamp wallaby	19	466
Total	2,151 ⁽¹⁾	224,433

- Source: OEH Licence to Harm Fauna Database
(1) Some licences authorise harm to more than one species.

Review of kangaroo management

This discussion paper is not seeking comments on the damage mitigation licences for kangaroo management.

The Natural Resources Commission's statewide review of pest animal management recommended the Government review native animal management, with an emphasis on kangaroos.

The Government is considering options for improving management of kangaroos in New South Wales.

4.2.2 Protected birds

The BC Regulation incorporates long-standing exemptions that allow harm to sulphur-crested cockatoos, galahs, crows, ravens and purple swamphens in specified NSW areas to limit damage to crops, without the need for a licence.

In addition, the NSW Police are authorised to harm aggressive magpies in New South Wales under a class licence in accordance with OEH policy on the Management of Native Birds that Show Aggression to People.

All other harming of protected birds in New South Wales requires a landholder's licence to harm. Licences are issued for a range of species and reasons including:

- mitigating damage to crops, pasture and grain by corellas, galahs, cockatoos and emus (about 50% of licences issued in 2017)
- preventing risks of bird-strike at airports (in regional areas, some airports are issued licences that also authorise harm to animals to minimise risk of collisions on runways)
- mitigating aggressive behaviour by magpies and emus (about 20% of licences issued)
- managing risks from protected birds at public parks, swimming pools and retail and industrial premises.

About 80% of licences are issued to shoot protected birds. The remaining 20% of licences generally authorise trapping and euthanising birds and removing nests and eggs.

In addition to the standard licence conditions outlined in Section 4.1, licences that authorise shooting birds must comply with Standard Operating Procedure – BIR001: Shooting of pest birds.

The number of landholder's licences to harm protected birds issued in 2017, and the maximum number of birds authorised to be harmed, is set out in Table 7.

Table 7 Number of landholder's licences to harm protected birds, by species and total number to be harmed, 2017

Species common name	Number of licences	Number of birds to be harmed
White ibis (removal of nests and eggs)	21	7,579
Little corella	31	6,290
Noisy miner	9	3,592
Sulphur-crested cockatoo	47	3,427
Galah	15	2,574
Long-billed corella	15	1,980
Emu	29	1,723

Species common name	Number of licences	Number of birds to be harmed
White ibis	3	1,541
Native ducks	40	1,295
Cormorants	14	660
Welcome swallow	10	534
Magpie	41	349
Raven	15	172
16 other species ⁽¹⁾	46	596
Total	243⁽²⁾	32,312

Source: OEH Licence to Harm Fauna Database

(1) Black kite, masked lapwing, crested pigeon, currawong, magpie lark, bell miner, black swan, purple swamphen, grey butcherbird, brush turkey, kookaburra, pied butcherbird, white-faced heron, straw neck ibis, rainbow lorikeet, peregrine falcon

(2) Some licences authorise harm to more than one species.

Proposals for comment

The 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, 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.

Consultation questions

- Do you support the retention of licensing for harming protected birds?
- Can you suggest any improvements to the licence conditions for harming birds?
- Should codes of practice be developed for harming birds in specified circumstances as an alternative to licensing?

4.2.3 Other native animals

A small number of licences are issued annually for harm to protected animals other than kangaroos and birds.

The most common target of these licences are wombats, due to damage to buildings and property from their burrows, and possums.

Table 8 Number of landholder's licences to harm other protected animals, by species and total number to be harmed, 2017

Species common name	Number of licences	Maximum number to be harmed
Common wombat (harm)	84	398
Possums (catch and release)	6	11
Total	90	409

Source: OEH Licence to Harm Fauna Database

Due to the relatively low number of licences to harm animals other than birds or kangaroos, and the variety of species affected, it is not considered cost-effective to develop codes of practice to replace licences.

Consultation question

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

4.3 Catch and release possums

4.3.1 Current licence class

Brushtail possums may live in roof cavities and cause damage and noise that disturbs occupants. Capturing and relocating possums may cause them significant stress and risk of injury if not carefully managed.

The OEH [Possum Management Policy](#) promotes preventative measures, including ensuring roof cavities are sealed and installing possum boxes in gardens, to minimise the need to capture possums.

The OEH website ([How do I get a possum out of my roof?](#)) includes advice on options for safely removing possums from roof cavities including:

- obtaining a landholder's licence to harm for no fee, and using a hired trap
- seeking assistance from a licensed wildlife rehabilitation service
- engaging a pest control service that has a licence to catch and release possums.

The catch and release licence authorises the licensee and their employees to catch and release possums from commercial or residential properties if the landholder holds a landholder's licence to harm (as in Section 4.2).

Licence applicants are required to pay a licence fee of \$30 for a 12-month standardised period from 1 August to 31 July. There are currently about 95 licence holders.

The licence conditions are intended to ensure the welfare of the captured possums and prevent future access by possums to buildings and roof cavities. They include:

- possums must be captured live using cage traps
- lethal traps, leg snares or poisons may not be used
- possums may not be kept in cages for more than 24 hours and must be provided with adequate food, water, ventilation and protection from extreme temperatures and rain

- possums must be released unharmed, after sunset, within 150 metres of the point of capture against a tree or structure they can immediately climb
- a reasonable effort must be made to have the roof cavity of the property sealed after capturing a possum and before releasing it.

The licensee must record the details of each capture and submit their records to OEH at the end of the licence term.

4.3.2 Proposed changes for comment

Removal and release of possums from roof cavities may be considered a relatively low to moderate risk activity on the basis that:

- it impacts common species such as brushtail and ringtail possums
- the risks to the possum's welfare can be managed by following readily accessible guidance material
- there are no eligibility requirements for obtaining either a landholder's licence to harm or a catch and release licence.

In Victoria, (Managing wildlife – Possums) property owners and building managers are exempted from licensing for removing possums within their buildings on the basis they comply with conditions consistent with the current NSW licence conditions outlined above, but removal from public parks is restricted to licensed service providers. In Queensland, (Living with wildlife – Possums) possum relocations may only be undertaken by licensed service providers.

Consideration could be given to replacing current licensing requirements and developing a code of practice which sets out enforceable standards for catching and releasing possums based on the current licence conditions and OEH guidance material.

If licensing for possum removal services is retained, it is proposed to clarify responsibilities and reduce the administrative burden on property owners and occupiers by removing the requirement they obtain a landholder's licence to harm.

Instead, it is proposed the licensed service providers obtain and retain a record of the landholder's consent to remove possums from their property.

Consultation questions

- Should relocating possums from residences, building and parks be regulated under an approved code of practice, rather than licensing?
- 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?
- Can you suggest any improvements to minimum standards for relocating possums as set out in the OEH Possum Management Policy and current licence conditions?

4.4 Catch and release reptiles

4.4.1 Current licence class

This licence authorises licensees to catch reptiles in circumstances where they are posing a risk to safety and ensure they are safely released. Licences may be issued to volunteer or professional reptile handlers and are generally used to relocate snakes from public places, or commercial or residential premises. Some licensed wildlife rehabilitation services may also provide this service.

Applicants must be 18 years or over. Applications must:

- indicate the area or region in which the handler may provide services
- provide evidence they hold a current first aid certificate and public liability insurance
- provide two written references from people who can validate their ability and experience
- provide evidence they have completed a recognised reptile handling course or have at least two years' experience in handling venomous snakes.

There is no fee for this licence. Licences are valid over a 12-month standardised period from 1 August to 31 July. There are currently about 50 licence holders.

Catch and release reptile licence conditions are intended to control risks to human safety and animal welfare. Under the licence conditions, licensees must:

- maintain a current first aid certificate, carry first aid snake-bite equipment and transport venomous reptiles in a locked escape-proof container
- ensure reptiles are not held for more than three days and are released (where possible out of sight of the public) into an area in which the species is endemic and not more than 20 kilometres from the capture site
- keep the captured reptile separate from any other reptile held by the licensee and mark any bag or container holding the captured reptile with their licence number
- seek approval from the local NPWS office before releasing reptiles into the NSW national park estate
- notify the local NPWS office immediately upon receiving knowledge of the location or the capture of a non-native reptile and follow any instructions given.

The licensee must record the details of each capture and submit their records to OEH at the end of the licence term.

4.4.2 Proposed changes for comment

Reptile handling is considered a higher risk activity, with potential for serious injury or death if capture of a venomous reptile is attempted by untrained persons.

In addition, handlers require knowledge and experience to minimise unnecessary trauma to the snake and safely release it in an appropriate location.

Consultation questions

- Should licensing for reptile handlers 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?

5. Keeping and dealing licences

5.1 Animal keeper licences

Under the BC Act, it is an offence to possess a protected animal unless you hold an animal keeper's licence or the species is exempted in the BC Regulation.

The species that may be kept under a licence are listed in the [NSW Native Animal Keepers' Species List](#).

The Species List includes native animal species that are considered suitable for private keeping on the basis that:

- they can be readily sourced from captive-bred populations, thus reducing incentives to take from the wild
- their basic welfare needs are known and can be managed in a captive environment by competent persons
- the risks to human safety are negligible or can be effectively controlled by competent persons following required safety procedures.

Currently, the Species List includes nearly 600 species, including 80 amphibian species, 192 bird species, 273 reptile species and two species of mammal.

Forty-one species of protected bird, such as common species of parrots, lorikeets, cockatoos, finches and doves, are exempted under the BC Regulation from the requirement to hold a keeper's licence. These species are listed at the end of the NSW Native Animal Keepers' Species List.

Before the development of the BC Act, OEH convened the Native Animal Keepers Consultative Committee, comprising representatives of animal keeper welfare and rehabilitation associations, to advise on changes to the Species List and initiatives to improve and promote compliance with native animal keeper licence conditions.

Keeping introduced animal species and keeping native or introduced animals for display in zoos or wildlife parks is subject to separate regulatory requirements administered by DPI.

5.1.1 Current licensing framework

The Species List indicates the class of licence required to keep the species. There are four broad risk-based classes of animal keeper licence:

- **companion licence** – for keeping one animal of a species that can be kept on its own and is relatively easy to keep without previous experience
- **Class 1 or basic licence** – for keeping any number of animals of species that are relatively easy to keep without previous experience
- **advanced licence** – for keeping any number of animals of species that require experienced keepers' due to complex welfare needs or are not widely kept and need to be monitored to determine if they are suitable for widespread keeping (Class 2 species)
- **advanced licence (venomous snakes)** – for keeping any number of venomous snakes that pose significant safety risks (class 3, 4 and 5 reptiles).

There are no licence eligibility criteria for obtaining a companion or Class 1 licence, except applicants must be NSW residents and have a minimum age of 16 years. Applications may be automatically issued online or by phone via Service NSW.

Applicants for an advanced keeper licence must be at least 18 years of age and have at least two years' experience as a Class 1 licence holder for keeping animals of the same family.

For a licence to keep venomous snakes, applicants must satisfy a range of criteria to ensure the risks to safety can be reliably controlled, including:

- the ability, knowledge, experience and suitability to keep reptiles of the relevant class, and references from qualified or experienced keepers or handlers
- escape-proof snake enclosures in lockable rooms
- a current first aid certificate and a documented emergency response plan to deal with snake emergencies.

Applicants to keep class 4 and 5 snakes must have at least one-year experience in keeping reptiles of any lower classes.

Licence numbers and numbers of animals kept

There are currently over 30,000 native animal keeper licences in New South Wales. A separate licence is issued for each type of native animal: amphibian, bird, mammal and reptile.

Over two-thirds of licences are for keeping Class 1 reptiles. While the number of other licence types has grown broadly in line with population, the number of licences for keeping reptiles has doubled over the past 10 years.

Table 9 Number of animal keeper licences by class, February 2018

Licence class	Number
Companion animal licence	4,182
Class 1 animal keeper licence	26,184
Class A1 Basic amphibian	1,370
Class B1 Basic bird	3,328
Class M1 Basic mammal	239
R1 Basic reptile	21,247
Advanced native animal keeper licence	1,041
Class A2 Advanced amphibian	27
Class B2 Advanced bird	168
Class B3 Emu	19
Class R2 Advanced reptile non-venomous	620
Class R3 Advanced reptile, venomous, category 1	74
Class R4 Advanced reptile, venomous, category 2	73
Class R5 Advanced reptile, venomous, category 3	60
Total	31,407

Source: NSW Government Licensing System

Licensed keepers range from people who keep native animals as companion pets, to those with a dedicated interest in animal keeping, husbandry and research who participate in avicultural and herpetological societies and associations.

About 47% of licensed keepers (excluding companion licences) keep only one animal, while over 86% keep less than five animals. There are several hundred licensed keepers with over 20 animals.

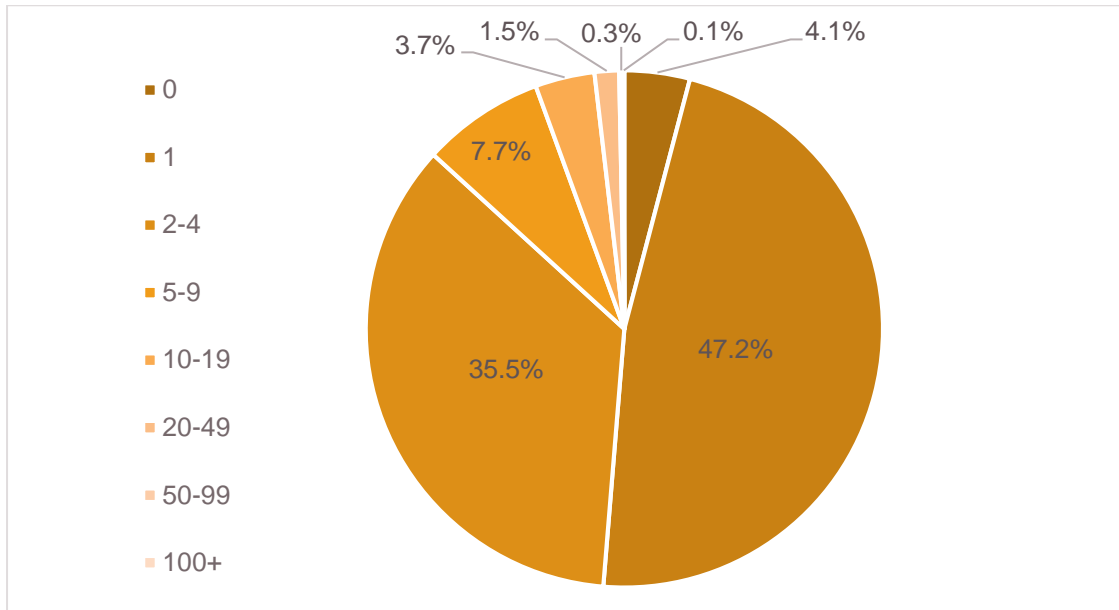


Figure 1 Number of animals kept per licensed keeper 2017

Source: NSW Animal Keeper Record Book data 2017

Licence terms and fees

Class 1 and advanced licences may be issued for two years, and companion licences for five years.

Licence fees have not been revised since 2009. Discounts apply for pensioners (20%) and for applications lodged online (10%).

Table 10 Animal keeper licence terms and fees

Licence class	Duration	Standard fee	Online (less 10%)	Pensioner (less 20%)	Pensioner & online
Companion licence	5 years	\$50	\$45	\$40	\$40
Class 1 licence	2 years	\$63	\$56.70	\$50	\$45
Advanced licence	2 years	\$120	N/A	\$95	N/A

Licence conditions

All current licence classes (companion, Class 1 and advanced) include the following standard licence conditions:

- Animal(s) must be kept at the address indicated on the licence except for temporary periods for specified purposes (e.g. veterinary treatment, competitions).
- Animal(s) must be kept in an escape-proof enclosure and not cause danger or nuisance to the public.
- Records and supporting documentary evidence such as receipts must be kept of the acquisition of animal(s), including the date and the supplier's details, to demonstrate the animal(s) have been legally sourced.

- Birds and reptiles must be kept in accordance with the specified animal welfare codes of practice (there are no specified welfare requirements for amphibians and mammals).
- Animals(s) must not be publicly displayed or exhibited except in accordance with the *Exhibited Animals Protection Act 1986*.

Additional conditions apply for Class 1 and advanced licences including:

- The licensee must maintain a record book in the approved form (electronic or hard copy) indicating the date of all acquisitions and disposals of animals. Record books for each year ending 31 March must be submitted to OEH by 30 April.
- Commercial trade or carrying on the business of a native animal dealer is not permitted and animals may be sold, traded or given only to persons holding a relevant class of licence.
- Advertisements for the sale or disposal of animals must:
 - be published only in a publication of an animal keepers' society of which the licensee is a member, or in a specialist publication, journal or internet site
 - include the licensee's licence number and indicate the animal may only be acquired by a licensed keeper.
- Animal(s) must not be disposed of within a period of six months from the date of acquisition (unless bred by the keeper).

5.1.2 Proposed risk-based approach to keeper licensing

As there are nearly 600 species on the Species List, it was not considered feasible to conduct a risk assessment for every individual species.

Instead, considering the existing framework of licence classes and their respective eligibility requirements, it was proposed that, as a starting point:

- Companion and Class 1 animal keeping pose relatively lower risks, and consideration should be given to replacing these licences with a code of practice.
- Advanced animal keeping presented relatively higher safety and animal welfare risks and should remain licensed.

To further develop the risk-based approach, OEH undertook targeted consultation with a range of key stakeholders including animal keeping associations and societies, licensed dealers, wildlife rehabilitation services, and animal welfare groups and regulators.

In a series of consultation meetings, these stakeholders were invited to consider the following proposals:

- replace companion and Class 1 keeper licences with the requirement to comply with a code of practice approved under the BC Act
- retain licensing for keepers of Class 2 animals, emus and venomous snakes
- apply a risk assessment tool to assess proposals to move species between classes and for new species to be added to the Species List.

The proposed species risk assessment tool is based on the tool used in a recent review of Victorian native animal keeping regulations. It assesses:

- the availability of the species from captive-bred sources and the risk of poaching
- risks to human safety from handling animals and animal diseases
- animal welfare requirements including diet, housing and keeper competency and experience.

Concerns about the risk-based approach

In general, animal keeper groups supported the risk-based approach and considered the proposals would reduce the administrative burden, especially for hobby keepers with small numbers of lower risk species.

Wildlife rehabilitation and animal welfare groups were generally opposed to discontinuing licensing. They considered it would result in:

- difficulties in detecting and enforcing breaches of animal trading and welfare requirements, as OEH would no longer record the names and addresses of keepers of species regulated by codes
- an increased number of unwanted native animal pets being abandoned or released to the wild, especially reptiles.

Some licensed dealers also noted that, in their experience, the need to obtain a licence assisted in preventing customers from making impulse purchases of native animal pets, and ensuring keepers valued and were more likely to properly care for them.

Bird and reptile keeper groups were also supportive of expanding the number of species that were exempt from licensing, beyond the current list of 41 exempt bird species. They noted that persons undertaking illegal trading and taking from the wild were not likely to comply with licensing requirements in any case.

However, other stakeholders expressed concerns that the term 'exempt' implied native animals were worthless and disposable, and noted there were no minimum welfare or safety standards applicable to exempt species. Instead, it was proposed that animal welfare standards should apply to all native animal species, including exempt species.

Management of abandoned, escaped and seized native animal pets

Animal welfare and rehabilitation groups reported significant increases in numbers of abandoned pet reptiles in recent years. OEH records indicate reports of abandoned or seized native animal pets more than doubled from 2014 and 2016, and approximately 85% concerned reptiles.

The BC Regulation retains existing requirements for managing wild animals that are unable to fend for themselves and these provisions are applied to escaped or abandoned native animal pets. They require:

- notifying OEH in writing within three days of taking possession of an animal
- complying with written directions given by OEH for the housing and management of the animal.

Police and fire authorities may also seize animals in the course of their duties, generally reptiles. Depending on the circumstances, they may seek directions from OEH, or advise OEH the animals have been placed directly with a licensed wildlife rehabilitation group or animal welfare group.

In cases where animals are suitable for re-homing, OEH may authorise an animal keeping group to re-home the animal with a licensed keeper, or OEH may conduct a ballot of nearby licensed keepers and the animal is placed with a randomly selected ballot participant.

Animals not permitted to be kept under a keeper's licence are re-homed with a licensed zoo or wildlife park. In cases where the animal is unable to be re-homed due to serious injury, OEH may authorise euthanasia to prevent prolonged suffering.

OEH and animal rehabilitation and welfare groups agree the existing processes impose significant administrative, logistical and veterinarian costs, and available resources are insufficient to cope with the increased volume of unwanted, escaped and seized reptiles.

To address these concerns, OEH has convened roundtable meetings of all relevant government agencies and stakeholders to identify improvements to the existing processes and clarify responsibilities and resourcing for the management of unwanted, escaped and seized native animal pets.

Proposed codes of practice

During targeted consultations, it was noted that current keeper licence conditions required compliance with:

- the OEH Code of Practice for the Private Keeping of Reptiles
- the DPI NSW Animal Welfare Code of Practice No. 4 – Keeping and Trading of Birds, and approved animal trade codes of practice under the *Prevention of Cruelty to Animals Act 1979* (POCTA).

Stakeholders were invited to consider whether these codes were suitable for approval under the BC Act as a code of practice for Class 1 species, and whether they should be retained as licence conditions for advanced keepers, given many keepers have more than one class of species.

Bird and reptile associations and societies supported this proposal in preference to developing a new code, and noted that welfare standards for native animals under the BC Act should be aligned with generally applicable standards under POCTA.

In addition, the NSW Frog and Tadpole Study Group (FATS) prepared a draft *Code of Practice for Keeping Native Frogs*, modelled on the OEH code of practice for keeping reptiles, for use in a risk-based approach to regulating amphibian keepers.

Record keeping and annual returns

Under current Class 1 and advanced licences, keepers are required to maintain a record book containing the dates they acquired or disposed of animals, including purchases, births, sales, deaths and escapes in an approved hard copy or electronic format. A sample page of the current OEH Animal Keeper Record book is published on the OEH website. The records must be submitted annually to OEH.

As an alternative to the current record book format, consideration was given to adopting a simpler format for annual returns (Return Form – Wildlife Basic or Advanced Licence) as used under Victorian wildlife regulations. This requires only the number of animals of each species kept at the beginning of the year, and the numbers acquired and disposed.

Animal keeping associations and societies were strongly supportive of simpler annual returns, and considered it would promote greater compliance with annual reporting requirements.

While OEH acknowledges difficulties in ensuring the timeliness, completeness and accuracy of keeper returns, the data it retains about animal transactions has been useful in investigating alleged wildlife offences and breaches of licence conditions.

It was also noted that under current licence conditions, keepers are required to retain documentary evidence of the acquisition of animal(s), such as signed and dated receipts. To maintain this requirement for species regulated under a code of practice, these licence conditions will be included in any approved codes.

Changes to the NSW Native Animal Keepers' Species List

During targeted consultations, animal keeping groups submitted proposals to add new species to the Species List, and to move species currently requiring a licence to the exempt list or list of species to be regulated by a code. These proposals included adding species

that were already known to be kept in New South Wales by persons importing them from interstate.

However, while some brief information supporting these proposals was provided, only in a few cases was information supplied against the criteria in the proposed species risk assessment tool.

As a result, it is proposed that further assessment of proposals be undertaken in consultation with animal keeping groups before any new species are added to the Species List.

In addition, some proposals suggested moving species into higher classes, on the basis that it was appropriate they remain licensed. These proposals included:

- retaining licensing for venomous or potentially dangerous reptiles
- retaining licensing for threatened bird species that are considered at risk of illegal take from the wild, including black cockatoos.

Advice was also sought from threatened species experts within the *Saving our Species* program to identify and address any concerns about the regulation of the threatened species currently included on the Species List.

Keeping native mammals as pets

Only two species of mammal may be kept under licence in New South Wales (Mitchell's hopping-mouse and the plains rat).

Other states and territories allow other native mammal species to be kept under licence including specified species of kangaroos, wallabies, possums and gliders. This can result in difficult decisions for mammal keepers considering moving from interstate to New South Wales.

During targeted consultations, some stakeholders suggested consideration be given to adding mammal species to the NSW Native Animal Keepers' Species List. Under current OEH policy ([Why you can't keep native mammals as pets](#)) other mammal species are not considered appropriate for keeping as pets, for both welfare and conservation reasons.

5.1.3 Proposals for comment

Staged approach to implementing risk-based regulation

Considering the issues and concerns raised during targeted consultations with key stakeholders, it is proposed to adopt a measured and staged approach to implementing a risk-based approach to regulating native animal keeping.

Under this approach, it is proposed that initially:

- a limited number of native bird, frog and reptile species will be regulated by an approved code of practice and licensing of keepers will be discontinued
- licensing will be retained for other species that currently require a licence, including threatened species considered to be at risk of illegal take from the wild
- no species will be added to the exempt list, and keepers of the 41 bird species currently exempted from licensing will be required to comply with the code of practice.

To support and monitor these initial changes, OEH will work with key stakeholders to:

- develop new community education programs for native animal keepers and the community generally to promote voluntary compliance with the conservation and animal welfare objectives of the risk-based approach

- review and clarify current rules and procedures for managing abandoned, escaped or seized native animal pets, and implement arrangements to monitor changes to their type and number as the risk-based approach is implemented.

After a period of at least three years, it is proposed to review the outcomes of the initial changes, and consider whether additional species should be regulated by codes of practice.

Species to be regulated by code of practice

The draft revised NSW Animal Keepers' Species List is published on the OEH website in conjunction with this discussion paper. It indicates:

- the species that are proposed to be regulated by a code of practice and the species for which companion, Class 1 or advanced keeper licences will continue to be required
- the existing licence class of each species, to indicate proposed movements of species between licence classes

Scientific and common names will be updated to align with OEH's biodiversity data repository (BioNET), following the public consultation period.

OEH estimates these proposals will result in about 20,500 companion and Class 1 keeper licence holders no longer requiring a licence, including 16,000 reptile keepers, 4000 bird keepers and 500 frog keepers.

Draft codes of practice

Three draft codes of practice are published on the OEH website in conjunction with this discussion paper. They include draft codes of practice for keeping native birds, keeping native frogs and keeping native reptiles.

To ensure consistent animal welfare standards for all keepers, the draft codes are intended to apply as approved BC Act codes of practice for keepers of specified species, and as licence conditions for keepers of other species.

The draft codes for keeping native reptiles and birds incorporate the animal welfare requirements of the existing codes for keeping native reptiles and birds. All three draft codes include standard provisions based on existing licence conditions for keeping records and restrictions on trading in native animals.

Annual records

It is proposed to adopt a risk-based approach to requirements for licensed keepers to submit annual returns to OEH. Under this approach:

- annual returns will not be required for species regulated by a code of practice or for companion licence holders
- Class 1 and advanced keeper licence holders will be required to submit simplified annual returns indicating the number of animals of each species kept at the beginning of the year, and the numbers acquired and disposed of during the reporting period
- keepers of venomous snakes will be required to continue to use the current record book containing the dates venomous snakes are acquired or disposed of.

Table 11 Summary of changes to regulation of native animal keeping

	Species regulated by code of practice	Species regulated by licensing
Bird keeping	93 species including: <ul style="list-style-type: none"> • 41 species currently exempt from licensing and species • most Class 1 species excluding threatened species considered vulnerable to poaching 	Companion and Class 1 licence classes will be discontinued Bird species not regulated by code will require an advanced licence
Frog keeping	19 species formerly subject to companion and Class 1 licences	For all other species, companion, Class 1 and advanced licence classes retained
Mammal keeping	Not applicable	Class 1 licences to be retained
Reptile keeping	15 species formerly subject to companion and Class 1 licences	For all other species, companion, Class 1 and advanced licence classes will be retained

Consultation questions

- Do you support the proposed staged approach to implementing a risk-based approach to regulating native animal keeping?
- 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?
- Do you have any suggestions for improving the animal welfare and record keeping requirements in the draft codes of practice?
- 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?

5.2 Dealer licences

Under the BC Act, it is an offence to buy or sell or trade in protected animals unless authorised by a licence, or unless the species is exempted from licensing under the BC Regulation. Currently, 41 species of birds are exempted from dealer and keeper licensing requirements under the BC Regulation.

Under OEH policy on the Commercial trade of protected native animals only pet shops are eligible for a dealer's licence, and they may only deal in bird and reptile species listed on the dealer's species lists published on the OEH website.

The dealer's species lists currently include 15 reptile species and 47 bird species, in addition to the 41 bird species that may be kept and traded without a licence.

Currently, nine pet shops are licensed to deal in reptiles and five are licensed to deal in birds, with one pet shop licensed to deal in birds and reptiles. Dealer licences allow dealing at the premises specified on the licence, and any additional premises used for selling animals must be registered with OEH.

OEH also issues temporary dealer licences for reptile and bird fairs and expos, including annual expos held by reptile keeper groups.

As indicated in Section 5.1.2, licensed animal keepers may also trade in animals with other licensed keepers, subject to conditions including restrictions on advertising and conducting trading as a business.

5.2.1 Current licensing framework

Dealer licences

Applicants for a reptile dealer's licence must:

- demonstrate knowledge and skills in captive reptile welfare, husbandry and species identification through a written test
- provide a floor plan of their business premises, indicating the location and size of enclosures, food preparation and storage area(s), climate control systems and security measures; premises are inspected before a licence is issued
- provide standard operating procedures covering the cleaning of enclosures, feeding, quarantine for new arrivals, the care of sick and injured animals, minimising harm to animals from customers and other animals, and a daily care checklist for staff.

Similar requirements apply for bird dealer's licence, except a written knowledge test and inspection of premises is not mandatory.

Bird and reptile dealer licences include the following conditions:

- Animals may only be bought from persons licensed to keep them.
- When selling species that require a keeper's licence, the customer's licence must be sighted and their details recorded.
- Records of all animals held must be maintained and submitted to OEH on an annual basis, including records of:
 - the species and number of animals acquired, disposed of or moved
 - the date and method of acquisition, disposal or movement of animals
 - the name and licence number of persons from whom animals are bought or sold.
- Dealers must accept returns of unwanted or unhealthy animals no longer wanted by a customer.
- Dealers must comply with the enclosure size and equipment requirements specified on their licence.

Licensed dealers must also comply with the DPI Animal Welfare Code of Practice – Animals in Pet Shops issued under the *Prevention of Cruelty to Animals Act 1979* and are subject to inspections by the Royal Society for the Prevention of Cruelty to Animals (RSPCA).

The DPI Code is currently subject to review, and draft Standards intended to replace the Code are scheduled to be issued for stakeholder consultation in late 2018.

Different licence terms and fees apply for reptile and bird dealers, reflecting differences in licence application and renewal assessment processes.

Table 12 Dealer licence terms and fees

Licence or registration category	Duration	Fee
Reptile dealer licence – includes one premises	3 years	\$2,400
Reptile dealer renewal – includes one premises	3 years	\$2,050
Reptile dealer – additional premises	3 years	\$780
Reptile dealer – additional premises renewal	3 years	\$450
Bird dealer – includes one premises	1 year	\$600
Bird dealer – additional premises	1 year	\$300

Licences for animal expos

Organisers of fairs and expos at which native animals may be available for sale must obtain a temporary dealer licence from OEH.

Organisers are required to submit the following information to OEH at least two weeks before the event, to obtain a temporary dealer licence:

- a list of all licensed dealers and keepers who intend to trade at the expo, including any dealers and keepers from interstate
- a copy of security and hygiene arrangements, including conditions of entry and display, and protocols intended to reduce transmission of diseases between animals
- the program for the expo, indicating educational talks, demonstrations and competitive events
- a floor plan for the expo, showing designated areas for all licensed dealers and keepers.

Expo organisers are issued a licence for the expo which authorises the nominated licensed keepers and dealers to trade in species permitted under their licence, at the expo, and requires the organiser to ensure they are informed of and comply with hygiene protocols.

The sale of venomous reptiles at expos is not permitted, and displays of venomous reptiles must comply with safety and security requirements to prevent contact with members of the public and maintain procedures and first aid equipment for responding to emergencies.

Interstate keepers and dealers that propose to trade at an expo must also obtain the required import licence from OEH, and any licensed animal exhibitors must comply with the conditions of their licence issued by DPI under the Exhibited Animals Protection Act.

5.2.2 Regulation of online dealing

During targeted consultations, licensed dealers and welfare groups expressed concerns about online dealing by licensed animal keepers.

Online dealing occurs through pet sales websites such as [Pet Pages](#) and [Petlink](#) and general websites such as Facebook. In some cases, licensed keepers trade through their own websites under registered business names.

There are concerns that online trading by keepers is not subject to the same animal welfare, customer service and record keeping standards as licensed dealers, and this may contribute to:

- poor welfare outcomes for animals bred for the purpose of sale, similar to welfare concerns about 'puppy farms'
- purchasers receiving little or no information about their legal obligations for keeping native animals, including housing and dietary requirements

- increased risk of unwanted pets being abandoned or released into the wild since the seller is not required to accept returns of unwanted or diseased animals
- limited ability for OEH to monitor animal transactions and identify animals illegally taken from the wild for the purpose of sale
- an 'uneven playing field' for licensed dealers who must comply with licence conditions that seek to prevent and manage these concerns.

While animal keeper licence conditions allow trading between licensed keepers, trading on a commercial basis or carrying on the business of animal dealing is only permitted under dealer licences. But, in many cases, online sellers do not meet licence conditions for advertisements to include their licence number and state whether a licence is required to keep the animal.

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.

The Australian Taxation Office (ATO) has published criteria to define the difference between a hobby and a business for taxation purposes. The criteria for determining if an activity is a 'business' include:

- the intention is to make a profit, regardless of whether a profit is made or likely
- similar types of activities are repeated over time and are consistent with those undertaken by other businesses
- the activity is planned and carried out like a business, including keeping business records, advertising or an online presence, and having a registered business name.

5.2.3 Proposals for comment

It is proposed that current licensing requirements for dealers are retained, including the licensing of pet shops that deal in native birds and reptiles and temporary licences for animal expos.

To extend the benefits to customers and to animal welfare of purchasing native animals at pet shops, it is proposed to expand the list of species that may be sold by licensed dealers 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.

To address concerns about online dealing, it is proposed to establish a new licence class for commercial dealing in native animals, other than through a pet shop.

The proposed new licence class will use criteria similar to those used by the ATO to distinguish between dealing as a business activity and dealing incidental to a hobby.

The proposed new licence class will include conditions adapted from those applying to licensed pet shops, to ensure animal welfare standards are maintained, including a requirement that the dealer:

- accepts returns of animals that are unhealthy or the customer no longer wants
- keeps records of all acquisitions and disposals including date and name and licence number of their suppliers and customers
- develops and applies standard operating procedures covering the cleaning of enclosures, feeding, quarantine for new arrivals and the care of sick and injured animals.

It is recognised that introducing this proposed new licence class will require further consultation with stakeholders. Issues to be resolved include:

- the criteria for determining when dealing by licensed keepers is considered to constitute carrying on a business
- the licence conditions and reporting requirements that will apply to commercial licence conditions
- transitional arrangements to enable sufficient time for affected keepers to comply with proposed licence conditions.

Consultation questions

- Do you support the retention of licensing for pet shops that sell native animals and expanding the list of species they may sell?
- Can you suggest any changes or improvements to the licence conditions for licensed dealers and expos?
- Should licensing also 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?

5.3 Interstate import and export licences

Under the BC Act, the interstate import or export of protected plants and animals is an offence unless authorised by a licence or code of practice or exempted from licensing under the BC Regulation.

The BC Regulation includes exemptions for interstate trade in protected native plants and for 41 bird species that are exempt from keeper and dealer licensing requirements.

In other cases, an import or export licence must be obtained from OEH to authorise the movement of native animals across state borders. These licences are used by NSW keepers and dealers to facilitate interstate dealing, and are also required for interstate movements of native animals used for scientific research and those held by zoos, wildlife parks and tourist attractions.

It should be noted that some other wildlife licence classes authorise the import and export of native animals, subject to conditions. For example:

- licensed wildlife rehabilitation groups are authorised to temporarily transport injured animals interstate for veterinarian treatment
- licensed kangaroo harvesters and dealers are authorised to transport carcasses to interstate processing facilities.

Other states and territories also have requirements for licences or permits for interstate movements of native animals, but there are differences in their scope and conditions.

Licences under the BC Act only apply to native animals. Interstate movements of specified introduced species are subject to NSW biosecurity laws administered by DPI.

International import and export of native animals is subject to Australian Government requirements under the EPBC Act, which give effect to the Convention on International Trade in Endangered Species (CITES).

5.3.1 Current licence requirements

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.

Applications can be made online or in writing. For applications concerning Class 1 species animals, licences may be issued online automatically. Applications concerning other animals are individually assessed before a licence is issued.

OEH may refuse to issue a licence in circumstances where it could result in persons breaking New South Wales or interstate laws or where the import of the animal into New South Wales could result in risks to NSW wildlife or risks to human health and safety or animal welfare.

The current licence fee is \$30 and licences are generally issued for a maximum period of one month. In 2017, OEH issued 823 import licences and 528 export licences.

5.3.2 Proposals for comment

It is proposed to retain licensing for the interstate import and export of protected animals, but to clarify their scope to align with the proposed changes to keeper licensing (see Section 5.1.3).

Specifically, it is proposed that lower risk species that can be kept in accordance with a code of practice would not require a NSW import or export licence.

Consideration could also be given to discontinue import and export licences for interstate movements of animals kept by zoos, wildlife parks and tourist attractions, which are licensed by DPI in accordance with the *Exhibited Animals Protection Act*, and are subject to DPI reporting requirements.

Consultation questions

- Do you support the retention of import and export licences to monitor interstate movements of native animals?
- Should lower risk species be exempted from licensing, such as species regulated by a code of practice?
- Should import and export licences be discontinued for interstate movements of animals kept by zoos, wildlife parks and tourist attractions?

5.4 Taxidermy and preserved specimens

The BC Act offence of dealing in protected or threatened animals also extends to animal parts and non-living animals.

As a result, it is an offence to buy, sell or possess preserved specimens of native animals, including animal parts, bones and eggs, unless authorised by a licence, code of practice or an exemption in the BC Regulation.

The BC Regulation includes exemptions for manufactured articles made from the skins of protected animals that have been lawfully killed such as kangaroos and emus.

Currently, OEH issues licences that authorise persons to:

- carry out taxidermy as a profession or as a hobby
- hold preserved specimens of animals, or parts of animals or skeletons
- acquire and hold emu eggs for carving or decoration.

Licences are generally not issued for:

- the preservation or holding of threatened species and birds of prey unless they are to be used for legitimate scientific or educational purposes
- collecting and using animal parts in making jewellery, handicrafts or artwork.

The purpose of these licences is to ensure animals and animal parts intended for preservation and emu eggs used for carving or decoration are lawfully sourced and not taken from the wild.

Other states and territories also licence taxidermists and emu egg carvers. The export of taxidermied specimen and emu eggs is subject to regulatory supervision by the Australian Government under the EPBC Act.

5.4.1 Current licence classes

Carry out taxidermy

Applicants for a licence to carry out taxidermy must provide details of their experience and details of the preserved specimens they currently hold. Applicants seeking to carry out taxidermy as a hobby must also indicate the name and licence number of a professional taxidermist that will supervise their work.

Licences are granted for a one-year period for a fee of \$30 and authorise both the conduct of taxidermy and the holding of preserved specimens. Licence conditions include:

- Employees operating under the licence must be listed in a register, provided with a copy of the licence and comply with all conditions.
- Animals intended for preservation may only be sourced from licensed entities such as zoos and wildlife rehabilitation groups or licensed keepers, or animals found dead from natural causes or road kill.
- Records of preserved specimens acquired, held and disposed of must be maintained in an approved format and submitted to OEH when the licence expires or is renewed.
- Persons seeking to have animals preserved must be advised to obtain a licence to hold preserved specimens.
- Preserved specimens may not be sold to the public, and must be retained by the licensee or handed to OEH, if not collected by the supplier.

There are currently 21 licensed taxidermists in New South Wales, including professional and hobby taxidermists as well as universities and zoos.

Hold preserved specimens

Applications for a licence to hold preserved specimens must include information about the species proposed to be preserved and held, the purpose for seeking to have the animal preserved and the name and licence number of the taxidermist.

Licences are granted for a five-year period for a fee of \$30. Licence conditions include:

- Specimens must be housed at the address on the licence and only temporarily removed with prior approval of OEH.
- Records of preserved specimens acquired, held and disposed of must be maintained in an approved format and submitted to OEH when the licence expires or is renewed.
- Specimens may only be transferred to another licensed person or organisation.

There are currently 61 licences issued in New South Wales for holding preserved specimens, including for individuals as well as museums, universities and zoos.

Emu egg carving

This licence authorises persons to acquire emu eggs or blown emu eggs from licensed emu farms, wildlife parks or zoos for the purpose of holding, carving or decoration. A licence is not required for purchasing carved or decorated emu eggs from artists or stores.

Applicants are required to provide the reason for their application and indicate whether they seek a one-year (\$30 fee) or five-year term (\$50 fee). Licence conditions require that:

- Eggs are not taken from the wild.
- All eggs acquired have the licence number of the supplier written or etched on the egg.
- All eggs carved and sold by the licensee have their licence number etched on the egg.
- A report indicating the number of eggs acquired, the supplier(s) name(s), and the number of eggs sold must be submitted to OEH at the end of the licence period.

There are currently 22 licences issued in New South Wales. These include licences issued to Aboriginal persons for the carving and sale of eggs collected from the wild for domestic purposes.

5.4.2 Proposals for comment

To enable effective monitoring of whether taxidermied specimens and emu eggs are legally acquired, it is proposed to retain licensing and data collection from persons carrying out taxidermy and acquiring emu eggs for decoration and sale.

To reduce red tape for businesses carrying out taxidermy, it is proposed to provide the option of five-year licences, as currently available for emu egg carvers.

If a taxidermist's activities remain subject to licensing, it is not considered necessary to maintain licensing or require reporting for holding preserved animal specimens.

Instead, it is proposed that holding preserved specimens of animals is exempted from the offence of possessing under the BC Regulation, consistent with the existing exemptions for holding carved emu eggs and manufactured articles made from lawfully killed animals.

Consultation questions

- Do you support 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?
- Should persons and organisations holding preserved specimens be exempted from licensing?

6. Scientific licences

Scientific licences authorise research, conservation or educational activities that may impact threatened species, ecological communities and habitats and protected animals and plants.

The OEH approach to licensing is guided by the [Scientific Licensing Policy](#) which was developed in consultation with stakeholders.

Scientific licences contribute to the body of environmental knowledge through licence conditions that require the provision of reports and species data for inclusion on the [NSW BioNet](#) database, the NSW Government's system for plant and animal sightings information.

6.1 Current licence classes

There are currently 12 classes of scientific licences. An individual licence may cover more than one licence class. The total number of licences as at February 2018 is 829.

Table 13 Scientific licence classes and numbers, February 2018

Licence class	Numbers
1. Research – scientific research projects generally undertaken by academics and students, or private researchers	455
2. Ecological survey and consultancy – commercial flora and fauna surveys and consultancies, across one or more sites	182
3. Biodiversity assessments and species impact statements – preparation of biodiversity and species impact assessments	111
4. Translocations and reintroductions – projects involving the experimental introduction, reintroduction or supplementation of a species to the wild	24
5. Bush regeneration – in threatened ecological communities (TECs), the habitat of threatened species or critical habitat	67
6. Seed collection – collection of seed or cutting material for bush regeneration or propagation purposes	81
7. Ecological burns – in TECs or habitats for ecological purposes; generally used in conjunction with bush regeneration licences in the greater Sydney area	18
8. Bird and bat banding – on an individual or approved project site basis; applies in addition to the Australian Bird and Bat Banding Scheme	65
9. Education – keeping protected animals or preserved specimens at a school for teaching purposes, or field training	99
10. Karst research – research work within a karst environment in the NPWS reserve system	8
11. Abiotic sampling – research and sampling of non-living matter such as soil, water, fossil and sub-fossil material in the NPWS reserve system	63
12. Other – projects not adequately covered by any of the above classes e.g. visitor surveys, field trips	28
Total	1,201 ⁽¹⁾

Source: NSW Government Licensing System

(1) A licence may cover more than one licence class

Application requirements

Applications for a licence must include sufficient information for the impacts of the proposed activities to be assessed, including:

- the names and contact details of persons that will undertake the activities, and the qualifications, experience and two referees for key personnel
- the purpose of the activities and how they will contribute to scientific knowledge and conservation of affected species and the applicable licence class(es)
- details of the activities including location(s), equipment and methods, including how animal or plant samples will be obtained and where stored
- information about the types and populations of protected or threatened animals and plants in the proposed location(s)
- the potential impact of the activities on threatened species, ecological communities and habitats, and protected species.

The application form refers applicants to a range of OEH and other government and industry guidelines that should be followed in the conduct of activities concerning threatened species and ecological communities and animal or plant translocations.

Assessment of applications

The assessment of applications includes referral to relevant OEH specialists for review and advice. In some cases, information about the application may be referred to external experts for review, with the applicant's approval.

Where activities are proposed to be conducted within the NSW national park estate, applications are also referred to parks area managers to assess their potential impact on animals, plants and ecosystems in national parks and reserves.

The assessment process is also useful in identifying whether proposed activities may duplicate existing research, and monitoring the cumulative impact of licensed activities.

Licence periods vary across licence classes, ranging from one year for ecological survey and consultancy licences and up to five years for bird and bat banding licences.

Licence conditions

The licence conditions include generally applicable conditions, additional conditions specific to the licence class, and in most cases conditions specific to the activities in an individual licence. General licence conditions include:

- a copy of the licence must be provided to all persons undertaking activities under the licence, and must be carried when undertaking field work
- changes to the principal person undertaking activities under the licence must be reported to OEH
- specimens and samples taken under the licence must not be sold or given to others without prior approval from OEH
- the licensee must obtain the permission of the owner or occupier of land on which licensed activities are undertaken (including parks area manager approval for activities in the national park estate).

Examples of conditions that may be applied to specific licence classes include:

- research, ecological survey and biodiversity assessment licensees must provide data to OEH for inclusion on the BioNet Atlas of NSW Wildlife database and copies of relevant reports
- licensees undertaking translocation of threatened animals must comply with the OEH Policy for the Translocation of Threatened Fauna in NSW
- bush regeneration licensees must comply with the OEH bush regeneration checklist and applicable OEH guidelines for conservation and management of threatened ecological communities
- ecological burn licences must comply with the pile burn guidelines of the Rural Fire Service and pollution control requirements of the EPA
- licensees undertaking plant, seed and cutting collection must comply with applicable Florabank Guidelines
- bird and bat banding licensees must have approval for their activities from the Australian Bird and Bat Banding Scheme (ABBBS) and persons undertaking banding must have or be supervised by a person with the applicable ABBBS authority
- government, Catholic and independent schools with education licences for keeping animals must comply with conditions of their approval by the NSW Schools Animal Care and Ethics Committee (SACEC)
- capture and collection of samples from animals must be undertaken in accordance with an approval from an animal ethics committee as required by the *Animal Research Act 1985*.

6.2 Proposed changes to licence classes

The risks to biodiversity associated with scientific licences vary considerably depending on the nature of activities for which a licence is sought.

For example, while ecological surveys and assessments may include observational studies that would generally entail minimal or no direct contact with animals or plants, risks may arise if trapping surveys targeting threatened species are undertaken or activities are conducted in threatened ecological communities.

Thus, the proposed changes to scientific licence classes set out in Table 14 are not based on the risk profile of the licensed activities. Rather they are intended to reduce the administrative burden on licensees, particularly in cases where other laws and government agencies also regulate the licensed activity.

Where it is proposed to replace a licence class with a BC Act code of practice, the proposed code will be developed in consultation with stakeholders and will be issued for public consultation before approval and implementation.

Where it is proposed that a licence class be discontinued, the BC Regulation would be amended to provide persons undertaking the activity with a defence against the BC Act wildlife offences, subject to conditions.

Consultation questions

- Do you support the proposed changes to scientific licence classes?
- Do you have any suggestions to simplify the conditions for scientific licences?

Table 14 Proposed changes to scientific licence classes

Licence class	Proposal and rationale
1. Research	<p>Retain licensing</p> <ul style="list-style-type: none"> • Involves a broad range of activities, many of which directly impact plants and animals in the wild • Each application is different and may require different specialist review to determine appropriateness of the activity • A centralised review process minimises likelihood of replication of scientific effort or investigation
2. Ecological survey and consultancy	<p>Retain licensing Combine with biodiversity assessments and species impact statements (SIS) class</p> <ul style="list-style-type: none"> • Covers activities across a number of sites, using a variety of methods which may impact plants and animals in the wild • Licensed activities are similar in nature to biodiversity assessments and SIS preparation • If not conducted under a licence, opportunity for data capture of native plants and animals may be lost
3. Biodiversity assessments and species impact statements	<p>Retain licensing Combine with ecological survey and consultancy class</p> <ul style="list-style-type: none"> • Biodiversity surveys and SIS preparation usually involve a specific species or locations, or both • If not conducted under a licence, opportunity for data capture of native plants and animals may be lost • The BC Act biodiversity assessment method (BAM) assessor accreditation scheme will require assessors maintain a scientific licence to provide them with a defence against BC Act offences
4. Translocations and reintroductions	<p>Retain licensing</p> <ul style="list-style-type: none"> • Involves activities which directly impact plants and animals in the wild and may pose significant biodiversity and animal welfare risk if not regulated • Each application is different and requires relevant specialist review to determine appropriateness of the activity and the adequacy of proposed risk controls
5. Bush regeneration	<p>Consider replacing licensing with a BC Act code of practice</p> <ul style="list-style-type: none"> • Licences are generally issued to local councils and authorised activities are undertaken by professional contractors or experienced volunteer groups according to documented plans • Licences currently require compliance with the OEH bush regeneration checklist and applicable OEH guidelines for conservation of threatened ecological communities • A code of practice could incorporate the OEH bush regeneration checklist and other available guidance
6. Seed collection	<p>Retain licensing for seeds and cuttings of threatened species For protected plants, consider replacing licensing with the proposed BC Act code of practice for bush regeneration</p> <ul style="list-style-type: none"> • Activities are generally undertaken in conjunction with bush regeneration • The proposed BC Act code of practice for bush regeneration could incorporate or refer to Florabank and other guidelines for the collection of plant samples and seeds

Licence class	Proposal and rationale
<p>7. Ecological burns</p>	<p>Retain licensing</p> <ul style="list-style-type: none"> • Activities are subject to Rural Fire Service approval and standards for pile burns, and in the Sydney metropolitan area, open burn approval from the EPA • Activities are generally undertaken in conjunction with bush regeneration but may have significant impacts on threatened species
<p>8. Bird and bat banding</p>	<p>Discontinue licensing for individual banders</p> <p>Licences issued for projects to be incorporated within the research licence class</p> <ul style="list-style-type: none"> • ABBBS issues banding approvals to individuals, who may then assist in research projects granted project approval by ABBBS • Research projects with ABBBS project approval would continue to be licensed under the research licence class • Individuals assisting on licensed projects would be listed on the licence or register of research associates, and would no longer require individual licences
<p>9. Education</p>	<p>Replace licensing for NSW schools with SACEC approval, with either a code of practice or exemption with conditions</p> <p>Retain licensing for other education-related activities</p> <ul style="list-style-type: none"> • Licence applications by NSW schools must be pre-approved by SACEC • OEHL also licences all schools to collect, observe and release up to 20 tadpoles or frogs in accordance with SACEC standards • Licences would still be required for institutions not subject to SACEC standards, such as preschools and universities
<p>10. Karst research in national park estate</p>	<p>Retain licensing</p> <ul style="list-style-type: none"> • Activities may pose significant risk to fragile karst environments in the NSW national park estate and require approval and active monitoring by OEHL
<p>11. Abiotic sampling in national park estate</p>	<p>Retain licensing for higher risk activities only</p> <ul style="list-style-type: none"> • Where undertaken for research-related purposes, activities and accessing relevant sampling sites may pose risks to the national park estate and require approval and active monitoring by OEHL • It is proposed to retain licensing for sampling activities that involve more than five samples of 500 millilitres in volume of soil or abiotic material from any single park, or a total volume greater than 2.5 litres regardless of the sample size from any single park • Sampling under these thresholds will require approval from the local park manager, but will not require a scientific licence
<p>12. Other</p>	<p>Retain licensing</p> <ul style="list-style-type: none"> • Projects not adequately covered by any of the above classes

7. Licence fees

7.1 Current licence fees

Currently, licence fees are determined by OEH. Licence fees and durations vary considerably across licence classes. Fees for licence classes have been revised at different times and have not been subject to a consistent methodology.

For some licence classes, fees have been set at the level required to recover costs of licence administration and compliance monitoring (e.g. Kangaroo Management Program licences and bird and reptile dealer licences).

For other licence classes, no fee is charged, including wildlife rehabilitation services and reptile handlers whose activities constitute a service to the community, and licences for damage mitigation.

For other licence classes, nominal fees are charged that do not reflect the costs to OEH of licence administration and compliance monitoring.

In addition, for animal keeper licences, pensioners receive a 20% discount, and a 10% discount is provided for applications lodged online via Service NSW.

Current licence fees and terms are set out in Table 15.

Other fees payable under licences include:

- registration fees for premises of Kangaroo Management Program animal dealers and skin dealers
- fees for carcass tags used for the Kangaroo Management Program
- registration fees for additional premises of bird and reptile dealers.

7.2 BC Act provisions for licence fees

The BC Act introduces significant changes to legal provisions for the setting of licence fees. Rather than providing that OEH determines fees, the BC Act provides for:

- **a standard fee** applicable to all licences; BC Regulation (clause 2.28) sets the standard fee at \$30
- **additional fees** to be charged if the costs of determining an application exceed the standard fee; the methodology for calculating additional fees must be published on the OEH website
- **fee waivers** may be applied by OEH for all or part of the standard and additional fees, to provide, for example, discounts for pensioners or applications lodged online.

Current licence fees have been temporarily retained under the BC Act to enable stakeholder consultation on the proposed methodology for calculating additional licence fees and proposed policy regarding fee waivers and discounts.

Table 15 Current wildlife licence fees and terms, and the date fees were last reviewed

Wildlife activity	Licence fee	Licence term	Last fee review
Threatened species licences			
Harm to threatened species ('section 91 licence')	\$30*	Variable	2005
Harm flying-foxes to mitigate crop damage	No fee	Variable	N/A
Kangaroo Management Program licences			
Landholder's licence to harm	No fee	Variable	2016
Professional harvester	\$894	1 year	2016
Landholder harvester	\$223	1 year	2016
Animal dealer (kangaroo) licence	\$5,571	1 year	2016
Animal dealer (kangaroo) licence – restricted	\$3,341	1 year	2016
Skin dealer's licence	\$2,006	1 year	2016
Cut flower and whole plant licences			
Cut flower picker licence	per site	1 year	2012
Cut flower wild harvester	\$75	1 year	2012
Grower licence	\$30	1 year	2012
	\$75	3 year	
	\$100	5 year	
Whole plants harvester licence	\$175	3 years	2012
Whole plants wild harvester licence	\$135	3 years	2012
Seed harvester licence	\$175	3 years	2012
Whole plants grower licence	\$30	1 year	2012
	\$75	3 year	
	\$100	5 year	
Damage mitigation licences			
Landholder's licence to harm protected animals	No fee	Variable	N/A
Catch and release possums	\$30	1 year	2009
Catch and release reptiles	No fee	1 year	N/A
Animal keeper and dealer licences			
Companion animal keeper	\$50	5 years	2009
Class 1 animal keeper	\$63	2 years	2009
Advanced animal keeper	\$120	2 years	2009
Reptile dealer	\$2,400	3 years	2009
Bird dealer	\$600	1 years	2009
Interstate import and export licences	\$30	Variable	2009
Taxidermy and holding preserved specimens	\$30	1 year	2009
Emu egg carving	\$30	1 year	2009
	\$50	5 years	
Other licences			
Emu farmer licence	\$400	1 year	2015
Scientific licence	\$50	Variable	2012

7.3 Proposed fee setting principles

To give effect to the BC Act provisions it is proposed the licence fees are calculated differently, according to the type of licensed activity, as set out below.

Threatened species licences

- For licences related to commercial developments and activities, where application assessment processes can vary widely depending on the nature and impact of the proposed action, the additional fee will be calculated on a case-by-case basis.
- The additional fee will be based on an estimate of OEHL labour costs for assessing and determining the application. The applicant will be advised of the additional fee and their agreement sought, before the assessment of the application proceeds.
- For licences for non-commercial activities or damage mitigation, no additional fee will apply.

Licences for commercial benefit

- Licences under the Kangaroo Management Program, and licences for growing and harvesting cut flower and whole plants, emu farming, bird and reptile dealers, commercial possum and reptile handlers and taxidermists, are considered to provide a commercial benefit to the licensee.
- For these licence classes, the additional fees should seek to recover the reasonable, average costs of administering a licence of that class.

Damage mitigation licences

- Consistent with current OEHL policy, it is proposed to waive fees for licences to mitigate damage including flying-fox damage mitigation licences, and landholder licences to harm.

Animal keeping licence classes

- For companion, Class 1 and advanced animal keeper licences, and licences for taxidermy as a hobby and holding preserved specimens, the additional fee should seek to recover the reasonable, average costs of administering a licence of the relevant class.
- The current discounts for pensioners and online lodgement will continue to apply.

Scientific licences

- Scientific licences for research, conservation and education purposes are considered to provide a benefit to the community and the environment in general. The additional fee should seek to recover the reasonable, average costs of administering a licence of these sub-classes.
- Scientific licences for ecological surveys and biodiversity assessments related to development applications provide a commercial benefit to licensees. The additional fee for these sub-classes should seek to recover the reasonable, average costs of administering a licence, and should be discounted to reflect the public benefits of these activities.

Consultation questions

- Do you have any comments on the proposed principles for determining licence fees?
- Do you have any suggestions to improve fairness and equity in setting licence fees?

After considering stakeholder comments on the proposed approach to setting licence fees, OEH will develop a methodology for determining licence fees and proposed schedule of fees in late 2017, and undertake targeted consultation with key stakeholder groups.

The proposed new licence fees will then be implemented from the second half of 2018, in conjunction with any approved changes to licence classes.