

6 November 2014

The Research Director
Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

E: arec@parliament.qld.gov.au

Dear Sir/Madam

Re: *Exhibited Animals Bill 2014*

Thank you for the opportunity to make a submission on the *Exhibited Animals Bill 2014* currently being considered by the Agriculture, Resources and Environment Committee.

The Zoo and Aquarium Association Queensland Branch enjoys a positive relationship with the DAFF Exhibited Animals staff. We have been working closely and collaboratively with Government for a number of years in relation to the development of industry-specific legislation.

We look forward to operating with exhibited-animals-specific legislation, though we have some concerns in relation to the likely impacts on the resources of industry to comply with some sections of the legislation, ongoing consultation with industry and the actual, extremely broad, definition of an animal. The Association's concerns and suggestions to deal with some of these concerns are detailed in the attached submission *Zoo & Aquarium Association Submission on Exhibited Animals Bill 2014 for Agriculture, Resources and Environment Committee, 5 November 2014*.

The Association is able to provide additional information should your committee require clarification of any of the matters raised in the submission.

We look forward to the outcomes of your committee's consideration of the *Exhibited Animals Bill 2014* and the matters raised in the Association's submission.

Kindest regards



Al Mucci
President, Zoo and Aquarium Association, Queensland Branch

Section	Clause	Comments
12	<p>Meaning of <i>animal</i> (1) Generally, an <i>animal</i> is any live member of the animal kingdom, other than a human being.</p>	<p>The definition of an animal in section 12 is too broad in that it captures invertebrates (insects etc.). This means that under the Bill crickets, mealworms, stick insects, brine shrimp etc. will need to listed on the exhibition licence and have authorised enclosures. Since such invertebrates pose no relevant risk (as defined in section 17) they should be excluded. In the interests of clarity why doesn't the definition of animal be made the same as that in the Animal Care and Protection Act 2001 (see below)?</p> <p>11 What is an <i>animal</i> (1) An <i>animal</i> is any of the following— (a) a live member of a vertebrate animal taxon; <i>Examples—</i> <ul style="list-style-type: none"> • an amphibian • a bird • a fish • a mammal, other than a human being • a reptile (b) a live pre-natal or pre-hatched creature as follows if it is in the last half of gestation or development— (i) a mammalian or reptilian foetus; (ii) an avian, mammalian or reptilian pre-hatched young; (c) a live marsupial young; (d) a live invertebrate creature of a species, or a stage of the life cycle of a species, from the class Cephalopoda or Malacostraca prescribed under a regulation for this paragraph. <i>Examples of creatures of the class Cephalopoda—</i> <ul style="list-style-type: none"> • octopi • squid <i>Examples of creatures of the class Malacostraca—</i> <ul style="list-style-type: none"> • crabs • crayfish • lobsters • prawns (2) However, a human being or human foetus is not an animal.</p> <p>----- The following advice was received via email from Kate Serafin,</p>

		<p>Senior Policy Officer, Exhibited Animals Unit, Biosecurity Queensland Corporate on 3/11/2014.</p> <p>Definition of animal – requirements for eggs and embryos?</p> <p><i>The definition of animal in clause 12 of the EA Bill includes any live member of the animal kingdom.</i></p> <p><i>But this meaning is extended in relation to dealing with an exhibited animal. In these circumstances cl 12(2) provides that animal includes the animal at each stage in its life cycle and the whole or part of the genetic or reproductive material of the animal. This is to ensure an exhibited animal authority allows an exhibitor to deal with genetic or reproductive material which would otherwise not be allowed under the Biosecurity Act and NC Act. For example, it allows the transfer of semen between exhibitors who are participating in a captive breeding program.</i></p> <p><i>There are certain licence conditions that it would be ridiculous to enforce if applied to animals in certain life stages or to genetic or reproductive material. For example, it would be ridiculous to require semen which only survives under certain conditions to be kept in the regular enclosure approved for housing a post-natal animal of the species. <u>Allowance is made for this in the offence provision for contravention of a condition of an authority (cl 78) – the offence is not committed if there is a reasonable excuse for the contravention.</u> If necessary the management plan could clarify alternative measures for minimising the risks associated with the animal at a particular stage of its life cycle.</i></p> <p>It is a concern that issues with the definition of animal in the <i>Exhibited Animals Bill 2014</i> are to be dealt with by the subjective catch all of ‘reasonable excuse’. The Association feels that the ambiguity should be dealt with as per the above comments rather than having to operate ignoring offense provisions in the hope that it may be that a ‘reasonable excuse’ is sufficient to do so.</p>
<p>12</p>	<p>(2) In relation to dealing with an exhibited animal, an animal includes— (a) the animal at each stage of its life cycle; and <i>Examples—</i></p> <ul style="list-style-type: none"> • a pre-natal or pre-hatched creature • larvae or pupae • an embryo 	<p>Regulation will need to provide exclusions to some of the act’s clauses when dealing with pre-natal, pre-hatched, larval, pupae and embryos. For example an egg, or an embryo, does not require an authorised enclosure.</p> <p>Without the caveat provided in the <i>ACPA 2001</i> animal definition whereby a pre-natal or pre-hatched creature is only an animal once it reaches the second</p>

		half of the gestation/incubation period then the destruction of eggs (under the <i>Exhibited Animals Bill 2014</i>) at any developmental stage will be problematic under the animal definition in the <i>Exhibited Animals Bill 2014</i> .
13	<p>Meaning of exhibit an animal</p> <p>(3) Also, a responsible person for an animal <i>exhibits</i> the animal if the person arranges for or allows the animal to be photographed or filmed, including by an electronic medium.</p>	Clauses 68 and 69 describe minimum exhibition periods for authorised animals. Given that section 13 describes exhibition as including by an <i>electronic medium</i> does this open the way for a licence holder to circumvent the intent of clauses 68 and 69 by exhibiting an animal by use of a webcam set up in the animal’s enclosure? This may need to be tightened.
16	<p>Meaning of responsible person for an exhibited animal</p> <p>(1) A person is a <i>responsible person</i> for an exhibited animal if the person—</p> <p>(3) Despite subsection (1)(d), a person who holds a mortgage or other security interest in an exhibited animal only becomes a responsible person for the animal if the person takes a step to enforce the mortgage or other security.</p>	Unfair to hold someone responsible as soon as they move to secure a mortgage or security. What if they fail to do so? Should read along the lines of “..... successfully enforces the mortgage or security”.
17	<p>Meaning of relevant risk</p> <p>Each of the following is a <i>relevant risk</i> associated with exhibiting or dealing with an exhibited animal—</p> <p>(a) a risk to the welfare of any animal;</p> <p>(b) a biosecurity risk;</p> <p>(c) a risk to public safety, or of death, injury or illness to a person, caused directly by, or originating from, the animal.</p>	Unless the definition of ‘animal’ is changed as per discussion above on Section 12 an issue will arise in relation to the welfare of any invertebrates used for feeding other animals. It is accepted that with a few exceptions there are no welfare risks associated with invertebrates (see Animal Care and Protection Act 2001).
23	<p>Making codes of practice</p> <p>(1) The Governor in Council may, by regulation, make a code of practice about exhibiting and dealing with exhibited animals.</p>	Who is the Governor in Council and do they make all codes of practice?
24	<p>24 Consultation about codes of practice</p> <p>(1) Before the making of a code of practice under this part is recommended to the Governor in Council, the chief executive must consult with relevant entities.</p> <p>(2) Subsection (1) does not apply to the adopted provisions of a code of practice.</p> <p>(4) In this section—</p> <p><i>relevant entities</i> means entities the chief executive considers have an interest in matters relating to exhibiting and dealing with exhibited animals.</p>	From where would adopted provisions come and why would there be no obligation for government to consult with industry? This is counterintuitive to good government/industry relationships.
		The consultation in relation to the making of a code of practice should be restricted to the involvement of the regulator and industry. The inclusion of ‘community groups’ provides for any group or person with nothing at stake to impose conditions on the operations of bona fide businesses operating as per

	<p><i>Examples of types of entities—</i> entities from community groups or professional and industry associations</p>	<p>the law. This opens the way, for example, for animals rights groups to impose unworkable and costly conditions on the operation of legitimate businesses. The definition of relevant entities must be changed so as to exclude this possibility.</p>
26	<p>Chief executive may make guidelines (3) Before making a guideline, the chief executive must take reasonable steps to allow entities the chief executive considers may have an interest in the proposed guideline to give the chief executive written submissions about it.</p>	<p>The consultation in relation to the making of a guideline should be restricted to the involvement of the regulator and industry. The inclusion of ‘community groups’ provides for any group or person with nothing at stake to impose conditions on the operations of bona fide businesses operating as per the law. This opens the way, for example, for animals rights groups to impose unworkable and costly conditions on the operation of legitimate businesses.</p>
31	<p>Meaning of special exhibition approval <i>A special exhibition approval</i> is an approval given by the chief executive to the holder of an exhibition licence to exhibit and deal with an authorised animal (category 2) at either of the following places identified in the approval— (a) a controlled area that does not include the animal’s regular enclosure; (b) a place outside any controlled area.</p>	<p>The Bill is silent on the exhibition of authorised animals other than authorised animals (category 2) at a place outside of any controlled area. Is it therefore inferred that this is permitted without a special exhibition approval? Or should there be a clause specifically stating that this is permitted without a special exhibition approval?</p>
34	<p>Meaning of management plan (1) A <i>management plan</i> is a plan, prepared by an applicant for an exhibition licence or interstate exhibitors permit— (a) identifying either or both of the following that are to be authorised animals under the licence or permit— (i) each particular animal; (ii) each species of animal; and (b) stating how the applicant proposes to exhibit and deal with the animals that are to be authorised animals under the licence or permit; and (c) stating the significant relevant risks associated with exhibiting and dealing with the animals identified under paragraph (a) under the licence or permit; and (d) stating the ways in which the applicant intends to prevent or minimise the risks; and <i>Examples for paragraph (d)—</i></p>	<p>Management Plans have the potential to have substantial resource implications in order to comply and it has not been made clear what level of detail may be required for each species. Some organisations hold well over a hundred species and the burden of writing over a hundred Management Plans will be overwhelming. Further it is not clear what government intends to actually do with these Management Plans once they receive them; given the regulating department’s low level of staff resources it is quite likely that these Management Plans will simply be filed and forgotten. The Exhibited Animals industry has operated successfully with a good safety and welfare record for many years without the need for such Management Plans for native species. Given this governments stated aim to reduce the red tape burden on industries the Management Plan requirement in the <i>Exhibited Animals Bill 2014</i> is directly contravening the government’s commitment. The Zoo & Aquarium Association Queensland branch proposes that Management Plans be made applicable to <i>authorised animals (category 2)</i> only. Such an approach will save significant resources for both government</p>

	<ul style="list-style-type: none"> • how an authorised animal is to be contained in an authorised enclosure or secured during an exhibition • if public interaction involving an authorised animal is to be authorised, the restrictions to be applied <p>(e) if the licence or permit relates to an animal that is not native wildlife—stating the arrangements for managing reproduction of the animal, including, for example, arrangements for progeny of the animal;</p>	and industry in line with the government’s commitment to reduce red tape.
48	<p>Requirements for application</p> <p>(2) However, the chief executive may waive payment of the fee if satisfied—</p>	Can there be an addition to the clauses under which the fee can be waived to accommodate bona fide exhibition of prohibited wildlife at an event such as National Threatened Species Day?
55	<p>General criteria for decision</p> <p>(1) The chief executive may grant the application only if—</p> <p>(b) the chief executive—</p> <p>(ii) approves a management plan for exhibiting and dealing with each particular animal or the animals of each species that are to be authorised under the authority (the <i>proposed authorised animals</i>);</p>	Management Plan needs to be able to deal with groups of animals; e.g. Finches – See Section 61 (3) Example
56	<p>Particular criterion for exhibiting or dealing with animal in residential premises</p> <p>If the application relates to exhibiting or dealing with an animal in premises or a part of premises used for residential purposes, the chief executive may grant the application only if the applicant—</p> <p>(a) is the occupier of the premises or part; and</p> <p>(b) has given the chief executive written consent for an inspector to enter the premises or part under section 70(d).</p>	If a staff member is required to care for an animal 24/7 for hand raising or sickness this infers that only the licence holder may do so – not any staff of that facility. If this is the case this is problematic.
57	<p>Particular criteria for dealing with animal at 2 or more premises</p> <p>If the application relates to dealing with 1 or more animals at 2 or more premises, the chief executive may grant the application only if satisfied—</p> <p>(a) a single individual will have the day-to-day care and control of each animal at each of the premises;</p>	This clause seems to preclude care across two sites by a range of employees working at a zoo. This should be modified to enable the care across 2 or more premises by various employees; not a single individual person.
59	<p>Failure to decide application</p> <p>(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 40 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.</p>	The Association is concerned by this general concept. Why isn’t it automatically approved rather than denied if no decision has been made after the 40 days?
66	<p>Exhibited animal authority</p>	This clause is not clear as to whether an exhibition notice must be displayed in

	<p>(1) Each of the following is a condition of an exhibited animal authority—</p> <p>(f) while an authorised animal is being exhibited, an exhibition notice must be displayed in a prominent position so it is easily visible to persons attending the place where the animal is exhibited;</p>	<p>a single location (e.g. in the entrance to the zoo) or at each place (i.e. enclosure) where an animal is exhibited.</p> <p>Make this clause clearer in defining that a single location for the display of an exhibition notice is all that is necessary.</p>
68	<p>Minimum exhibition period for authorised animal (category 2)</p>	<p>Can the Chief Executive grant an exemption to the requirement to exhibit an animal? Would this be possible under Section 71 whereby the Chief Executive is able to impose temporary conditions? There are legitimate circumstances for not exhibiting an animal such as involvement in breeding programs, holding animals until an exhibit enclosure is constructed etc.</p>
69	<p>Minimum number of occasions for exhibiting particular authorised animals</p>	<p>Can the Chief Executive grant an exemption to the requirement to exhibit an animal? Would this be possible under Section 71 whereby the Chief Executive is able to impose temporary conditions? There are legitimate circumstances for not exhibiting an animal such as involvement in breeding programs, holding animals until an exhibit enclosure is constructed etc.</p>
71	<p>Conditions of authority decided by the chief executive</p> <p>(3) Without limiting subsection (2), the conditions may be about any of the following—</p> <p>(a) the maximum or minimum number of authorised animals that may be exhibited and dealt with under the authority;</p>	<p>The chief executive should not be empowered to prescribe a minimum number of authorised animals that may be exhibited and dealt with under an authority. Remove ‘or minimum’ from clause.</p>
74	<p>Definitions for div 1</p> <p>In this division—</p> <p><i>serious incident</i> means any of the following—</p> <p>(a) the death of, or serious injury or illness to or of, a person, caused by, or originating from, an authorised animal;</p>	<p>The threshold is set too low for reporting serious incidents relating to serious injury. The definition of serious injury part (c) <i>medical treatment within 48 hours of contact with the animal that caused the injury or illness or from which the injury or illness originated</i> sets the threshold for the seriousness of the injury much lower than if the medical treatment were required for example within one hour of the contact occurring (i.e. a serious bite will require immediate medical treatment whereas a lesser bite will not require such immediate medical treatment). The settings as they stand in the Bill mean that any minor skin penetrating injury (e.g. bite or scratch) that may result in an infection (thus the medical treatment) must be reported as a serious incident.</p> <p>Suggest that part (c) of the serious injury definition be changed to read</p>

		<p><i>medical treatment within <u>one</u> hour of contact with the animal that caused the injury or illness or from which the injury or illness originated; and that another definition be inserted for serious <u>illness</u> reading <i>medical treatment within 48 hours of contact with the animal that caused the illness or from which the illness originated.</i></i></p> <p>By separating <u>injury</u> and <u>illness</u> the settings can be better set to achieve the outcome that the clause aims to achieve.</p>
	<p>(c) the escape, or unauthorised release or removal, of any authorised animal from a controlled area;</p>	<p>As free flight birds (birds in a free flight presentation to the public) at times range beyond the controlled area (i.e. the area within the perimeter barrier) and can take some coercing to return to the trainer this would precipitate the immediate need for notification as a serious incident. There should be some provision to allow an amount of time for the recapture/return of such birds before the requirement to notify kicks in. This would save resources for both government and industry.</p> <p>Peafowl and Guinea Fowl are maintained in zoos as fully-flighted free-ranging animals and subsequently they often range outside of the controlled area (i.e. perimeter barrier of the facility) but return to the controlled area. This situation would also precipitate the immediate need for notification as a serious incident. This situation could be alleviated by adding both species to Schedule 1 Exempted Animals. Peafowl and Guinea Fowl are two domesticated bird species essentially the same as chickens, ducks and turkeys (species which are already included in the list of exempted animals).</p>
	<p>(d) the death of an authorised animal caused, or contributed to, by the act or omission of a person;</p>	<p>This clause would pick up euthanasia of an animal and therefore require that this be reported as a serious incident. This would appear to be unintended and the clause should be amended to exclude euthanasia of an animal.</p>
	<p>(e) the death of an authorised animal if— (i) animals of that species— (A) have been kept under the exhibited animal authority for less than 6 months; and (B) have an average life expectancy of at least 6 months; and (ii) the animal lived for less than the average life expectancy;</p>	<p>In this Division an <i>authorised animal</i> means an <i>authorised animal (special risk)</i> therefore picking up <i>authorised animals (category 2)</i>, venomous snakes and two species of crocodile. The obvious purpose of this is for reporting (as a <i>serious incident</i>) death or injury to a person, escape or unauthorised release, damage to enclosures and unauthorised entry to an enclosure. The inadvertent result of this is that these <i>authorised animals (special risk)</i> are</p>

		<p>subject to reporting (as a <i>serious incident</i>) due to death of the animal. There seems no logical reason why a venomous snake or a crocodile would require more stringent reporting requirements in relation to the animal’s death than the vast majority of <i>authorised animals</i> covered by the Bill.</p> <p>This would appear to be an unintended consequence and should be modified as a result.</p>
76	<p>Obligation to notify significant change (1) This section applies to the holder of an exhibited animal authority if any of the following (each a <i>significant change</i>) happens— (a) a person moves an authorised animal outside of an authorised enclosure under section 40(c)(ii) or 44(c)(ii);</p>	<p>In this section licence holders should have a blanket approval to remove an animal from authorised enclosure WITHOUT the reporting requirements. These situations arise quite regularly – for example moving a Brolga out of an enclosure whilst tree lopping is being done, removing a Koala from a pen whilst new forks are being installed, removing a Brown Snake from an enclosure to allow safe cleaning. These are all just routine, regular animal management and husbandry decisions that should not be required in Management Plans or should not require reporting. If it was written to deal with animals such as big cats or the like then it should be more focused on the area where there may be issues. This is an area to reduce red-tape and costs to industry and government.</p>
	<p>(b) a person deals with an authorised animal in a way— (i) that is not authorised under the authority; and (ii) that the person considers is necessary to prevent or minimise a relevant risk associated with exhibiting or dealing with the animal;</p>	<p>In this section licence holders should have a blanket approval to remove an animal from authorised enclosure WITHOUT the reporting requirements. These situations arise quite regularly – for example moving a Brolga out of an enclosure whilst tree lopping is being done, removing a Koala from a pen whilst new forks are being installed, removing a Brown Snake from an enclosure to allow safe cleaning. These are all just routine, regular animal management and husbandry decisions that should not be required in Management Plans or should not require reporting. If it was written to deal with animals such as big cats or the like then it should be more focused on the area where there may be issues. This is an area to reduce red-tape and costs to industry and government.</p>
80	<p>80 Application for renewal or restoration of exhibition licence (1) The holder of an exhibition licence may apply to the chief executive</p>	<p>Section 80(1) sets a rule for renewal applications then Section 80(2) says that you can ignore the rule. Seems odd.</p>

	<p>for renewal of the licence no earlier than 6 months and no later than 3 months before the term of the licence ends (the renewal period).</p> <p>(2) The holder or former holder of an exhibition licence may apply to the chief executive, after the end of the renewal period until 3 months after the licence expires, for—</p> <p>(a) renewal of the licence; or</p> <p>(b) if the licence has expired—restoration of the licence.</p>	
93	<p>Register of exhibited animal authorities</p> <p>(2) The register must contain the following particulars for each exhibited animal authority—</p> <p>(f) for an exhibition licence to the extent it relates to an authorised animal other than an authorised animal (category 1)—the location of the regular site for each regular enclosure;</p>	<p>It is unclear whether this relates to the address/lot number of the licenced facility or whether it relates to finer detail i.e. the exact physical location indicated, by say, a GPS co-ordinate or a detailed map.</p>
113	<p>Accreditation conditions</p> <p>(1) It is a condition of each accreditation that the accredited person must give the chief executive notice of any direct or indirect financial or other interest the accredited person has or obtains in the business of a responsible person for an authorised animal that could conflict with the proper carrying out of a private assessment and preparation of a private assessment report.</p>	<p>Does this require that any fee paid to an accredited person for carrying out a private assessment must be disclosed to the chief executive?</p>
Schedule 1	<p>Exempted Animals</p>	<p>Suggest the addition of Peafowl and Guinea Fowl as two domesticated bird species essentially the same as chickens, ducks and turkeys (species which are already included in the list of exempted animals). This would alleviate issues associated with Section 74 <i>serious incident part (c)</i> which classes escape from a controlled area to be notified to the Chief Executive, as Peafowl and Guinea Fowl are maintained as fully-flighted free-ranging animals in zoos and subsequently they often range outside of the controlled area (i.e. perimeter barrier of the facility) but return to the controlled area.</p> <p>Cane Toads should also be added to the list of exempt animals to remove the need for the species to be regulated and remove the regulatory cost on both government and industry.</p>
Dictionary	<p>authorised animal (category 1) means an authorised animal that is—</p>	<p>This definition does not include Schedule 4 part 1 Exempt animals (<i>Nature</i></p>

<p>(a) international wildlife; or (b) any of the following under the Nature Conservation Act— (i) a commercial animal; (ii) a controlled animal; (iii) a recreational animal; (iv) a restricted animal. <i>Note— See the Nature Conservation (Wildlife Management) Regulation 2006, schedule 4, parts 2 to 5.</i></p>	<p><i>Conservation (Wildlife Management) Regulation 2006</i>). Should this be included in this definition or are ‘exempt animals’ under the NCA excluded entirely as are animals listed in Schedule 1 Exempted Animals (<i>Exhibited Animals Bill 2014</i>)?</p>
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Other Matters:

1. Under the current legislation the holder of a Wildlife Exhibitor Licence is able to automatically be granted a Wildlife Rehabilitation Permit without any additional application being made. Given the work that zoos do supporting the government in terms of wildlife rescue and rehabilitation this provision needs to continue so that the holder of an Exhibition Licence, who operates at a fixed location, under the Exhibited Animals Bill 2014 automatically receives a Rehabilitation Permit under the NCA. This will remove the need for a licensee to have to deal with another government department; one of the key points of the move to the single piece of legislation.