



# Rehabilitation of Protected Fauna Policy

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July 2010

## Document Control

Author:	Protected Areas Policy and Programs Branch Parks and Wildlife Division
Date of original endorsement:	October 2001
Date of effect:	October 2001
Date last modified:	July 2010
Date for review:	2015

Published by:

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DECCW 2010/893

ISBN 978 1 74232 985 7

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## Introduction

- The Director-General of the Department of Environment, Climate Change and Water (DECCW) has a legislative responsibility for the protection and care of fauna (*National Parks and Wildlife Act, 1974*, s. 92).
- The Director-General of DECCW may enter into arrangements for the carrying out of such works as the Director-General considers necessary for the protection and care of fauna (NPW Act s. 8(7)(b)).
- DECCW therefore has a role in the licensing and oversight of organisations and individuals involved in the rehabilitation of injured, sick and orphaned protected fauna.
- The Director-General of DECCW (or delegate) may issue a general licence authorising a person to obtain and hold any protected fauna for any specified purpose in New South Wales (NPW Act s. 120). The Director-General of DECCW (or delegate) may issue a licence authorising a person to liberate an animal anywhere within New South Wales (NPW Act s. 127). The mechanism for licensing fauna rehabilitation and release is contained in these sections.
- DECCW recognises the important role that fauna rehabilitators have in addressing the welfare needs of protected fauna and maintaining biodiversity. It is important that DECCW and fauna rehabilitation organisations maintain a partnership to achieve the optimal allocation of resources available for rehabilitation and to ensure compliance with the regulations.

## Objectives

- To provide a clear and consistent framework for DECCW in developing and maintaining stable partnerships with fauna rehabilitators.
- To ensure that fauna rehabilitators are appropriately licensed and accountable for their activities and that they conduct these activities in an efficient and effective manner.
- To ensure that fauna rehabilitators provide an appropriate level of animal care by operating in accordance with approved Codes of Practice and Guidelines.
- To ensure compliance with fauna rehabilitation licence conditions, the NPW Act and other relevant legislation.
- To contribute to the maintenance of biodiversity through the successful return of temporarily disadvantaged animals to their natural habitat and to manage the risks associated with such actions.

## Scope and application

This policy applies to the rescue, rehabilitation and release of all injured, sick and orphaned protected fauna in New South Wales.

## Definitions

### Active Fauna Rehabilitators

An active fauna rehabilitator is one who has the willingness and capacity to either rescue, care for or release protected fauna. It does not include persons, whose sole activities include administration, fundraising, answering phones or publishing for a fauna rehabilitation group.

### Approved Codes of Practice and Guidelines

- Code of Practice for Injured, Sick and Orphaned Protected Fauna
- Guidelines and Conditions for Marine Reptile Strandings, Rehabilitation and Release in NSW
- Guidelines and Conditions for Koala Care in NSW
- Guidelines for the Rescue and Rehabilitation of Oiled Wildlife
- Guidelines for the Rehabilitation of Birds of Prey

Licensed groups, zoological parks and individuals will be notified in writing when these Codes of Practice and Guidelines are superseded.

### Authority

The approval for a person to rescue, rehabilitate and release protected fauna, granted by a rehabilitation group in accordance with the terms of their licence.

### Licence

The approval for a group, zoological park or individual to rescue, rehabilitate and release protected fauna, granted by DECCW in accordance with Section 120 of the NPW Act.

### Parks and Reserves

Parks and reserves means a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area, or any land acquired by the Minister under Part 11 of the NPW Act, and includes all roads and waters within the boundaries of any such park, site, area, reserve or land.

## New South Wales Wildlife Council

The New South Wales Wildlife Council (NWC) is the peak representative body for licensed fauna rehabilitators. All licensed groups are offered membership of the NWC. Individual licence holders have one representative on the NWC.

## Protected Fauna

Fauna of a species not named in Schedule 11 of the NPW Act. Note that threatened species, as listed in Schedule 1 and 2 of the *Threatened Species Conservation Act, 1995*, are by definition also considered protected fauna. For the purposes of this policy, protected fauna includes all native vertebrate fauna excluding fish.

## Relevant legislation or other mandating instruments

Legislation and / or mandating instruments that this policy supports are:

- National Parks and Wildlife Act, 1974
  - Section 98: the offence of harming protected fauna
  - Section 101: defences against prosecution for holding protected fauna
  - Section 109: the offence of liberating protected fauna
  - Section 120: licensing persons to hold protected fauna
  - Section 127: licensing persons to liberate protected fauna
  - Section 133: conditions and restrictions attached to licences
  - Section 134: cancellation of licences
  - Section 135: the right to appeal to the Minister in relation to licensing matters
- National Parks and Wildlife Regulation, 2009
  - Section 68: notification of possession of certain animals
- Threatened Species Conservation Act, 1995
- Prevention of Cruelty to Animals Act, 1979
- Exhibited Animal Protection Act, 1986
- Veterinary Practices Act, 2003
- Associations Incorporation Act, 1984

# Policy

## Licensing

1. DECCW will license under NPW Act s. 120: selected groups, zoological parks and individuals for the holding, rehabilitation and release of protected fauna with the exception of marine mammals. Marine mammals can only be held in facilities that are licensed under the *Exhibited Animals Protection Act, 1986* or a similar licensed facility in another State/Territory.
2. The DECCW Wildlife Licensing and Management Unit (WLMU) is responsible for
  - issuing, renewing, reviewing and cancelling licences,
  - specifying licence conditions,
  - assessing applications to hold unreleasable fauna
  - placing licensing information on the DECCW website and
  - managing annual records submitted by licence holders.(Refer to clauses 34–37, 41, 44-46 in Procedural Guidelines)

## Oversight of fauna rehabilitation licence holders

3. DECCW Parks and Wildlife Group (PWG) Regional Offices are responsible for overseeing the activities of licence holders. This includes
  - assisting with training courses,
  - conducting compliance inspections and
  - assessing fauna rehabilitation services.(Refer to clauses 38-40 and 42-46 in Procedural Guidelines)
4. PWG Regional Managers may nominate a staff member (or members) to liaise with licensed fauna rehabilitators.

## Issuing new licences to groups

5. DECCW takes a strategic approach to licensing fauna rehabilitation groups, which focuses on consolidating the existing rehabilitation services. Applications for a new group licence will only be considered when a 'call for applications' has been published by DECCW.
6. DECCW will only publish a 'call for applications' for a group licence to operate in an area when the relevant PWG Regional Manager and Manager, WLMU identify a gap or inadequacy in service provision that cannot be filled by an existing licensed group (Refer to clauses 44 and 45 in the Procedural Guidelines).

7. The 'call for licence applications' will include selection criteria, prepared by the relevant PWG Regional Manager and Manager, WLMU against which applications will be assessed.
8. DECCW will only consider an application for a new fauna rehabilitation licence from a group when all of the following conditions are met:
  - The group is incorporated under the *Associations Incorporation Act, 1984* or a registered company operating under the *Prevention of Cruelty to Animals Act, 1979*, or gives a formal written undertaking to obtain incorporation or registration.
  - The group has at least 20 members who intend to be active fauna rehabilitators of which at least 5 have relevant experience.
  - The group has public liability and personal accident insurance for its members, or gives a formal written undertaking to obtain this insurance before undertaking any fauna rehabilitation.
  - The group's constitution includes a process for managing internal conflict.
  - The group gives a formal written undertaking to comply with the approved Codes of Practice and Guidelines.
9. Each member of the group applying for a licence is required to complete an application form and send it directly to the WLMU. Members are asked to give consent for DECCW to release information provided in the application to third parties for the purposes of verification. Consent is voluntary (Refer to WLMU procedures for application form).
10. Failure to fulfil a written undertaking made in a licence application within one month of the licence being approved is sufficient grounds for the immediate cancellation of the licence.
11. A new licence will be issued for no more than 12 months. One month prior to the end of this period, the licensed group must do the following before renewal will be considered:
  - Submit a report to the WLMU containing
    - a complete list of the group's members, their contact details and status (active fauna rehabilitator or otherwise) and
    - an electronic record of all protected fauna that was rescued, rehabilitated and released, or euthanased by the group over the previous year as per the approved Codes of Practice.
  - Meet with the relevant PWG Regional staff and demonstrate that
    - all authorised members have attended appropriate training courses as specified in the approved Codes of Practice (e.g. by having a signed register or certificates) and
    - all authorised members have complied with the approved Codes of Practice and Guidelines (e.g. by having signed facilities inspection reports).



## Authorities

- 12.** Fauna rehabilitation groups may issue an authority to operate under the terms of their licence to a member residing within the area specified on the licence. The core of a group's authorised members should reside 'in-area'.

Should a group seek to issue an authority to operate under the terms of their licence to a member residing within the area of a neighbouring group (i.e. one with which they share a common boundary), they must sign a Memorandum of Understanding (MOU) with this group and submit it to the Manager, WLMU for consideration. The rationale for the MOU will be based on one of the following circumstances:

- The member is now 'out-of-area' due to a change in the group's boundary but wants to remain authorised by the group.
- The member has relocated 'out-of- area' but wants to remain authorised by the group.
- There will be considerable logistic and/or service delivery benefits for both groups from authorising the member 'out-of-area'.

In all circumstances the group authorising the member must demonstrate that they are willing and able to provide the necessary support and oversight.

Groups may not issue an authority to operate under the terms of their licence to a member residing within the area of a non-neighbouring group.

- 13.** A person may only hold multiple licences or authorities if they cover different species (e.g. a general authority and a koala authority). People who have multiple licences or authorities that cover the same species will be required to relinquish all but one of them at the time this policy is adopted.

## Issuing and renewing licences for individuals

- 14.** DECCW will only consider an application for a new licence from an individual provided they
- reside outside of the authorisation area of any licensed fauna rehabilitation group and
  - have experience rehabilitating local fauna species and
  - give a formal written undertaking to comply with the approved Codes of Practice and Guidelines.
- 15.** The individual applying for a licence is required to complete an application form and send it directly to the WLMU. The individual is asked to give consent for DECCW to release information provided in the application to third parties for the purposes of verification. Consent is voluntary (Refer to WLMU procedures for application form).

16. DECCW will renew individual licenses that are in existence at the time of adoption of this policy, subject to the licence holder giving a formal written undertaking to comply with the approved Codes of Practice and Guidelines.
17. An individual licence holder who changes their address will automatically have their licence reviewed by the WLMU to ensure that the prerequisites described in clause 14 still apply.

### **Licensing zoological parks and veterinary practices**

18. DECCW will only consider an application for a new licence from a zoological park provided they
  - are currently licensed by Industry and Investment NSW (I&I NSW) under the EAP Act and
  - give a formal written undertaking to comply with the approved Codes of Practice and Guidelines.
19. Employees of the zoological park applying for a licence are required to complete an application form and send it directly to the WLMU. Employees are asked to give consent for DECCW to release information provided in the application to third parties for the purposes of verification. Consent is voluntary (Refer to WLMU procedures for application form).
20. All protected fauna under the care of a licensed zoological park must be housed in purpose-built off-exhibit enclosures within the facility. Licensed zoological parks cannot authorise persons to house protected fauna off-site.
21. Practising veterinarians do not require a licence to hold sick or injured protected fauna at their surgery for the purposes of treatment. This exemption does not cover the hand-raising of orphaned protected fauna. Sick or injured protected fauna must not be housed in the same room as cats or dogs.

### **Animal care and release**

22. All licensed or authorised rehabilitators must comply with the approved Codes of Practice and Guidelines. They set minimum standards for rescue, case assessment, transport, euthanasia, husbandry, housing design, release and record keeping.
23. The release of protected fauna into a park, reserve, marine park or aquatic reserve must be approved in writing by the relevant PWG Area Manager or Marine Park Manager and must comply with DECCW policies on translocation and environmental integrity.

## Expenses incurred by rehabilitators

- 24.** Rehabilitating injured, sick and orphaned protected fauna is a voluntary activity and DECCW will not provide recompense for personal expenses incurred by rehabilitators in the course of their activities. This includes, but is not limited to, costs associated with medical treatment (including vaccination), transport, food, facilities upkeep and protective clothing. Funding arrangements between DECCW and licensed groups are not affected by this clause.

## Unreleasable fauna

- 25.** DECCW will only consider an application for an authorised rehabilitator to permanently hold unreleasable fauna if a member of their group's executive signs the application and one of the following circumstances applies:
- The animal belongs to a species which needs to be rehabilitated in a social group and will serve as a companion under these circumstances (Refer to WLMU procedures for a species list).
  - The animal will be involved in a recognised education program that includes an information package and a schedule of at least 10 classes, training sessions, or presentations per year.
  - The animal will be involved in scientific research licensed under section 132 C of the NPW Act.
- 26.** DECCW will consider applications from zoological parks and exhibitors licensed under the EAP Act to recruit unreleasable protected fauna into their stock holdings. Approval for the acquisition of such an animal will be subject to the concurrent approval of the Registrar of the EAP Act.
- 27.** DECCW will only consider applications to retain unreleasable protected fauna for the purpose of captive breeding and release of progeny to the wild if the species is listed in the TSC Act and is covered by a current DECCW translocation approval.
- 28.** Protected fauna that has been granted permanent care status by DECCW remains the property of the Crown and may be disposed of at the discretion of a DECCW officer.
- 29.** If there is strong evidence that the animal is an escaped pet (e.g. it was found well outside of its natural range), the rescuer must make reasonable efforts to locate the owner or, failing that, notify the local PWG Area office so that a ballot of suitably licensed persons can be organised to take possession of the animal.

## Dispute management

- 30.** DECCW **does not** have the authority under the NPW Act to investigate or intervene in any of the following matters regarding fauna rehabilitation groups that it licenses:
- Disputes relating to a breach of the group's rules.
  - Disputes between members or a member and the group.
  - Disputes relating to the internal management of a group.
  - Disputes involving the conduct of a general meeting or the process by which members of the committee are elected.
  - The validity of the appointment or removal of a public officer.
- 31.** DECCW **does** have the authority under the NPW Act to investigate and intervene in the following matters:
- Suspected offences under the NPW Act and Regulations.
  - Suspected breaches of licence conditions.
- 32.** If a dispute arises between a member and a licensed rehabilitation group, attempts must be made to resolve it within the group's rules. If the matter remains unresolved after the rules have been utilised, the parties may wish to employ a professional mediator or seek independent legal advice. The NWC has produced Conflict Management Guidelines which provides more information on these issues.

## Information provision

- 33.** DECCW will provide the following information on its public website:
- A current list of licensed fauna rehabilitation groups, zoological parks and individuals (with their permission).
  - A current map depicting the authorisation areas of licensed fauna rehabilitation groups.
  - A copy of the approved Codes of Practice and Guidelines.

## Procedural guidelines

### Processing licence applications

34. Within one week of receiving a licence application, WLMU will send a written acknowledgment to the applicant.
35. WLMU will consult with the relevant PWG Regional Manager prior to issuing a new licence.
36. Applicants should allow eight weeks for their licence application to be assessed.
37. Applicants whose licence application is refused, or whose licence has been cancelled by the Director-General, or who are dissatisfied with any condition or restriction which the Director-General has attached to the licence, may appeal to the Minister (NPW Act s. 135).

### Complaint handling

38. PWG Regional Offices will maintain a record of all written complaints received regarding the fauna rehabilitation services in the Region.
39. PWG Managers (or delegated officers) will respond to complainants in writing detailing what, if any, action has been taken.

### Engagement with licensed fauna rehabilitators

40. At least once every three years, PWG Regional Managers (or delegated officers) will
  - attend a licensed fauna rehabilitation group's meeting,
  - contribute to a fauna rehabilitation training course,
  - conduct a compliance inspection of an authorised group member's fauna rehabilitation facilities,
  - conduct a compliance inspection of a licensed individual's fauna rehabilitation facilities and
  - conduct a compliance inspection of a licensed zoological park's fauna rehabilitation facilities.
41. WLMU will assist the PWG Regions by providing
  - an information package explaining DECCW policies and approved Codes of Practice and Guidelines for use at introductory training courses,
  - a checklist for use during compliance inspections and
  - a current map depicting the authorisation areas of licensed fauna rehabilitation groups and the location of licensed zoological parks and individuals.

## Assessment of fauna rehabilitation services

- 42.** DECCW PWG Regional Managers will provide WLMU with a triennial assessment of the fauna rehabilitation service provided to their Region over the previous three calendar years. The assessment form will be provided by the WLMU and cover
- the effectiveness of local fauna rehabilitators at responding to fauna incidents,
  - emerging gaps in service provision with respect to particular groups of species,
  - the ability of groups to train, monitor and co-ordinate their members,
  - complaints about the rehabilitation service made by members of the public and
  - breaches of licence conditions.
- 43.** If the fauna rehabilitation service in a particular area is rated as unsatisfactory in the triennial assessment (see clause 42), or immediate action is deemed necessary, the Regional Manager (or delegated officer) will meet with the local licensed group's executive and develop a six month strategy to raise the rehabilitation service to an appropriate level. This may include assisting with recruitment and training. At the end of this six month period the Regional Manager will reassess the rehabilitation service.
- 44.** If the rehabilitation service in an area is rated as unsatisfactory in the follow-up assessment specified in clause 43, the relevant Regional Manager and Manager, WLMU will consider removing the area from the local group's licence.

## Response to non-existent or insufficient fauna rehabilitation services

- 45.** If the fauna rehabilitation service in a particular area is currently non-existent or is likely to become non-existent in the near future (e.g. due to the action of clause 44) and both the Regional Manager and Manager, WMLU, believe that such a service is desirable the following procedure will be initiated:
- a. The Regional Manager and Manager, WLMU will jointly seek 'expressions of interest' from neighbouring licensed fauna rehabilitation groups to authorise members in the area.
  - b. If this is not successful the Regional Manager and Manager, WLMU will jointly seek 'expressions of interest' from other licensed fauna rehabilitation groups to establish a branch in the area. Groups may be contacted directly or via the NWC.
  - c. If this is not successful, the Regional Manager and Manager, WLMU will jointly publish a 'call for licence applications' from prospective groups to operate in the area. This may involve posting information on government websites and in local newspapers.

- 46.** If the fauna rehabilitation service in a particular area does not extend to a species or group of related species and both the Regional Manager and Manager, WMLU believe that such a service is desirable the following procedure will be initiated:
- a. The Regional Manager (or delegated officer) will meet with the local licensed group's executive and develop a six month strategy to service the species or group of species in question. This may include assisting with specialist training.
  - b. If this is not successful, the Regional Manager and Manager, WLMU will jointly seek 'expressions of interest' from licensed groups that specialise in caring for the species or group of species in question to establish a branch in the area. Licensed groups may be contacted directly or via the NWC.
  - c. If this is not successful, the Regional Manager and Manager, WLMU will jointly publish a 'call for licence applications' from prospective groups to rehabilitate the species or group of species in question. This may involve posting the information on government websites and in local newspapers.

## **Response to licence breaches and prosecution**

- 47.** A DECCW officer, who identifies a relevant breach of the NPW Act, NPW Regulations or licence conditions by an authorised rehabilitator, will notify their authorising group in writing. Depending on the seriousness of the breach and advice provided by PWG Regional Offices and WLMU the officer may
- request that the groups' executive counsels the member,
  - request that the group's executive revokes the member's authority,
  - request that WLMU modifies the conditions on the group's licence or
  - request that the group's executive 'show cause' as to why their licence should not be cancelled.
- 48.** A rehabilitator who has been successfully prosecuted for fauna-related offences under the NPW Act, POCTA Act or any other relevant NSW or inter-State legislation will no longer be considered a 'fit-and-proper' person to undertake fauna rehabilitation. DECCW requires that such a person will have their licence or authority revoked.
- 49.** A person who has had their licence or authority revoked under clause 48 will not be eligible to reapply for a licence or authority for two years.

## Related policies and other documents

- Code of Practice for Injured, Sick and Orphaned Protected Fauna
- Guidelines and Conditions for Marine Reptile Strandings, Rehabilitation and Release in NSW
- Guidelines and Conditions for Koala Care in NSW
- Guidelines for the Rehabilitation of Birds of Prey
- Procedural Guidelines for the Rescue and Rehabilitation of Oiled Wildlife
- Translocation Policy and Procedures
- Environmental Integrity Policy

## Accountabilities

This section of the Rehabilitation of Protected Fauna Policy outlines the responsibilities of all persons who are involved in implementing the policy and ensuring its implementation.

### Positions with significant responsibilities

Position	Responsibility
PWG Regional Managers	Policy item 3 and 4 – oversight of licence holders Policy item 6, 7 and 8 – issuing new licences Policy item 11 – reviewing newly licensed groups
Manager, WLMU	Policy item 2 – managing licences Policy item 6, 7, 11, 14, 17 and 18 – issuing licences Policy item – 25, 26 and 27 – unreleasable fauna Policy item 33 – information provision

### Policy review

The Protected Areas Policy and Programs Branch is responsible for coordinating the review of this policy. Reviews will be undertaken at least every five years, and more frequently if changes in legislation, policies or other areas require the amendment of this policy. The next scheduled review is due in 2015.



## **Contacts for further advice**

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