

Submission
in response to the
proposed NSW biosecurity act regulations

Invasive Species Council

FEBRUARY 2017

Introduction

The Invasive Species Council is a non-government organisation dedicated to protecting the natural environment from the impacts of invasive species.

The Biosecurity Act has the potential to bring about major improvements to the management of biosecurity risks in NSW. We are therefore grateful for the opportunity to comment on the proposed regulations to the Biosecurity Act and updates to the schedules to the Act.

There appears to be a large disparity in the Biosecurity Act and its proposed regulations, between how agricultural biosecurity risks are managed and how environmental biosecurity risks are managed. The Biosecurity Act tools appear to have been applied systematically and in great detail to agricultural biosecurity risks in close consultation with the agricultural industry. By contrast, environmental risks have not been subject to the same systematic application of the Act's tools, leaving large gaps in the State's environmental biosecurity.

On the whole, the approach to managing environmental biosecurity risks under the Biosecurity Act appears to be to merely transition existing management practices to the new legislation, without a review of risks and of measures to reduce those risks. Exceptions to this include specific measures for invasive ants and for aquatic weeds, a biosecurity zone for bitou bush, and some measures arising from the NRC pest and weed management reviews. But overall the lack of innovation and rigor displayed in the approach to environmental biosecurity under the new Act is a big missed opportunity.

Greater emphasis on environmental biosecurity has been hampered by the limited engagement by the Office of Environment and Heritage, the lack of ecological and biological expertise in technical and policy areas of the Department of Primary Industries, the limited capacity of the community environmental sector and by low public awareness of environmental biosecurity.

Suggestions on how to address environmental biosecurity have been raised by the Invasive Species Council and other conservation groups since the proposed framework was released for public comment (see **attached** submission to the framework June 2014). Few of the recommendations from the conservation sector have been addressed. Although NSW Biosecurity has shown considerable goodwill and willingness to listen, there has been little change of substance in the way that environmental biosecurity risks are handled in the State.

Weeds

We are pleased to see special 'biosecurity zones' for bitou bush, water hyacinth and alligator weeds. We strongly recommend this approach be applied to a greater number of environmental weeds. A biosecurity zone for Lord Howe Island would help prevent invasion of new weeds and pests, some of which have already been eradicated.

The requirement to notify about proposed importation into the state of any plant that is not already present in the State (clause 30 of the proposed regulation) is strongly supported. However, this provision only requires notification. It does not, in and of itself, prevent the importation of invasive plants. It begs the questions: what occurs when notifications of importation of moderately or highly invasive plants are received?; What volume of such notifications is anticipated, on what basis, and what capacity is there to screen notifications for environmentally invasive species?; What tools are available and intended to be used to deny importation or prevent and monitor the establishment and spread of invasive plants imported under notification?; How does the processing of notifications link to science-based, precautionary and transparent risk assessment of the environmental invasiveness of each proposed plant import?

The seeming reliance on notification alone to provide warning and enable timely action on environmentally invasive plant imports is unlikely to be effective. Although it will certainly produce information (about new types of plant imported into the State), it displays an unwillingness to admit the grave risk to the natural environment posed by the importation of new plant species in the absence of clear regulatory measures to slow the importations down, apply proper risk assessment and if necessary to deny the importation altogether under a precautionary approach to environmental protection.

Instead of requiring the compilation of a list of new plants being accumulated in NSW, the regulations should proscribe the importation of new types of plant not native to NSW that have not been shown to pose only a very low risk of establishment in the wild in the State.

The list of weeds not for sale or import into the state (Schedule 3) is based on the Weeds of National Significance (WONS) list. This is a totally inadequate list for this purpose. The WONS were designed as a national program of weeds for active containment, whereas many other highly invasive weeds present in NSW in small numbers would also be suitable for statewide restrictions on 'dealings'.

Schedule 3 therefore should be greatly extended to include other exotic plants established but not widely established in NSW, that pose a medium or high risk of invasiveness. This would prevent increased numbers of invasive plants putting increased pressure on management by establishing in new areas, aiding their spread. While many plants may be suitable for listing at a regional level, there are a large number of plants that are present in low numbers that would benefit from statewide listing as a precautionary approach. The idea is to focus regulatory and management attention on species at the earlier stages of invasion, when although they may not yet have achieved notoriety (like the WONS) they pose a serious threat coupled with the potential to prevent them becoming widespread and expensive weeds.

This change to Schedule 3 (expanding the list to proscribe all but plants that pose only a very low risk) would equip the State to take a "permitted list" approach to weeds, a far superior and more risk-based approach than just listing already widespread and serious weeds.

Additional plants could also be added to Schedule 2, Part 1 of the Biosecurity Act – prohibited matter throughout the state. The criteria for listing plant species in this schedule are unclear. There are many hundreds of high risk invasive plants of environmental concern not presently established in NSW that should be listed.

The heavy reliance on the general biosecurity duty for the management of weeds appears to be too heavily focused on *present* problem weeds and places little emphasis on preventing new weeds from establishing. Regional weed strategic plans are due to be released as drafts in February 2017. Based on the drafts circulated to the regional weed committees and regional LLS boards and seen by the Invasive Species Council, these plans will be a major step backwards in regulating weeds as they centre around the management of weeds that are already known as widespread problems, and give little specificity as to how a landholder's biosecurity duty might be fulfilled. Very significant investment will be needed in community education and engagement to promote attention to the prevention end of the generalised invasion curve, if the general biosecurity duty is to be effective.

On another point, the reference to weeds in the general biosecurity duty information sheet gives only poor consideration to the core management practices for control of non-environmental weeds i.e: the sheet does not refer to active weed control, early action on new establishing weeds and good hygiene and cleanliness of clothes and equipment. Every opportunity should be taken to convey messages about preventing biosecurity risks.

On a positive note, we are pleased to note that the general biosecurity duty applies to all landholders thus extending the geographic reach beyond only private lands.

Non-indigenous animals

We urge that finalisation of new regulations and subsidiary legislation for management of non-indigenous animals under the Biosecurity Act await the government's response to the Natural Resources Commission pest animal management review, as originally planned. The final report of that review which was handed to Government late in 2016. The proposed additions to Schedule 3 relating to non-indigenous animals appear to pre-empt that report and the government's response to it. The NRC's draft report contained many excellent recommendations relevant to biosecurity regulation, and to finalise such regulation prior to the public release of the final report would be unfortunate.

We make the following points regarding the proposed regulation of non-indigenous animals based on the proposed amendment to Schedule 3 and on a table provided to the Invasive Species Council on 12 December 2016 that compares the proposed changes with current arrangements under the Non-Indigenous Animals Act.

Not having access to the table provided to the Invasive Species Council, the public has very little information about how the classifications of different species have been determined. The table is useful for comparing the national risk assessment of each species with the previous management of that species and the proposed management regime. Even with this table, we could find no specific justification for species that rate as a serious or extreme risk of establishing in the wild being unregulated.

From our analysis, there is very little change in classification between the Non-Indigenous Animals Act and the Biosecurity Act in relation to high risk species. It is deeply disappointing that the issues raised in submissions to the NRC pest management review and in the draft NRC recommendations about the need to regulate high risk species appear to have been ignored.

Schedule 1 lists pest and diseases required to be notified if they are found in NSW. Most of the species listed are ones that pose a threat to agriculture or primary production. Indeed even Part 3 of the Schedule, relating specifically to "invasive species" lists only one insect species, the European house borer while the wide range of insects and other species that pose a serious risk to the natural environment seem to be ignored (it is noted that species listed as prohibited matter are notifiable). We believe that those species posing a severe risk to the natural environment should be subject to mandatory notification if they were found in the state.

There are often significant conflicts between the environmental threat posed by a species, and species use in agriculture, hunting or as pets. Under the regulation as drafted these conflicts are mostly unresolved, placing the natural environment at risk.

There are 263 animal species that are to be unregulated (Schedule 3 (2)(c)) in the proposed amendments to the Biosecurity Act schedules. Of these, 236, or 90% are rated as a serious or extreme threat of establishing by the Invasive Plants and Animals Committee (IPAC) Australian List of Threat Categories of Non-Indigenous Vertebrates 2015. Only three previously unregulated species, the razor-billed curassow, the Chilean flamingo and the greater flamingo, are now to be regulated.

Some of the unregulated species are in very low numbers or are not established in NSW, meaning that regulating them would grasp an opportunity to prevent widespread establishment and impacts. Many have highly invasive tendencies, having established wild populations in other countries or other parts of Australia thus easily justifying their regulation.

The following is an analysis of selected well-known invasive species. A comprehensive review of the management status of all unregulated non-indigenous animals is needed to reduce the biosecurity risk from these species.

Eight of the proposed unregulated bird species are game birds¹, seven of which do not occur in the wild in NSW (see Table 1). All seven of these species have formed feral populations elsewhere in the

¹ <http://www.dpi.nsw.gov.au/hunting/what-can-i-hunt>

world². Five of them have formed feral populations in other states of Australia³. These birds can only be hunted if they are released into outdoor situations, creating a risk that feral populations could form. Hunters have been responsible for some of Australia’s worst pest problems, including the red fox, an agent of extinction and major agricultural pest. Ducks, pigeons, quail, mynas and starlings are already available to hunters, as are a wide range of feral mammals. Exotic game birds should be removed from the *Game and Feral Animal Control Act 2002* and their release into wild or semi-wild situations prohibited.

Table 1. NSW ‘Game Birds’

Game Bird	Locations of Feral Populations
Bobwhite Quail	West Indies, New Zealand, England
California Quail	Norfolk Island, King Island (Tasmania), New Zealand, Chile, Argentina, Hawaii
Guinea Fowl	North Queensland, South Africa, Cuba
Partridge	Europe, Canada, Mexico, Hawaii, New Zealand
Peafowl	Islands in Tasmania, WA & SA; Pakistan, California, Hawaii
Pheasant	King Island (Tasmania), Rottnest Island (WA), New Zealand
Turkey	King & Flinders Islands (Tasmania), Hawaii

The Barbary dove was added to the list of Australia’s wild-breeding birds in 2008,⁴ following evidence of a feral population breeding in Alice Springs, which has since been removed. Adelaide also has a recently established feral population, which has not been removed. Barbary doves are on the list of approved birds for NSW, but there is every prospect of them forming feral populations – if birds escape or are freed.

Another approved bird in NSW is the laughing dove, despite the existence of a feral population occupying a large area of South-western Australia. Both species pose a risk for NSW. A ban could prove counter-productive if it resulted in aviary owners releasing their birds. NSW should investigate the status of these species in captivity in NSW and see if a policy is warranted to reduce the risk of feral populations forming.

The Indian ringneck parrot often escapes from captivity in Australia, with evidence of breeding noted in Western Australia.⁵ It has formed feral populations in many parts of the world, including England, Africa, Asia and North America.⁶ The Department of Agriculture and Food in Western Australia conducted a scientific risk assessment finding that this parrot poses an extreme threat (the highest of four categories) to Australia.⁷ This assessment was endorsed by the IPAC.⁸ The ringneck is a serious crop pest in its native range and could compete with native parrots for food and hollows. NSW should introduce a phase-out of this species, allowing pet owners to keep the ring-necks they have,

² Long (1981) *Introduced Birds of the World*. Reed, Sydney

³ Christidis & Boles (2008) *Systematics and Taxonomy of Australian Birds*, CSIRO Publishing, Melbourne.

⁴ Christidis & Boles (2008) *Systematics and Taxonomy of Australian Birds*, CSIRO Publishing, Melbourne.

⁵ <https://www.agric.wa.gov.au/birds/indian-ringneck-parakeet-animal-pest-alert?page=0,2>

⁶ Long (1981) *Introduced Birds of the World*. Reed, Sydney

⁷ <https://www.agric.wa.gov.au/birds/indian-ringneck-parakeet-animal-pest-alert?page=0,2>

⁸ <https://www.agric.wa.gov.au/birds/indian-ringneck-parakeet-animal-pest-alert?page=0,2>

but not to breed or replace them, leading to a prohibition on this species when no captive birds remain.

Ferrets are a serious pest in New Zealand, posing a serious risk to ground-dwelling birds and are rated as an extreme risk of establishing in the wild by the IPAC. While they may be kept as pets in NSW, they are not kept in high numbers. Pet ferrets regularly escape. It is a matter of time before the ferret establishes in Australia. Like many other invasive species, the right environmental factors coupled with sufficient population pressure will eventually lead to a native population establishing. A phase-out of ferrets should be considered before they become a serious environmental pest.

Blackbuck (*Antelope cervicapra*) is rated as an extreme threat of establishing in the wild. It is unclear why blackbuck should be permitted to be kept in NSW, except perhaps for hunters. Blackbuck are difficult to keep in fenced areas and their keeping in NSW, even if registered, should not be permitted.

Deer species have a severe impact on the natural environment in NSW, as well as on farms, on infrastructure, and causing road fatalities. Their range and density and resulting damaging continues to increase across NSW. The NRC draft recommendations proposed that deer no longer be protected as game, but that they instead be listed as feral pests. We strongly support this, and further urge that a state-wide containment strategy be developed and funded for deer.

Exotic but potentially invasive pet birds, aquarium fish, lizards and other animals like ferrets should be more firmly regulated and controlled.

Section 28 (1) of the regulation regarding invasive ant carriers is supported by ISC. Close attention should be paid to ensure other potential vectors cannot move from infected fire ant areas into NSW.

General Biosecurity Obligation

The new 'general biosecurity duty' is an important new tool to encourage better behaviour for land managers and visitors to bushland areas. The duty has great potential if supported by strong, on-going, core-funded community education and compliance programs.

There is little evidence that these elements are being fully developed for key environmental risks as part of the Biosecurity Act implementation. There is much work to do in the months prior to the commencement of the Biosecurity Act.

We are sceptical about the proposed to do away with control orders for feral animals and instead rely on the general biosecurity duty for the management of feral animals. Control orders provide clarity about landowner obligations and should not be replaced by the general biosecurity duty unless it can be implemented in a way that provides the same clarity and requirement to conduct consistent land management actions.

Restrictions on testing prohibited matter

The restriction on the testing of prohibited matter unless the testing is carried out by an approved tester (clause 8) appears sensible for diseases but unrealistic and unnecessary for prohibited invertebrates and plants. Such a ban would prevent the community from making its own checks for the presence of a weed like Mexican feather grass or an ant like the red imported fire ant when there may be simple diagnostics that can be used. Such a restriction on testing is impractical and would make illegal simple measures such as using a plant key to aid identification.

The government should offer greater flexibility in the use of testing to aid field identification for plants and animals.