



# THE FINCH SOCIETY OF AUSTRALIA INC

(Incorporated under the *Associations Incorporation Act 2009*)

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Biodiversity Reforms - Have Your Say

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Sydney South

NSW 1232

27/06/2016

## RE: NSW Biodiversity Conservation Bill 2016

This submission is presented on behalf of the Finch Society of Australia (FSA) and the Canary and Cage Bird Federation of Australia (CCBFA). The FSA and its branches represents finch and softbill aviculturists specifically and is affiliated with the CCBFA. The CCBFA directly represents more than 240 avicultural clubs nationally, including numerous affiliate clubs throughout NSW. Our combined membership supports, encourages and is actively involved in the conservation of avian species nationally and internationally.

Legislation with regard to licensing of native avian species in NSW and nationally is a central concern to our membership. We presented the following significant proposal to OEH staff early August 2015.

*"Native Birds in Aviculture: Licensing and Community Involvement, Proposal for NSW from the Avicultural Community"*

[http://finchsociety.org/NSW\\_licensing\\_proposal.pdf](http://finchsociety.org/NSW_licensing_proposal.pdf)

This paper has the support of the avicultural community and forms the basis of our recommendations.

No doubt the detail of the licensing scheme will be worked through as regulations and policy are negotiated during the Native Animal Keeping consultative committee formed by NPWS and of which we are members. We recommend the proposal above be central to the work of this committee. In terms of the Bill itself, we resubmit the paper as significant comment on Sections 2.11 – 2.17 dealing with Biodiversity conservation licences.

Comments and recommendations particular to other sections of the Draft Biodiversity Conservation Bill 2016:

### Section 2.5 Dealing in Animals or Plants.

- There are many threatened species with secure captive avicultural populations. This includes species whose wild population in NSW is extinct, critically endangered, endangered and vulnerable. A number of these species are considered domesticated.
- It is a very different matter to be in possession of illegal wild caught animals compared to captive bred animals. Maximum penalties should reflect this difference.
- A relevant license will protect against prosecution (Section 2.11). However, in the case of captive bred threatened species the offence is really that of not possessing the correct license rather than dealing in threatened species.
- Example. Black-throated Finches *Poephila cincta cincta* are endangered yet have a well-established captive population. Within the draft Bill the maximum fine for an

individual possessing one of these captive bred birds is \$330,000 or 2 years' imprisonment or both. An extraordinary maximum penalty when the keeper was simply ignorant of licensing requirements.

**Recommendation 1:**

*Add 2.5(6) In this section, animal excludes captive bred individuals*

**Section 2.6 Liberating Animals.**

- Birds are kept in a variety of enclosures with various means of security. Despite the best intentions animals do escape.
- Many captive birds are free flighted as part of sound welfare and management practices.
- The probability of escaped captive bred birds establishing sustainable wild populations is minimal. We are happy to provide evidence to support this fact.
- Example. A young child leaves the door of a pet parrot's cage ajar. The bird is liberated. Within the draft Bill a maximum fine of \$88,000 applies. Clearly an inappropriate penalty.

**Recommendation 2:**

*In 2.6(1) and 2.6(2) replace the word "liberates" with the words "deliberately liberates". Replace the words "Maximum penalty: Tier 3 penalty" with the words "Maximum Penalty: Captive bred birds Tier 4 penalty, otherwise Tier 3 penalty."*

**Section 11.32 Directions for welfare of protected animals in confinement.**

- We support mechanisms to improve welfare for animals generally, however we question the need for this section for a number of reasons.
  - It seems unlikely that "authorised officers" will have the qualifications, expertise and species level experience to make accurate judgements in this area.
  - The *Prevention of Cruelty to Animals Act 1979* deals with welfare and related matters thoroughly. We submit that there is little to be gained by duplication.

**Recommendation 3:**

*Delete Section 11.32*

We look forward to ongoing communication and consultation as the Bill is refined, and as subsequent regulations and policies are formed.

Please do not hesitate to make contact.

Sincerely,



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## Native Birds in Aviculture: Licensing and Community Involvement

### Proposal for NSW from the Avicultural Community

This proposal has been compiled by The Finch Society of Australia Inc. with input, support and approval from a broad range of avicultural organisations. The proposal is endorsed and submitted in conjunction with the Canary and Caged Bird Federation of Australia (CCBFA) whose membership includes the majority of Avicultural clubs in NSW and nationally. Appendix 1 is a complete list of stakeholder organisations whose input and direct support was central to the compilation of this document. Appendix 2 summarises the facts gathered via written and oral input from these Avicultural stakeholders.

#### 1. Framing a new system.

We make the following assumptions based largely on “*A review of biodiversity legislation in NSW, Final Report*” (18/12/14) to frame and set the scope of our proposal.

- 1.1 Managing the risk of native animals being taken from the wild (or returned to the wild) is critical to any new scheme ultimately receiving support from Government.
- 1.2 The current licensing system is overly prescriptive and difficult to enforce. The result is ongoing poor compliance together with inadequate risk management.
- 1.3 Recommendation 27 and 28 are pertinent and will be implemented by Government.
  - 1.3.1 Recommendation 27 – *Adopt a tiered and risk-based approach to the regulation of wildlife management in NSW to credibly regulate high-risk activities and reduce red tape for low-risk activities. The four tiers would be: exempt activities, code-based complying activities, assessable/licensed activities, and prohibited activities.*
  - 1.3.2 Recommendation 28 – *Improve the public’s knowledge and understanding of wildlife conservation and management through community-oriented education programs about native plants and animals, the impacts of human-wildlife interactions, and the welfare needs of animals in captivity.*

#### 2. Proposal

In light of the facts within Appendix 2 we propose the following is implemented via the NSW Biodiversity Act, subordinate regulations and subsequent departmental policies. Point 2.1 describes the species Schedules. Points 2.2 to 2.5 reflect the four tiers of Recommendation 27 (1.3.1), albeit with some modification. The concluding points aim to fulfil Recommendation 28 (1.3.2). They are of equal or greater importance in terms of acceptance and continuing long term support by the avicultural community.

- 2.1 There will be three Schedules. The NAKCC (2.7) has responsibility for maintenance of these schedules in consultation with Avicultural stakeholders.
  - 2.1.1 Schedule 0 lists species that can be freely traded without restriction or licence. Similar to the current exempt list with modification. These are highly domesticated species where there is no identifiable risk to wild populations.
  - 2.1.2 Schedule 1 to include species with well-established captive populations whose management and welfare is well defined and easy to meet. There is negligible risk to wild populations. It is envisaged Schedule 1 would be somewhat similar to the current B1 species lists, although some modification will be required.

- 2.1.3 Schedule 2 would be somewhat similar to the current B2 list, with modification. These are species with specific husbandry requirements or that require extra protection of their wild population.
- 2.1.4 Schedules readily able to be amended via ministerial orders or similar mechanism to ensure they remain contemporary.
- 2.2 Exempt tier refers to pet ownership of native animals within Schedule 0 or Schedule 1 of the regulations. No licence or legislative compliance required.
- 2.2.1 Pet ownership is defined as those seeking animal companionship or those maintaining a limited collection of animals as a peripheral interest.
- 2.2.2 Schedule 1 species can only be obtained from complying or assessable licence holders.
- 2.2.3 Schedule 1 species can only be moved or sold to assessable licence holders.
- 2.2.4 Import or export between states is not permitted for Schedule 1 species except when moving residence interstate.
- 2.2.5 Entry point into native animal care. Natural progression to complying tier occurs as interest increases and/or due to ongoing Schedule 1 breeding success requiring expanded options to move excess animals.
- 2.3 Complying tier refers to hobbyists who are serious native animal keepers and breeders of species within Schedule 0, Schedule 1 or Schedule 2. A single low fee licence with no annual return is proposed for this tier.
- 2.3.1 Hobbyist is defined as those with a dedication to mastering the skills and increasing their knowledge of Aviculture.
- 2.3.2 Typical hobbyists have specific objectives they wish to achieve, such as breeding a new species, developing a specific trait, or improving management or welfare practices.
- 2.3.3 A major aim of complying licences is to provide a means of ongoing communication between hobbyists and the Department. The acquisition of licences should be desirable to licensees. Some practical ideas include:
- Licences are in the form of plastic cards, much like a credit card or driver's licence. The licence itself is a desirable object promoting the licensing scheme.
  - Regular newsletters from NPWS.
  - Discounted licence fees for seniors.
  - Value added products are provided as part of licensing. For example, NPWS receipt books for transactions, breeding registers – paper or digital app.
  - Discounts on various NPWS activities and park entry.
  - Licence fees are used to fund or promote native animal captive conservation projects (refer 2.6).
- 2.3.4 Schedule 1 species can be traded freely between complying licence holders.
- 2.3.5 Records of Schedule 2 species movements between complying licence holders is required to be kept and examined if so required.
- 2.3.6 Records of Schedule 2 species import or export between states is required to be kept and examined if so required.
- 2.3.7 An enforceable Avicultural code of practice to be developed and maintained in consultation with Avicultural stakeholders via representatives of the NAKCC (2.7).
- 2.3.8 Compliance operations aim to educate with enforcement an option of last resort.

- 2.4 Assessable tier refers to commercial operators. A licence is required together with species level records held for Schedule 1 and Schedule 2 species transactions.
  - 2.4.1 Commercial operators are defined as those whose purpose and intent is to make a financial profit. The definition of commercial is based on the same criterion as used by the ATO (Australian Taxation Office).
  - 2.4.2 It is envisaged the assessable tier would encompass fauna dealers, pet shops and large commercial breeding operations.
  - 2.4.3 Assessable licence holders are able to purchase and sell native animals from Schedule 1 without restriction, however a record of verified seller name and address is required.
  - 2.4.4 Schedule 2 species purchase or sale requires a record of complying licence number or assessable licence number.
  - 2.4.5 Records of Schedule 1 and Schedule 2 species import or export between states is required.
  - 2.4.6 Records of Schedule 1 and Schedule 2 species movements (2.4.3, 2.4.4, 2.4.5) can be examined as part of compliance operations if so required.
- 2.5 Prohibited tier refers to activities that require a specific permit to be permitted activities. Many such activities would relate to use of animals in the wild. A non-exhaustive list of likely permits includes the following.
  - 2.5.1 Wildlife rehabilitation organisations to treat sick or injured wildlife. An ongoing permit encompassing a wide range of species.
  - 2.5.2 Scientific research requiring capture of wild animals. A permit with specific species, locations and other details.
  - 2.5.3 Threatened species (or their analogues) captive breeding programs. A permit requiring a detailed proposal and ongoing captive management plan and studbook.
  - 2.5.4 Take from the wild to establish new species or re-establish a species in captivity. A permit issued on the basis of a proposal including a viable captive management plan developed in conjunction with an Avicultural club or committee.
- 2.6 Avicultural clubs and individuals can access funding to develop native animal projects. Some areas that may attract funding include:
  - 2.6.1 Promoting native animal care and conservation to the wider community.
  - 2.6.2 Captive breeding initiatives, including threatened species (2.5.3) and establishing species in captivity (2.5.4).
  - 2.6.3 Promoting and monitoring licence compliance at point of entry to major sales including issuing interim complying licences.
- 2.7 The existing Native Animal Keepers Consultative Committee (NAKCC) to be retained within new legislation with expanded terms of reference.
  - 2.7.1 Enhancing educational, communication and promotional aspects of the NAKCC terms of reference, particularly in regard to consultation with avicultural stakeholders.
  - 2.7.2 The NAKCC to have formal advisory responsibility for the code of practice associated with complying and assessable activities.
  - 2.7.3 The NAKCC to provide expert advice with regard to assigning species to Schedule 0, Schedule 1 and Schedule 2.
  - 2.7.4 The NAKCC to provide an appeals function when permits for prohibited activities are refused.

## **Appendix 1. — Avicultural Stakeholders**

The following stakeholder organisations provided input and direct support central to the compilation of this document.

- The Canary and Cage Bird Federation of Australia Inc. (CCBFA)
- Associated Birdkeepers of Australia Inc. (ABA)
- The Avicultural Society of NSW Inc.
- The Finch Society of Australia Inc.
- National Finch and Softbill Association (NFSA)
- Macarthur Aviary Bird Club
- Hawkesbury Finch Club
- Canberra Finch Club
- Hunter Valley Finch Club Inc.
- Wollongong Finch Club Inc.
- Softbill and Native Pigeon Society
- Manly Warringah Avicultural Society
- Avicultural Society Social Birdkeepers Inc.

## Appendix 2. — Facts

The following facts are a summary of relevant written and oral input from Avicultural stakeholders.

- A2.1 Many aviculturists keep and breed a diverse mix of both exotic and native species. In terms of management and record keeping practices the distinction between exotic and native is largely irrelevant. For example, a typical finch hobbyist may breed 10 exotic and 5 native species one year, then 5 exotic and 10 natives the next, yet the total adult pairs kept remains relatively stable. Total number of native birds is a poor measure of competence.
- A2.2 For each aviculturist the number of individuals of each species varies considerably throughout the year based on the natural breeding season for each species. Reproductive rates vary considerably, hence total number of birds is a poor measure of comparison.
- A2.3 Aviculturists possess detailed species specific skills and knowledge obtained through daily observation and management of individual birds. Avicultural clubs are keen to share their knowledge and skills to assist conservation and education efforts. We're a largely untapped (and economical) resource.
- A2.4 Team work is routinely used by dedicated Aviculturists to maintain pure wild-type captive populations, establish new mutations (colour morphs), re-establish species whose captive numbers and genetic diversity is low or to select for specific desired traits. The cooperation, record keeping and line breeding required is analogous to high cost threatened species captive breeding programmes.
- A2.5 There is a well organised and established range of Avicultural clubs throughout NSW and nationally. Encouragement, cooperation and communication with this network of clubs and representative bodies is a prerequisite to any successful native bird licensing system.
- A2.6 The current system severely restricts the trade in licensed species through specialist bird shops. This is largely because potential purchasers overwhelmingly choose unlicensed exempt species in preference to species requiring a licence. This skews the market and encourages a black market.
- A2.7 The history and cooperation between private aviculture and the zoo community is extensive. These links are strong - zoos routinely source birds from private aviculturists, zoo personnel attend avicultural meetings and Aviculture clubs routinely attend zoo functions.
- A2.8 Current licensing is widely viewed as an impediment to keeping native birds. Most native bird species kept are well established in captivity with management competency established and demonstrated collectively for many decades.
- A2.9 Species "on licence" routinely experience fluctuations due to an artificially imposed cycle of supply and demand. Declining numbers lead to increasing demand and higher prices. Soon supply exceeds demand so prices decline and the circle repeats.
- A2.10 There is no identifiable incentive for native species with well-established captive bred populations to be taken from the wild. For less established species or those with dwindling genetic diversity a procedure to supplement from the wild would be beneficial.
- A2.11 Participation in aviculture is acknowledged to improve community health and wellbeing. Many aviculturists have physical and mental disabilities relieved by bird keeping. Aviculture clubs are social clubs that both indirectly and directly service the community. For example a number of clubs operate aviaries within nursing homes for the benefit of residents, other clubs present on native bird care, conservation and welfare at local schools.

- A2.12 Currently the movement of native birds between states is complex. Jurisdictions have conflicting regulations and licensing systems which impede the legitimate movement of birds and encourage non-compliance.
- A2.13 The large majority of Aviculturists are hobbyists. For the overwhelming majority, expenditure on their hobby far exceeds any income - there is no expectation of profit.
- A2.14 Unlike government departments, zoos and those in receipt of government grants, a typical avicultural hobbyist's only recourse for recouping costs is to charge a nominal fee for the sale of animals.