

NSW - Protected birds dealing draft code of practice



Animal Care Australia submission

Approved: 29th March 2024
“Animal welfare is animal care”



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ACA Background

Animal Care Australia Inc. (ACA) represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies including those representing dogs, cats, birds, horses, small mammals, reptiles, fish and exhibited animals. Some individual members also work in the rescue, care, and rehabilitation sectors.

Opening statement

Animal Care Australia is a member of the Species List Advisory Committee (SLAC) and during the consultation within that Committee Animal Care Australia did not support this version of the code of practice (COP) going to public consultation. Animal Care was not the only stakeholder that raised serious concerns with this COP being distributed publicly without alterations.

Animal Care Australia supports and acknowledges the necessity for regulatory frameworks to be consulted with the public, however, it was highlighted that consulting on a document that consists of inconsistencies and is unsupported by the Advisory group tasked to provide input to its development.

In response to this particular public consultation, Animal Care Australia cannot support a COP that is for all intents and purposes a native wildlife license minus the licensing fee.

It has taken since 2017 and a cost of over \$3 million to reach the point of a document that is nothing more than the current native wildlife license. A document that defeats its own purpose of implementation as a risk-based outcome. Risk-based systems are meant to reduce workload and interaction – not increase it.

Comparison of Native Wildlife License (NWL) conditions with Code-regulated (COP) conditions:

Regulatory Requirement	NWL	COP
Limited reason to have animal off your property	✓	✓
Acquisition restriction to only obtain from license holder	✓	✓
Acquisition documentation requirement	✓	✓
Disposal restriction to a license holder	✓	✓
Disposal documentation requirement	✓	✓
Record keeping requirement for births, deaths, etc	✓	✓

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Annual record reporting period	✓	✓
Commercial trade restriction	✓	✓
License or COP details included in advertising	✓	✓
Non-sale period after acquiring	✓	☒
Must allow inspection	✓	✓
No public display of animals	✓	✓
Import/Export license requirements with other States	✓	?
Must apply with DPI Codes of Ethics/Practices	✓	✓
Record holding period of 7 years	☒	✓
Periodic license fee	✓	☒
Number limit on dealing	☒	✓

? = subject to other States legislation

Other reasons why Animal Care Australia oppose this include:

- ☒ It is untenable as it is unlikely National Parks & Wildlife Service (NPWS) could ensure compliance especially given the vast majority of the public are already non-compliant.
- ☒ It is overreaching based on any intended preservation or conservation of native wildlife through claims of the risk of potential take from the wild. Take from the wild is incentivised by licensing systems as they add greater monetary value to a species, especially when limitations are placed on the ability to trade, import, or export species freely.

Responses to the Draft Code.

Do you agree with the proposed trading limit of 30 birds?

No. Firstly it was never agreed that coded birds would have trading limits placed on them.

If as the claim has constantly been made this is animal welfare-based then that is ludicrous. The birds to go to code will supposedly be assessed for the risk of welfare, potential environmental impact etc – in the same manner as the 41 native birds currently exempt from licensing. In fact, the vast majority of current Class 1 birds – those most likely to be ‘coded’ have the exact same animal welfare, husbandry needs, and potential environmental impacts as those 41 species.

This in itself begs the question why the original agreed to proposal to move the majority of Class 1 birds to the Exempt List is not simply being implemented. Animal Care Australia (and members from the Canary and Caged Bird Federation Australia - CCBFA) met with Atticus Fleming and Richard Kingswood who agreed to review the agreed list and draft the necessary proposal to the Environment Minister – James Griffin.¹

Raising further doubts on this number is the promoted statement: *“Our animal keeper data indicates that the limit of 30 trades will impact less than 1% of current bird licence holders, as 99% of licensees report trading less than 31 birds per year.”*

The animal keeper data is not an accurate source to be using to justify this number. The recorded data is flawed due to the huge non-compliance rate. The highest reason for non-compliance is that the NPWS is seen as the enemy to all who keep native wildlife. Other reasons for non-compliance include:

- The growing number of non-compliant owners continuing to keep birds and have chosen not to participate in the licensing system. Some reasons for this:
 - The cumbersome time limits involved in recording all deaths, births etc within 7 days
 - The lack of support from NPWS staff in replacing record books etc and the rude behaviours from staff refusing to post a book and insisting that it must be completed online
 - The recognition that going online results in harassment from NPWS whenever it is discovered the keeper had not updated records quickly enough
 - Ridiculous red tape one must complete to upgrade a license
- Those who do have a license but fail or ignore the requirement to:
 - record the exact number of birds being exchanged – after all a simple genetics swap does not change the number of birds on their license so why record one Pictorella out and one Pictorella in – it is still one Pictorella on the books
 - record deaths of birds and only births – so at the time of replacing a deceased bird it is easier to simply get replacement birds from those not licensed or those licensed but not concerned with completing records
 - unless you are trading with a pet shop or a new species that does not exist on your license it is viewed that swapping details and animals is not necessary as you can just vary your records each reporting date to accommodate the numbers you have

Further adding to the inaccuracy of this number (30) is the breeding for most native birds.

¹ [Synopsis of meeting with Atticus Fleming](#)

Let us just look at the two species currently announced as ‘code-regulated’ – once implemented.

Pictorella Munia/Finch: This bird lays 4-6 eggs per nest. Their natural breeding season in the wild is between January and April – longer in captivity. Incubation is 14 days and fledgling independence is approximately a month after. The birds are mostly kept as a small flock of 3-4 pairs, as this is in the birds’ best interest.

Crimson Rosella – This parrot lays 4-8, usually 5 eggs. Natural breeding season in the wild is September to January - longer in captivity. Incubation is 21 days and fledgling independence is approximately two months. These are best housed as individual pairs.

For the sake of this example, let say I keep 3 pairs of Pictorella and one pair of Crimson Rosella. Their breeding seasons overlap within the same 12-month period, and they all breed throughout their breeding period.

In that one season I can produce up to 40 (number rounded down) young Pictorella – that is each pair nesting every six weeks during season. The rosellas will produce at least 10 young rosellas – that is two nests with the average of 5 eggs each clutch. Total of 50 birds and even if I keep a couple to grow up for future breeding, I will still need to sell 40 plus birds. This is particularly important with the rosellas as they should not be housed together once maturing commences.

This example alone highlights the level of non-compliance when recording information into the wildlife licensing records and the blatant lack of knowledge of the NPWS to think 30 is a reasonable number.

If I keep more code-regulated species, then what would be the point of ‘going to code’?

Or - IS THAT THE ACTUAL POINT? Keep everyone on full license by making the restrictions of the COP untenable.

Code-regulated birds have been assessed and approved because they have been deemed as either no-risk or low-risk, taking the following into consideration:

- the husbandry and welfare requirements of the species
- conservation risk to wildlife from poaching or release of an animal from captivity
- the availability and cost to purchase the species from legal sources to support private keeping, breeding, and commercial dealing
- human health, social and economic considerations.

If they have passed these ‘so-called risks’ – then how is there a logical, science supported reason to limit the ability to buy, sell, swap or deal among private keepers, for those species?

- The husbandry requirements for these birds will match those on the current Exempt list – that is a given – given the list of current B1 birds and their comparison to the 41 species currently exempt.

- Common and popular birds are of no risk to poaching and their release from captivity poses little to no risk given the reliance on their diet having been provided to them when in captivity and no longer able to find feed easily. More often than not their escape/release would be into non-endemic areas thereby not providing a suitable habitat to survive. This is ignoring the fact that 100's of currently exempt native birds and non-natives do not survive when they escape and are currently kept without the need for a license.
- Again, Class B1 birds are highly available and low-cost to purchase from legal (and illegal) sources. In fact, equivalent or similar species that are exempt hold a lower \$ value than their licensed counterparts – despite being similar or sub-species. Removing the red tape removes the monetary incentive.
- There are no human health considerations required for captive-bred and captive-held birds. Even the most common zoonotic diseases found in these birds have suitable and effective animal and human treatments that are inexpensive and easy to procure. Therefore, posing no long-term repercussions.
- If the department (and the government) think removing a license fee is the key answer to 'economic considerations,' then you are missing the point of the risk-based assessment. There is a greater economic consideration in removing the regulatory & red-tape requirements potentially saving the government in staffing and other ongoing monitoring and processing of code registration costs.

Do you agree with the proposed registration requirements?

No.

Animal Care Australia did agree to a registration requirement – that being the recording of details of those keeping code-regulated animals. This was only meant to be for the purpose of providing education and updates to native animal owners.

Animal Care Australia does not support the need to record the individual species that are being kept. Currently there are 100,000's of birds both native (exempt) and non-native birds being kept in NSW alone with no issues of welfare or valid need to monitor the whereabouts of those birds.

The vocalised concern for animal welfare monitoring of code-regulated birds is not supported by the statistics released by the RSPCA NSW Inspectorates Reports².

These concerns were and are simply another attempt by the two organisations that oppose the keeping on natives as pets to justify their position.

² [RSPCA Inspectorates Reports](#)

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Do you agree with the proposed requirement to update the department of any changes to your bird information by the anniversary date (12 months) each year

No. This is literally a native wildlife license condition and defeats all intents and purposes of a risk-based management approach.

Animal Care Australia supported the notion that a code of practice requirement would include the need for the individual to maintain their OWN records of transactions, including receipts etc but ONLY for the purpose of proving how they obtained the birds should they be inspected by the department following a complaint.

This is reflected in the following from the department's website:³

"In the case of a breeding event, escapes, and deaths, these do not require notifying the department. However, you must record these events as part of your own record keeping and maintain these for 7 years."

If they are maintaining the records for 7 years, then why the need to update the department when selling or buying?

We will tell you why: It is the animal rights ideological nonsense that those of us who keep animals do so for the money.

Emma Hurst MLC proves this point in her social media post⁴ with her labelling bird owners as the "pet trade industry."

She adds: *"- Fighting against moves for native birds to become part of the pet trade industry (yep, we heard whispers about this previously, we were guaranteed it was taken off the table, and yet we are now hearing rumblings again- we may need your help on this one!)"*

Taken off the table? Would that have been when Animal Care Australia (and other stakeholders) questioned the leaking of sensitive information to the Animal Justice Party during (what were meant to be) confidential SLAC meetings regarding the potential movement of animals to code and off license?

This same ideological nonsense has been enacted by the department forcing animal-keeping associations who wish to hold an expo, MUST now apply for permission (a license) to do so. Why? They did not have to do that, and it was agreed during the consultation with Mr Robert Oliver that as long as it was run under the provisions of a code of practice then there would be no requirement. Another convenient 'forgotten or ignored' aspect of that consultation.



³ [Department website page](#)

⁴ [Emma Hurst social media post](#)

The agreed position for the details to be registered was supported by all animal-keeping stakeholders and is reflected in the following statement from the department website:

“...The department deals with compliance matters strategically, and the code of practice will sit within this regulatory framework.

We will continue to monitor and respond to reports from the community on non-compliant activities related to animal keeping.”

This acknowledges the need for an owner to be able to provide evidence should a complaint be received. If a person is keeping birds illegally then they will not be registered or licensed. They will not want that level of being monitored, therefore these COP will only contribute as a greater incentive for non-compliance.

Do you agree with the proposed requirement to update the department of any changes to your personal details within 28 days

No. This is too short a time limit and places the onus on the person, making them liable to breaches of the BC Act for what? Not maintaining an up-to-date email address?

The ramifications being that they may not ever be granted a native wildlife license because they forgot to update a personal detail. This is ludicrous.

If:

“By providing the department with this information, we can effectively manage biodiversity risks, deliver helpful education materials, and notify people of any regulatory changes.”

Then, why can't the department send out a regular update and include a question asking if their details are up to date rather than make it a breach of the BC Act if they do not update?

Animal Care Australia also calls out the above website statement. Our President, who has been a native wildlife licensor holder for well over 30 years has NEVER received a communication from NPWS that has been an education material OR for that matter advised of the regulatory changes made by the department under the BC Act that directly affected his wildlife license. The only reason these have become known has been when someone has been called-out on breaching the change and has vocalised that on social media.

Do you have any other comments to make on the draft code?

Animal Care Australia draws your attention to the following:

“Any changes to this Code of Practice or schedule to this Code will be reflected on the Department's Website”

Are you serious? No one regularly checks the departments website. Where is the requirement for all registered Code-regulated owners to be notified in writing?

Remember – you are regulating the taking of personal information to “*notify people of any regulatory changes*” and yet there is no such statement supporting or requiring you to do so.

Instead, this places all Code registered persons at risk of a breach of the BC Act – because you have updated the schedules or the conditions on the website only?

This is so typical of the historic incompetence portrayed by the department and licensing team.

Advertising requirement:

This bird is a Code Regulated Bird within the meaning of the Protected Birds Code of Practice ('Code'). You may only possess or otherwise deal in this bird if you are able to fully-comply with the Code, or if you are lawfully permitted to purchase and possess this species of bird under New South Wales law. If you intend on importing or exporting this bird, the laws of another Australian State or Territory may also apply.

Further information on dealing with native birds' species in New South Wales can be found at: www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/native-animals-aspets/bird-keeper-licences

No one is going to include this gobbledygook on their advertising – particularly when character limits or costs are incurred to place advertisements.

Additional point as to the hypocrisy of this 'code-regulated' system and the risk-based tool.

Pictorella's keeping requirements (housing, husbandry & diet) are no different to the Star Finch – an already Exempt species under the BC Act.

Crimson Rosella's keeping requirements (housing, husbandry & diet) are no different to the Adelaide Rosella, Eastern Rosella, Pale-headed Rosella, Western Rosella, and Yellow Rosella – ALL currently Exempt species under the Act. In fact, it is generally recognised that the Adelaide and Yellow Rosella are all sub-species of the same Crimson Rosella. Yet the Crimson has not been assessed by the risk-management tool as qualifying as Exempt? Why not? It surely cannot be because their habitat is in NSW. If that were the case – that is moot as the Eastern Rosella – is also found in NSW and yet is Exempt.

This department is providing far too much input to the RSPCA and WIRES – two organisations that oppose the keeping of native animals as pets and insufficient input from the animal-keeping stakeholders - those that SHOULD BE the only stakeholders consulted as part of the Species List Advisory Committee.

This introduction of individual COPs in NSW is the total opposite of measures implemented in

South Australia⁵ and Queensland⁷ where species were completely removed from licensing requirements and added to their Exempt lists ironically under risk-based wildlife licensing initiatives. The Queensland government and department boasts:⁸

“The list of exempt bird species has been expanded from 22 to 68 species and only applies to the captive-bred industry.”

Animal Care Australia also notes these two States do not have a ‘code-regulated’ category. The animals have been deemed as being Exempt or still requiring a license with more simplified licensing categories. Animal welfare concerns are dealt with under their respective animal welfare Acts and do not play a role in the assessment process of the ability of a captive-bred species to be held or kept as a pet.

The question MUST be asked:

Why is NSW giving the power to organisations and a political party that oppose native wildlife being kept as pets?

Animal Care Australia welcomes any questions you may have as you continue to finalise this review. We welcome the opportunity to meet with the department, the Minister and other members of parliament in order to ensure an appropriate animal welfare Act is produced.

This submission can be publicly listed.

On behalf of the Animal Care Australia Committee,



Michael Donnelly
President
Animal Care Australia

This submission has been developed in consultation with a range of members of Animal Care Australia, including the ACA Bird Advisory Group.

⁵ [South Australian Unprotected Species List](#)

⁶ [South Australian Exempt Species List](#)

⁷ [Queensland Exempt List](#)

⁸ [Queensland Government website](#)