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QUEENSLAND EXHIBITED ANIMALS BILL 2014

The Research Director

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To the Research Director,

Thank you for the opportunity to express my personal concerns and provide some input into areas of the wildlife industry that the new laws will impact on.

After reading through the lengthy Exhibited Animals Bill 2014, I am left appreciating the challenges required in rewriting a new bill. I hope in this process, the goal to consolidate and streamline will both benefit those administering the law as well as those operating under the law.

In saying this, I now find myself and my particular situation to be exactly what some might say is complicating this process of simplifying and streamlining what is inherently a complex issue.

Unfortunately, as is often the case when it comes to legislating for the majority of people, there are always the small special interest groups that don't necessarily fit tidily into the norm. As such, these people don't usually have the numbers nor the political muscle to be of much influence.

Animal welfare, biosecurity, holistic risk-based regulatory framework, duty of care; these are terms commonly used throughout the Bill.

I think we can all agree that these are all good qualities, and we should have laws to uphold these virtues.

What I think should not happen is this; we make up laws that on paper appear to ensure the welfare of wildlife; they work for a majority of animals in a majority of standard wildlife parks, but for some who are specializing outside of what is normal practice, these same laws can be counterproductive and detrimental to the animals welfare.

This sounds very general and non specific but I have been involved in training and flying raptors for 30 years now and over the years I have seen where inflexible laws become a welfare issue.

For example, a wildlife officer new at his job or an officer unfamiliar with raptors questions: how a bird is kept? Is the bird jessed, and for how long? Why does the bird have a hood on it's head? Has it got enough food? Where is it's water? How is the bird transported? Is the transport box the right size? Does this cage meet minimum standards? What is paramount in the officers mind is whether or not the law is being maintained. If the law is specific and inflexible, then the officer will over look the welfare of the bird to uphold the law. If you plead that the bird is kept in a separate chamber than what it is normally in, while it moults or is breeding, or that you are training a bird for a particular role in a film and need it to cope in different locations. Maybe the bird needs to spend time desensitizing slowly in varying environment to minimize stress when placed on a film set. Maybe the bird is trained to the hood so it will travel calmly and will respond on cue when the director calls action and the hood is removed. Maybe the temperament of the bird or the type of species determines what individual training regime needs to be introduced for the birds welfare. Does this bird need to be housed differently for it's own safety?

Unless the wildlife officer is an astute, experienced bird trainer he or she will not fully appreciate these issues. The inspecting officer, unfamiliar to the raptors pokes their head into the aviary and two birds take off, seemingly terrified. One bird is trained, it's issue is weight related and with a full crop it simply doesn't want to be around people at that moment, the other bird is genuinely terrified as it has not yet been trained. To the officer, they have no way of distinguishing between an overweight trained bird and a lean wild bird that has never been handled. Regardless of the fact that both birds at that time require different attention, and environments, the officer expects to see them housed in the correct standard aviary regardless of the birds welfare.

How do you convince this officer in a few short minutes that what you are doing is practically and responsibly managing the birds for their welfare? Different personalities, different stages of training and conditioning, different needs at different times of the year. What is best for the welfare of the bird? If the law is too inflexible, and impractical then the wildlife officer has no choice but to administer the law at the birds own detriment.

As we head into the future I hope there is enough foresight to craft up laws that can accommodate innovative

wildlife businesses with special needs. These needs may or may not have been thought of as yet, but from my own experience many a good idea that I have had over the last 30 years has meet with frustration when it has not fitted tidily into a strict immovable set of laws.

If there is a push to tidy things up into simple categories such as an Exhibitors license, where do small operations like my own fit into the picture?

I spent the first 15 years rehabilitating raptors, followed by setting up the Australian Raptor Centre in Melbourne in the early 1990's. I developed my own free flight displays for the public and with a sponsorship from La Trobe University we began a free flight mobile birds of prey show, which went to universities and schools throughout Victoria, New South Wales and South Australia. An educational display which ran for over ten years.

This type of work is exactly what I think is expected to be done under a Wildlife Exhibitors License and this is what I have done for many years. What the new legislation should take into consideration is the development of alternative and innovative wildlife businesses that move away and beyond what can be viewed as very predictable and conservatively run Wildlife Parks and animal shows.

For eighteen years now I have been involved in training birds for the Film and Television industry and this is where I have dedicated much of my effort.

When I look back over the years on all the films and documentaries I have had the privilege to work on, I realize just how much educational and environmental influence through the use of trained birds has come from this unconventional line of work. It should be noted that education of wildlife can be effectively achieved through other than the most conventional forms of wildlife facilities.

My question is, if I am to continue to train birds and use them on Film and Television productions am I going to be able to do this effectively under new laws as an Exhibitor?

Should there be another option of licensing people like myself who do not fit the conventional wildlife operator, but are still providing a valuable service to the community?

Filming is big business bringing in millions of dollars into the country.

Training birds in the film industry is a specialized field of work that requires a high level of responsibility.

There is a given expectation from film producers to perform at the highest professional level. There is also a reluctance to invest time and money into a venture if there is the possibility that this level of expertise cannot be met.

When a multi million dollar job comes to town and you find that birds are a crucial part of the story, you have to have or be able to access these birds quickly and from all over the country. They must be trained and kept in immaculate condition, prior to filming, during filming and after everything is wrapped up.

Pre-Production meetings with producers and directors and art departments carefully scrutinize the condition and look of the birds you keep prior to committing to filming.

This need to provide birds at their optimal condition and the need for convenience in streamlining their accessibility when necessary, means that there has to be more than one option in how they are kept.

There has to be a distinction between wild kept birds in an aviary on display at a wildlife park and the kind of work I have been doing as an animal wrangler in the film industry.

I will make the point that doing small flight displays in a wildlife park from the same location day in and day out is still nowhere near what is required and expected on a film production.

It is a completely different environment and as such, there needs to be consideration and flexibility on how trained birds are kept and managed.

IMMEDIATE AREAS OF CONCERN.

1. Duty of care and welfare of birds.

If a bird is to be kept for public display or used on a film, then it should be kept in as immaculate condition as is physically possible and as stress free as is possible.

Keeping a raptor in a minimum or a maximum sized aviary will not ensure the birds welfare and guarantee it will remain in good condition.

A raptor in a cage, in a wildlife exhibit may sit quietly on a perch with its wings tucked up and all appears to be well. It may have a smashed cere and a few broken primaries from colliding into walls and branches occasionally within the aviary, but to the average punter it looks like a bird and no one is going to worry too much

about a few broken feathers.

In the film industry this is not an option. A bird, as is often the case is filmed at high speed frame rates 96 fps and faster. Every feather is seen, a close up of head, beak and eyes in minute detail is filmed at 4k resolution. There is nowhere to hide an injury on a damaged bird.

Most raptors take at least 9 months to moult a new set of feathers, eagles will take even longer. As for any damage to a bird's head, this may mean that the bird is unusable for the purpose of any close up filming. As we are all aware there is a limit to how many raptors in good condition are available legally in captivity. Those that are in captivity should be given the chance to be kept in an environment that is flexible enough to monitor and manage each bird individually as is required, to ensure it stays physically and emotionally healthy.

Licensing a bird to a nominated aviary with a tag identifying the species sounds like the most sensible and practical way of dealing with inspections, especially if you are a big operation and the objective is to work through possibly hundreds of cages as quickly and effectively as is possible. Nominating a particular travel box for each bird will also help with quickly locating and identifying each licensed bird.

The question in relation to these two examples is; If we make these type of code of practice rules, laws that are non-negotiable will it or could it be detrimental to the animal's welfare.

What I think should be carefully considered, is how the current approval of a license is obtained. One area of concern I have, hinges around the housing of birds. Where the bird is to be licensed and kept and how the bird is to be cared for. If the primary reason for keeping the bird does not fit the normal style of exhibiting; that is viewing a bird in a static display in an approved aviary, with all the right dimensions then there should also be an avenue and an opportunity to keep birds in an alternative way.

If this second option can be reasonably justified, then it would ensure that birds in different stages of training, moulting and breeding can be safely and legally managed.

Option 1, If a person can with good reason explain why his or her wildlife business does not fit the normal expectations of an exhibitor, and yet is still providing a valuable service to the community, this should be taken into consideration. If their working operations and need to care for their trained birds require specialized conditions, then a provision allowing the birds to be cared for and housed apart from a single approved cage which is a legal requirement could be enacted. The birds can still be licensed to a specific address and to a specific person. Within the location there is room to move and relocate a bird based on its needs.

For example, moulting a bird out, or breeding a bird or training up and free flying a bird. This may involve three separate scenarios that change throughout the year. All of which can operate from the same premises. In the case of my line of work a second location with a flexible housing arrangement would mean I have the ability to quickly import a bird or multiple birds on a temporary loan for the purpose of training and flying for a film job.

I have found this to work very well in other states without any problems.

A bird's importation is not based on meeting a minimum cage size but on the ability to adequately care for the bird and ensure it remains in good condition.

In almost all cases any raptor being trained and flown for exercise and film work will need to remain tethered, when not exercising. There are always some exceptions as to which bird can be free lofted, but again this can come down to many variables; temperament, species, imprinting, time of year, what the bird is being trained for. Is the bird to be filmed a thousand feet in the air or have a macro lens placed a few millimeters from its face. Does the bird need to fly out of the hood or a box, or fly next to a tracking vehicle.

There are many different scenarios and training procedures, but the fundamental techniques are by no means new, they have been around for centuries and are not unusual, but a normal practice for anyone who is serious about flying raptors anywhere in the world. Any alternative to these methods would be viewed with suspicion by any reputable raptor trainer throughout the world.

I am mindful of the need to keep my remarks as brief and succinct as possible and I have endeavored to concentrate on just a few important points of concern. What I am concerned about is whether what I am saying is really viewed as that important. As such I will try to give just a few of many examples of how my work could be jeopardized by laws that are not fully comprehensive in meeting my needs and the birds I keep needs.

I will not name the persons nor the wildlife institutions. All I will say is that they are both major government run facilities operating separately in two different states in Australia.

To begin with, I was shocked and then appalled with the lack of understanding and experience of two women placed in charge of two different bird shows and programs. While filming a movie at one location I asked the lady if she would help me with removing an eagle's hood when required. Her response was, she did not know how. They did not use hoods or did not know how to use hoods on raptors.

The second lady in charge of a wildlife show simply was against the idea of tethering and hooding raptors. In both cases we have leading institutions with people in charge with limited experience and knowledge in handling birds of prey.

Sadly these places are often the first port of call when advice is sort on topics such as legislation.

Both these institutions are by their own admission and attitudes unprepared and unskilled for work in the film industry and other unique lines of work.

As I have already mentioned before, birds operating in a fixed facility doing the same routine day after day may be in a place where there is limited need to tether or use a hood. It would be a very different situation if these people were asked to fly these same birds next to a film tracking vehicle on top of a mountain or use some of their birds to shift large flocks of Corella's from towns and airports. Yet this is precisely what I have done and have been expected to do in my line of work.

Using the hood to illustrate a point; here is an example of why hooding is necessary and why a law may be made on how to transport a bird but fails to adequately ensure duty of care.

A mandatory law to travel a bird in a specific box is made, you find you have to transport two eagles by road for a film. The job is locked in, the cost of production is worth hundreds of thousands of dollars, people have traveled from all over the world. This is a very common scenario. I can think of at least three examples of where traveling a bird in a travel box would have been dangerous for the bird.

In all three cases, once at Kunungra Queensland, once at Alice Springs and once at Curtain Springs Northern Territory. The work had been locked in months in advanced and in all three cases it was to be filmed in Summer. On the shoot days the temperature on each occasion was in the low to mid 40 degrees Celsius.

Birds hate the heat and it is one important factor to consider when using birds for film work. Never allow a birds to get stressed from heat. In such conditions any shooting must be planned for early morning and late evening.

The issue arises when you find you have to transport the bird to and from location in extreme weather conditions and to be legal they should remain in the designated travel box. The only safe way I found to travel the birds on these days was either on an arm of a handler or on a perch, hooded and tethered in front of an air-conditioned unit in a vehicle. The birds could be clearly monitored at all times.

All went well on each occasion. The birds where kept stress free and cool. This would not have been possible if the birds were not trained to accept the hood and be accustomed to being tethered, as well as being used to the feel of traveling in a vehicle. The travel box in these examples would have been unsafe.

The Film Industry and even controlled work utilizing raptors for pest control are two areas where the typical wildlife facility is ill equipped to provide any serious service. I do think they fit quite comfortably into most of the general laws proposed and for this reason there is no need or incentive for them to require any special exemption as they are generally not interested in other types of work.

Film production will always require trained birds, whether in a studio against a green screen or flying free in the outback.

What then remains, is a desire to ensure the small group of people providing unique and important services are not over looked and simply put under conditions and laws that are more designed to service Wildlife parks and static mobile displays.

POINTS OF INTEREST TO CONSIDER:

1. Allow the keeping of raptors in practical ways that fit in line with international standards of keeping trained raptors.
2. Allow the keeping of raptors in a way that can be proven to be safe for the bird and can be proven to be historically sound practice.
3. Allow the use of techniques and flexible management practices. Eg. Allow for a changing environment for

keeping a bird in and within the licensed premises. This may change depending on the time of year. Moulting a bird, breeding a bird, training a bird.

This may not and will not always be in lined with ideas and methods undertaken by traditional wildlife parks who have not traditionally used trained animals.

4.Mandatory one off cage and travel boxes for each bird would be exempt for raptors that are free flown and used for film work and any approved pest control work.

5.Minimum days required to perform educational displays would be exempt if it could be proved that there was a legitimate and alternative way of educating people about wildlife through different lines of work.

6.Allow for the nomination of a second licensed location to be used to moult birds out, to breed birds, to quarantine sick birds and to have available and ready for quick and practical importation of interstate birds on loan for training and use in the film industry.

In concluding:

What I have been doing with raptors in the film and pest control industries for the last eighteen years has provided an important service to the community throughout Australia. There will continue to be a demand for this type of service into the future. The Question remains is whether or not my line of work fits legally within the framework of an exhibitors license? If so, can there be some amendments to the law or conditions of license that takes into consideration the specialized needs required in my line of work.

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POSSIBLE AREAS OF INTEREST IN THE PROPOSED EXHIBITED ANIMALS BILL 2014

PART 2 CODES OF PRACTICE AND GUIDELINES

DIVISION 1 CODES OF PRACTICE

23 MAKING CODES OF PRACTICE

(1) **The Governor in Council may, by regulation, make a code of practice about exhibiting and dealing with exhibited animals.**

(2) Without limiting subsection (1), a code of practice may be made about—

- (a) preventing or minimising the relevant risks associated with exhibiting or dealing with exhibited animals; or
- (b) designing, constructing or maintaining enclosures for exhibiting or dealing with exhibited animals; or
- (c) exhibiting or dealing with exhibited animals in enclosures, including, for example, the species and number of animals to be exhibited or kept in an enclosure or a particular type of enclosure.

CHAPTER 2 EXHIBITING AND DEALING WITH EXHIBITED ANIMALS GENERALLY

CLAUSE 21 details the effect of a code of practice in relation to a person discharging their general exhibition and dealing obligation.

Codes of practice can be made under the Act to assist a person meet their general exhibition and dealing

obligation. Codes of practice may, for example, contain technical details or best practice measures for animal exhibition, or be of a general nature about risk management in animal display and exhibition.

However, unless explicitly stated, a code of practice does not provide all that a person has to do to discharge their obligation. That is, a person may be required to go beyond the regulatory provisions to satisfy their obligation. It is not a defence for failing to discharge their general exhibiting and dealing obligation that the relevant code of practice did not require particular action to be taken.

A person fails to discharge their obligation by contravening a code, and not following another way that is at least as effective as the way stated in the code.

If a regulation requires mandatory compliance with the whole or stated part of a code of practice in order to discharge the general exhibition and dealing obligation, any contravention of the code or stated part is taken to be a failure to discharge the obligation.

Division 2 Guidelines

Clause 26 enables the chief executive to make guidelines about matters relating to the administration of the Act or complying with other requirements imposed under the Act. Without limiting the scope of such guidelines, the following matters may be the subject of a guideline:

- how the monitoring and enforcement of compliance provisions of the Act will operate,
- ways in which animals may be exhibited or kept in enclosures, such as ensuring an enclosure allows an animal to display its normal behaviours, or
- information the chief executive may consider relevant in a management plan for managing the relevant risks associated with exhibition and dealing with exhibited animals.

Guidelines are intended to provide guidance to relevant industries and the general public about matters relating to the administration of the Act.

Before making a guideline, the chief executive must take reasonable steps to provide interested entities with the opportunity to make submissions on the proposed guideline. However, failure to do so does not affect the validity of the guideline.

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69 Minimum number of occasions for exhibiting particular authorised animals

(1) This section applies to exhibiting an authorised animal, other than an authorised animal (category 1) or (category 2), of a species identified in an exhibition licence, whether the animal is identified in the licence as a particular animal or only by reference to its species.

(2) It is a condition of the licence that at least 1 authorised animal of the species must be exhibited—

(a) if animals of the species have been kept under the licence for 1 or more whole years—on a combined total of at least 12 separate occasions in each whole year; and

(b) if animals of the species have been kept under the licence for part of a year to which paragraph (a) does not apply—on a combined total of at least the nearest whole number of separate occasions proportionate to 12 for the period for which the animals have been kept.

(3) However, despite section 13(2)(a), the display of an animal at a private event held at a regular site for a regular enclosure identified in the licence is not an exhibition of the animal for subsection (2).

(4) In this section—

separate occasion, for exhibiting an animal, means—

(a) if the animal is exhibited more than once on a particular day to audiences not consisting substantially of the same

people—each occasion the animal is exhibited on that day; or

(b) otherwise—a particular day on which the animal is exhibited.

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Subdivision 3 Other mandatory licence conditions

70 Other mandatory conditions for exhibition licence

Each of the following is also a condition of an exhibition licence—

(a) an authorised animal, other than an authorised animal (category 1), must be kept in a regular enclosure for the animal, other than to the extent (if any) the licence authorises the animal to be exhibited or kept outside the enclosure;

(b) each regular enclosure must remain at a regular site for the enclosure, other than to the extent (if any) the licence authorises the enclosure to be located elsewhere;

(c) each regular site must be located at premises of which the licence holder is the occupier;

(d) if a regular site is in, or includes, premises or a part of premises used for residential purposes and occupied by the licence holder, the licence holder must consent to an inspector entering the premises or part, at a reasonable time and on written or oral notice of at least 1 hour, to inspect an authorised animal or enclosure to monitor compliance with this Act;

(e) an authorised animal must be kept under the licence for at least 1 month, unless the chief executive gives written approval for the earlier disposal of the animal.

57 PARTICULAR CRITERIA FOR DEALING WITH ANIMAL AT 2 OR MORE PREMISES

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—

(a) a single individual will have the day-to-day care and control of each animal at each of the premises; and

(b) the keeping of each animal at each of the premises is operationally interrelated; and

(c) each of the premises is separated by a distance that allows the integrated day-to-day care and control of each animal by a single individual to be feasible.