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# Development of NSW Biosecurity Act regulations

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**Submission to Biosecurity NSW  
NSW Department of Primary Industries**

**March 2016**

The Invasive Species Council, the National Parks Association of NSW and the Nature Conservation Council of NSW appreciate the opportunity to comment on the discussion papers and other material that explain how the new Biosecurity Act will be implemented.

While we support the new direction, a greater focus on reducing biosecurity risks to the environment will help better deliver the Act's aim to prevent, eliminate and minimise biosecurity risks.

## **1. Implementing the Biosecurity Act**

In summary we support the NSW Government's implementation of the legislation and many of the new approaches such as shared responsibility and the general biosecurity duty. The department is undoubtedly well aware of the difficulty in implementing them, particularly given their novelty in NSW and their limited application elsewhere. We will endeavour to assist you in implementation.

Preparing the Biosecurity Act will require, firstly, conversion of the variety of legislation that is soon to be repealed into the new legal framework under the Biosecurity Act and, secondly, advancements of the act's objects to "to provide a framework for the prevention, elimination and minimisation of biosecurity risks".

There will need to be a large public engagement campaign to explain how the Biosecurity Act operates, to develop understanding and support for the concept of shared biosecurity responsibility and to convey information about each person's general biosecurity duty. This will require a significant cultural shift, much in the same way that has been achieved for occupational health and safety.

From the environmental viewpoint, it is important that equal emphasis is given to reducing biosecurity risks facing the natural environment. Our comments on the draft NSW Invasive Species Plan 2015-2022 are relevant: "Invasive species are an even bigger problem for the natural environment than they are for agriculture, with many more threats and far greater complexity in interactions, but less knowledge, fewer options for management and greater reliance on public funding". The tools available under the Biosecurity Act, if used correctly, have potential to substantially improve environmental biosecurity.

Attention to compliance is vital. Enforcement activity has been inadequate under current legislation. An important indicator of successful implementation of the Biosecurity Act will be compliance with desired practices that minimise biosecurity risk. This will require broad uptake of the general biosecurity duty and enforcement with meaningful penalties for serious non-compliance.

We recommend that NSW strives to work with the Queensland government to align the two biosecurity laws, including terminology, guidelines and and education.

## **2. A strategic approach to reducing risk**

The starting point for the NSW biosecurity system should be to define the level of acceptable risk. This should be a very low or low level of risk. The NSW Biosecurity Strategy confirms that government's aim is to minimise risk and to apply the hierarchy of prevention, eradication, containment and minimisation of impacts but does not define the level of acceptable risk.

It is vital to apply a transparent methodology to identify the level of risk across all classes of activities across NSW and identify actions required to be taken to reduce the level of risk to below an acceptable level. Risk identification and risk reduction must be science-based and precautionary when information is limited (often the case for the environment). Prevention should be a priority focus, given it is often the most effective and cost effective way of lowering risk.

## **3. Response to the discussion papers**

We now provide feedback on the discussion papers and make comments on specific elements of several discussion papers. The feedback applies mainly to the four discussion papers that are not exclusively on primary production: weeds, widespread pest animals, aquatic pests and diseases and non-indigenous animals.

It appears that implementation of the Biosecurity Act is focused on the first step described above: to convert the current legal framework to the new framework under the Biosecurity Act. The emphasis is on explaining the greater responsibility that the public will given in managing biosecurity risk.

There is little detail in most of the discussion papers about how biosecurity risks will be prevented, eliminated or minimised beyond what is already the case under existing legislation. Missing is a transparent review of risks associated with all key classes of activities carried out across the state and an explanation of how these risks will be reduced under the new regime. Also missing are a clear commitment and obvious new measures to improve prevention.

Where changes to arrangements are proposed under the Biosecurity Act, there needs to be more explanation of why the changes are being made. For example, many existing regulations are being replaced by voluntary measures, such as for widespread pest animals. Unless there is a detailed explanation of how the general biosecurity duty will bring about an equivalent (or higher) level of effort, the public will interpret this as a backward step. The success of the new regime relies on generating public confidence in the new way of operating.

The Office of Environment and Heritage should be centrally involved in developing regulations. At present there is limited material with a strong environmental focus.

The Invasive Species Council, National Parks Association of NSW, Nature Conservation Council of NSW and other environment groups are keen to assist, given that the vast majority

of our members and supporters are enthusiastic advocates of good biosecurity. We will be interested in discussing with the department and OEH about how best to do this.

Although prevention is a common theme of most discussion papers, we maintain that in many cases the most effective approach or only effective approach is a permitted list approach rather than prohibited matter listings.

#### 4. Comments on specific discussion papers

We recommend a more preventative and risk averse approach to **non-indigenous animals**, which are a significant source of new invasive species. It seems doubtful that the invasion risks of the current list of licenced animals have been reviewed. For example, ferrets, which are proposed to remain unregulated, have been rated as an extreme threat of establishment in Australia<sup>1</sup>. Birds that pose a serious risk of establishment include Barbary doves, laughing doves, Indian ringneck parrots and most game birds. There needs to be a focus on reducing the risks of illegally kept/traded pets such as corn snakes and exotic lizards. Our attached submission to the NRC pest management review is relevant and the final NRC recommendations should be considered for adoption (see **Box 1** for ISC, NCC and BA recommendations).

The **aquatic pests and diseases** discussion paper lacks an objective to prevent the arrival of new species. We recommend a strong focus on preventing the release of aquarium fish into local waterways, including more restrictions on their sale and public education. This is especially important for aquatic invasive species since they are often impossible to eradicate once they are established.

Restrictions on **carp and Eastern gambusia** in the discussion paper of that name are proposed to be weakened. The ban on the sale of Eastern gambusia is proposed to be lifted. This change is not supported. There are parts of NSW still without carp, eg the Deua River. Greater effort should be made to retain streams free from carp and Eastern gambusia, such as bans on the keeping of carp/koi in carp free river catchments.

The discussion paper on **widespread pest animals**, which deals with currently declared pest animals, does not provide confidence that the general biosecurity duty will foster landowner resolve to control these pests, especially where landholders do not have a commercial interest to manage them. Mandatory coordinated action in areas of greatest impact is essential for integrated pest control. Feral pigs, which are not found throughout the state, would benefit from coordinated containment efforts in some places. Controlling feral deer, a serious emerging pest, should be added as a mandatory measure (rather than relying on the Game and Feral Animal Control Act). We agree that effort needs to be focused where these pests are doing the most damage (eg populations of threatened species) or containment where their spread is still continuing, supported by research into surveillance and control methods. Cats should also be considered in this discussion paper. The joint submission to the

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<sup>1</sup> Western Australian Department of Agriculture and Food risk assessment

NRC pest management review is relevant (see **Box 1** for ISC, NCC and BA recommendations) and the final NRC recommendations should be considered for adoption.

Under the Noxious Weeds Act, **weeds** listed as class 1, 2 and 5 are banned from sale. For the proposed new prohibited matter and mandatory measures that limit the sale of weeds it is difficult to compare the changes with current listings or understand the reasons for any change. It is unclear if and how the remainder of the weed lists are being reviewed and how risk will be taken into account. The **weeds** discussion paper lacks an objective to prevent the arrival of new species.

The **livestock identification and traceability** discussion paper considers biosecurity risks from the point of view of disease and animal diseases. American bison, water buffalo and banteng cattle are proposed to be permanently identified rather than licenced. It is unclear if this will reduce or increase biosecurity risks. Permanent identification of domestic deer should be added given the regularity of deer escapes and their invasion risks and environmental impacts (deer impacts are listed as a key threatening process under NSW threatened species laws). This would allow identification of the source of deer escapes. Permanent identification must allow for GPS tracking. The technology to provide this is becoming increasingly smaller and cheaper.

**BOX 1 – Recommendations to the NSW Natural Resources Commission Pest Management Review Discussion Paper** provided by Invasive Species Council, Nature Conservation Council of NSW and Birdlife Australia Nov 2015.

#### Recommendations about species

1. In national parks with **feral horse** problems reinstate aerial culling and on site euthanasia to avert future management disasters.
2. Develop a **goat** policy to ensure that a growing goat industry does not result in land degradation caused by increasing numbers of feral goats.
3. a. Declare **deer** pests, remove any limitations on their harvest so that they can be more easily controlled and implement a statewide containment program.  
b. Review regulations for **deer** farming to reduce the probability of escapes  
c. Develop a better **deer** control toolkit incorporating a wider range of control techniques.
4. Reduce government investment in **wild dog** control.
5. Remove **exotic game birds** from the *Game and Feral Animal Control Act 2002* and prohibit their release into wild or semi-wild situations.
6. Investigate the status of **barbary and laughing doves** in captivity in NSW to see if a policy is warranted to reduce the risk of feral populations forming.
7. Introduce a phase-out of **Indian ringneck parrots**, allowing pet owners to keep the ring-necks they have, but not to breed or replace them, leading to a prohibition on this species when no captive birds remain.
8. Introduce a legislative requirement that shops selling **aquarium and pond fish** display

a sign warning against disposal of fish, snails and plants in waterways and suggesting safe alternatives.

9. Develop a **red-eared slider** policy to ensure there is no further spread, to review the prospects of eradication and provide more public information about the threats they pose.
10. Build a barrier according to the guidelines of Knight (2010) to prevent **redfin perch** colonising the Kedumba River and harming endangered Macquarie perch.

#### General recommendations

11. Provide a greater leadership role in national policy, for example by accepting the recommendations to the 2015 Senate Inquiry into environmental biosecurity, supporting the proposal to establish Environment Health Australia, improving the National Environmental Biosecurity Response Agreement, improving transparency and involvement of the environmental sector in biosecurity decision-making, and closing off pathways for high risk environmental invasive species.
12. Develop a foresighting unit to monitor pest trends and better predict future problems.
13. Reform funding processes so that long-term funding of pest control is achieved, and funding achieves public good rather than private gain.
14. Establish a pest animal advisory committee to review the operation of current pest management activities, identify gaps and opportunities, respond early to future risks identified during foresighting and improve engagement and cooperation.
15. Revise classifications under the Non-indigenous Animals Regulation 2012 in Schedule 1 to align with the risk assessments conducted for the Vertebrate Pests Committee.
16. Fund social research into the behaviours of those who deliberately or unwittingly spread pests, to guide policy responses.
17. NSW DPI to acknowledge growing public concerns about animal welfare by becoming more pro-active in its operations and the messaging it undertakes.
18. Update NSW DPI 2009 website maps of feral animal distributions.
19. Reject any calls to introduce bounties.
20. Be wary of proposals to reduce feral animal numbers by creating markets for their products.

## 5. Missing discussion papers

The following areas need targeted information:

- game animals – feral deer and most game birds are invasive
- passive recreational activities – camping, bushwalking, cycling, horse riding eg spread of weed seeds, myrtle rust, phytophthora
- motorised activities – boating, 4WDing, motorcycle riding eg spread of weed seeds, aquatic pests and weeds, chytrid fungus, phytophthora
- movement of machinery – spread of weed seeds and pathogens

- moving interstate – risk of bringing into NSW weedy plants, accidental insect or vertebrate hitchhikers

## **6. Additional matters**

Lord Howe Island warrants special attention due to its unique values, World Heritage listing and Permanent Park Preserve designation for most of the island. Feral cats, pigs and goats have been eradicated from the island but other animal species have established and there is the risk that more may arrive. There has been a sustained effort to reduce the number of weeds and over the last ten years, 25 priority weeds have been targeted for eradication.

Given the high natural values of the island and the ongoing biosecurity risks there would be benefit in declaring Lord Howe Island a Biosecurity Zone. Regulations could then be prepared to ensure that a strict biosecurity regime is established. For example, currently there is poor screening of incoming fresh fruit and vegetables. Other biosecurity measures could be considered for the port area at Port Macquarie where Lord Howe Island bound cargo is held prior to shipment.

Norfolk Island will come under Commonwealth Government management on 1 July 2016. It is understood that the NSW Government will play a role in managing biosecurity on Norfolk Island, possibly under the NSW Biosecurity Act. If this is the case, attention must be paid to island biosecurity in the same way as proposed for Lord Howe Island.

## **7. Attachments**

Attached for information are recent submissions:

1. Submission to the draft Invasive Species Plan 2015-2022, prepared by the Invasive Species Council in September 2015.
2. Joint submission to the NRC pest management review discussion paper, prepared by the Invasive Species Council, Birdlife Australia and the Nature Conservation Council of NSW in November 2015.