

Overview of licences to kill in New South Wales



**HUMANE SOCIETY
INTERNATIONAL**
AUSTRALIA



Licensing Framework

In NSW, the licensed killing of native terrestrial wildlife is primarily regulated by the *Biodiversity Conservation Act 2016* (NSW) (**BC Act**) and the *Biodiversity Conservation Regulation 2017* (**BC Regulation**).

Under the BC Act, it is an offence to harm,¹ or attempt to harm, an animal that is of a 'threatened species', or a 'protected animal'.² All native amphibians, birds, mammals (except dingoes), and reptiles are listed as 'protected animals' under the BC Act.³ Some protected animals are also listed as 'threatened species'.

However, a person can obtain a 'biodiversity conservation licence' to harm a protected animal.

Biodiversity conservation licences are used to regulate certain interactions between humans and native wildlife. There are a range of purposes for which a licence may be issued. Most relevantly, if a native animal is causing damage or loss to a property,⁴ the National Parks and Wildlife Service (**NPWS**)⁵ may grant a person a biodiversity conservation licence to harm that animal.⁶

This kind of licence is generally known as a 'licence to harm a protected animal' and will be the focus of this report. While in theory, a biodiversity conservation licence could be granted to control any native animal (including an animal that is of a threatened species), it appears, based on publicly available information, that a licence is not generally issued to a private landholder to harm an animal of a threatened species that is said to be causing damage or loss to a property.⁷ Moreover, since July 2021, the NSW Government's policy is that it will not issue a licence to kill flying foxes on private land.⁸

The Game and Feral Animal Control Act 2002 (NSW) (**Game Act**) also allows a person to apply for a licence to kill certain ‘native game birds’⁹ on private land for ‘sustainable agriculture management purposes’.¹⁰ This licencing regime is known as the ‘Native Game Bird Management Program’, and it essentially allows a person to kill certain native birds that are said to be destroying crops and causing landholders to lose farm and export income. The Program is administered by the Department of Primary Industries (**DPI**).

A person wishing to kill birds under the Native Bird Management Program requires a biodiversity conservation licence, a native game bird management licence, and a game hunting licence.¹¹ If the holder of a native game bird management licence does not wish to undertake the killing, they may invite a holder of a game hunting licence onto their land to undertake the killing on their behalf. There are concerns that the Native Bird Management Program acts as a backdoor to recreational hunting in New South Wales (which has been officially banned since 1995).

Exceptions to the requirement to hold a biodiversity conservation licence

A person will not require a biodiversity conservation licence to harm:

- **dingoes;**
- **some native birds** (in certain circumstances); or
- **snakes** (in certain circumstances).

Dingoes are not recognised as native animals under the BC Act and are therefore not protected. Instead, dingoes are labelled as ‘wild dogs’ and are treated as biosecurity matter (and a pest animal) under the *Biosecurity Act 2015* (NSW).¹² This is primarily because wild dogs are perceived as a threat to the sheep industry. Under the Biosecurity Act, landholders have a “general biosecurity duty” to prevent, eliminate, or minimise biosecurity risks caused by biosecurity matter (including pest animals). This has been interpreted to mean that landholders are required to “control” (i.e., kill) dingoes on their land, which is usually carried out by baiting (using 1080 poison), trapping, and shooting.¹³ As no licence is required to kill dingoes either under the BC Act or the Biosecurity Act, it is not known how many dingoes are killed on private land in NSW every year.



IMAGE: FARM TRANSPARENCY PROJECT

All native birds are protected under the BC Act. However, a person does not require a biodiversity conservation licence to harm, and will not be guilty of an offence of harming (so long as the harm was not for sporting or recreational purposes), the following:¹⁴

- sulphur-crested cockatoo and galah, but only in the Western, Northwest, Central West, Riverina and Murray regions of NSW (excluding national parks and conservation areas);
- Australian raven, forest raven, little raven, Australian crow, or little crow, if the harm occurs outside the Greater Sydney region (excluding national parks and conservation areas); and
- purple swamphen, if the harm:
 - is for the purpose of mitigating damage to commercial rice crops, and
 - occurs between 1 December and the following 30 April, and
 - occurs in the Riverina and Murray regions of NSW, and
 - does not occur in national park estate and other conservation area.

Under the BC Act, a person may harm a snake without a licence if the person believes the snake is endangering or likely to endanger any person or property at the time it is harmed.¹⁵

Methods used to kill wildlife

The BC Act does not specifically address which lethal methods a person is permitted to use to kill native wildlife. However, the NSW Government maintains a range of public registers which contain information about licences granted under the BC Act, including licences to harm protected animals, and this register lists the lethal methods that have been approved for use, including:

- **“Shoot (firearms)”**.
- **“Trap/euthanase”**.
- **“Other”**.¹⁶

The NSW Government advised that ‘other’ includes any method that does not fit into the other categories and is almost always non-lethal. The most common methods included in the ‘other’ category are nest removal, scaring animals away, egg oiling/destruction. Based on the public register, it appears that shooting is the most permitted/used method to kill native wildlife under licences to harm protected animals.

A person is not required to pass a shooter proficiency test under the BC Act or BC Regulation to kill native animals under a licence to harm protected animals.¹⁷ However, they must comply with the *Firearms Act 1996*.¹⁸ If a private landholder wants to kill kangaroos on their property and they are in a ‘commercial harvest zone’, the NPWS encourages private landholders to use professional shooters.¹⁹

A person acting under a licence to harm protected animals and a native game bird management licence must also comply with the POCTA Act.²⁰ However, it is a defence to the offence of cruelty (including aggravated cruelty) under the POCTA Act if the person was hunting, shooting, trapping, catching, or capturing the animal and they did not inflict “unnecessary pain upon the animal.” This is a very subjective test and provides a broad defence. As a result, it is likely very difficult to enforce.

As noted above, lethal methods such as baiting with 1080 poison are used to kill dingoes.

While the POCTA Act prohibits the use of steel-jawed traps,²¹ it is concerning that neither the POCTA Act nor the BC Act expressly prohibits the use of poison to kill animals.

Numbers of native animals licensed to be killed in NSW

The NSW Government maintains a range of public registers which contain information about licences granted under the BC Act, including licences to harm protected animals and threatened species.²²

This report focuses on licences issued to harm native animals that are said to be causing damage or loss to property. The data below therefore represents information from licences that have been issued for this purpose. It also includes information on the number of native ducks that are allowed to be killed (and reported as killed) under the Native Game Bird Management Program. It does not include any information on the number of dingoes that may be killed in NSW without a licence.

To provide a snapshot, in 2023, approximately 227,721 native animals were allowed to be killed in NSW. This included:

- **186,179 macropods**, including eastern grey kangaroo, western grey kangaroo, red kangaroo, red-necked wallaby, swamp wallaby, whiptail wallaby and common wallaroo
- **41,343 native birds**, including little corellas, sulphur crested cockatoos, galahs, noisy miners, welcome swallows, long billed corellas
- **189 bare-nosed wombats**
- **10 brushtail possums**

The public register of 'licences to harm protected animals' under the BC Act does not include the number of animals that were reported to have been killed. It is therefore not known how many animals are killed under these licences in any given year.

The NSW Government allowed an additional 429,482 'native game birds' (including wood ducks, black ducks, grey teals, hardhead ducks and plumed whistling ducks) to be killed under the Native Game Bird Management Program. Approximately 29,266 'native game birds' were killed under this program in 2023.



Application, assessment & enforcement

Under the BC Act

Applications

An application for a licence to harm a protected animal must be:²³

- made to the NPWS in the approved form; and
- accompanied by the prescribed fee (currently between \$30 and \$300, depending on the purpose of the licence).²⁴

As noted above, there are a range of purposes for which a biodiversity conservation licence may be issued (one of which includes to harm a protected animal). However, the requirements set out in the BC Act and the BC Regulations are the same for any kind of application (e.g. keeping native animals, scientific licence, export/import licence). The below information is about applications for licences to harm protected animals that are said to be causing loss or damage to property.

The NSW Government has a 'living with native animals' webpage,²⁵ and a separate page that sets out information about licences to control or harm native animals.²⁶ The 'living with native animals' page says that *"understanding the behaviour and needs of native animals in an area is one of the best ways to appreciate them and to avoid conflict with them"*. It houses factsheets about "some well-known" and some "not so well-known" native animals, which include species-specific information about what the animals look or sound like, where they are found, and different threats facing them. The factsheets do not typically provide any "tips" for living with the animal, but some, limited guidance is provided on a different page.²⁷

The licensing page houses information about the different aspects of the licensing regime (e.g. public register of licences, standard licence conditions) and directs a person to different sub-pages about same. The public register section lists several different types of biodiversity conservation licences that may be issued to control or harm native animals.²⁸ These relevantly include:

- **Landholder's licence** – for owners or occupiers of a property to mitigate threats to human safety, property damage or economic hardship caused by native animals other than those covered by a kangaroo licence.
- **Kangaroo licence** – for owners or occupiers of a property to mitigate threats to human safety, property damage or economic hardship caused by kangaroos, wallaroos and/or some types of wallaby.²⁹

'General licences' may also be issued to a person who wants to assist a licensed landholder to control a native animal on that landholder's property.

Application forms for the different kinds of licences are available on the NSW Government website.³⁰

The application for a landholder's licence and a general licence are contained in the same form. If a person other than the landholder is intending to carry out the harm, the 'application for a general licence' section on the form must be completed. If approved, a separate licence will be issued to that person along with the licence to the landholder.

A separate page houses information about a licence to harm kangaroos³¹ and a licence to harm threatened species,³² and there is a separate application form for each.

The applications ask for slightly different information but are generally similar. While a person is required to select the box which best describes the impacts or damage being caused by the animal, proof of same is not requested.

The webpage containing information about a licence to harm kangaroo is the most comprehensive and emphasis is placed on living with kangaroos and adopting non-lethal measures for managing any “conflict”. It is, nevertheless, concerning that previous and current licence holders can apply for licences to harm kangaroos over the phone, and that the person undertaking the harm does not need to be listed on the application. These changes, along with others, were introduced by the NSW Government in 2018 as part of a package of “drought relief measures” and still remain in place.³³

The NSW Government has a [*People and Wildlife Policy*](#), which encourages the use of non-lethal methods to manage wildlife ‘where possible’. The Policy states that the NPWS aims to work with landholders to identify appropriate actions to minimise or remove the risks of injury or damage, but that when ‘other options have been exhausted’, a landholder may apply for a licence. Despite this, there is no legal requirement (i.e., under the BC Act) to trial (or, indeed, ‘exhaust’) non-lethal methods prior to applying for a licence (although the different application forms do ask what methods have been tried, or how long, and why they are no longer satisfactory. However proof of same is not requested).

Assessment

When deciding whether to grant a licence to harm a protected animal, the NPWS may (but is not required by the BC Act) to consider the following matters:

- any likely impact of the activity on protected animals or animals of a threatened species;
- any likely contribution of the activity to the conservation of protected animals or animals of a threatened species;
- whether the activity is directed at preventing or minimising a threat or potential threat to human health, safety or well-being;
- whether the activity is directed at preventing or minimising damage or loss to property that is being or likely to be caused by an animal;
- the public interest;
- any other matter the NPWS considers relevant.

However, a licence will only be granted if the NPWS is satisfied that the applicant is a “fit and proper person” to hold the licence.³⁴ While this is a positive feature of the legislation, the NPWS otherwise has broad discretion to give someone permission to harm native animals. Notably, there is no express requirement for the NPWS to consider whether a landholder has trialled non-lethal methods of control (although the NPWS advises that it will only give permission to harm native animals where a landholder has demonstrated that non-lethal methods of control are not feasible and applicants are advised to contact NPWS to discuss the issues they are having and their proposed applications).

Within 28 days (or 56, if the time is extended³⁵), the NPWS must decide whether to grant, or refuse to grant, the licence.³⁶

Approval/Post-Approval

A licence may be granted for the period specified in the licence.³⁷

A licence may be granted unconditionally, or subject to conditions.³⁸ However, the NSW Government’s website states, and the NPWS advised, that all licences are granted with conditions (i.e., none are granted unconditionally). The ‘standard conditions’ for licences to harm some types of animals (e.g. emus, wombats) are publicly available. Some of these conditions include that:

- the animal must be harmed in accordance with a relevant code of practice.³⁹

- the licence only authorises harm to the number of animals of each species stated on the licence. This condition states that the dependent young of animals harmed under a licence do not count towards the licence quota.
- the nominated species can only be harmed on or over the location named in the licence;
- the licensee must notify NPWS within 24 hours if a species not covered by the licence is harmed;
- the licensee must keep a true and accurate record of the species and number of animals harmed under the licence in accordance with an attached record sheet. The record sheet must be produced for inspection upon request by NPWS.
- Licensee must provide NPWS with an accurate and up to date record sheet for all animals harmed within seven days of the expiry of the licence.
- any persons authorised to shoot animals under the licence must:
 - have a valid and current firearms licence;
 - comply with the provisions of the *Firearms Act 1996* at all times; and
 - inform NSW NPWS if their firearms licence is suspended or revoked.

It is an offence to contravene a condition of a licence.⁴⁰

Although it is not required by the BC Act, it is positive that a person is required by a condition of their licence to provide NPWS with a record sheet for all animals harmed, and that the NSW Government maintains a public register with information about licences granted under the BC Act. However, because the public registers do not show how many animals have been killed under any given licence, it is not known how many native animals are actually killed in total in NSW every year.⁴¹

Except for macropods, the NSW Government does not prepare or publish Population Management Plans (**PMPs**) for common species or set limits on the number of animals that may be killed on an annual basis. The NPWS advised that it was not feasible to develop PMPs for common species, and that, without monitoring, it is not possible to set maximum cull limits.

Enforcement

The Secretary of DPE may suspend or cancel a licence for any reason they think is appropriate.⁴²

A person may appeal to the NSW Land and Environment Court (**LEC**) if their application for a licence is refused, if they are unhappy with a condition of the licence, or if their licence is suspended or cancelled.⁴³

It is not known whether, in practice, the NPWS ensures that licence holders are complying with the conditions of their licences (or that people are not harming native animals without a licence). However, there are a range of enforcement and investigate powers in the BC Act that can be used if the NPWS (or other authorised officers) thinks someone is contravening the Act (e.g. by operating without, or not complying with a condition of, a licence).

It is also not clear when, how often, and what type of compliance and enforcement activities are carried out because the NSW Government does not appear to publish any information about their monitoring of compliance and enforcement action in respect of the biodiversity conservation licence system. Indeed, the Final Report of the *Independent review of the Biodiversity Conservation Act 2016* noted that in respect of the wildlife licensing regime, there is a lack of compliance and auditing.⁴⁴

Positively, the BC Act contains third party civil enforcement provisions, meaning any person may bring proceedings in the LEC to remedy or restrain a breach of the BC Act or BC Regulation.⁴⁵

Under the Game Act

There are a number of requirements that must be met before a native game bird management licence can be issued and hunting can occur:

- Only the owner or occupier of land used for agricultural purposes is eligible to be granted a native game bird management licence;⁴⁶
- Licences can only be issued for 'sustainable agricultural management purposes' (although this is not a defined term in the Game Act);⁴⁷
- An 'official identification test' is required to be undertaken before native waterfowl can be harmed or killed under a licence;⁴⁸
- A game hunting licence must be held by any person who actually kills native game birds;⁴⁹
- DPI is required to set annual quotas of native game birds that may be killed under a native game bird management licence after consulting with the Secretary of DPE.⁵⁰

DPI is also required to determine:

- the periods during which, and the area within which, particular species of native game birds may be hunted by the holders of game hunting licences under a native game bird management licence;⁵¹
- requirements with respect to the tagging or other identification and notification to DPI of native game birds killed under a native game bird management licence;⁵² and
- guidelines for the auditing of compliance with the Game Act in respect of the killing of native game birds.⁵³

If a native game bird management licence is granted, DPI is required to impose licence conditions to ensure that licence holders comply with the above determinations. DPI must also impose conditions on the licence to ensure that the number of native game birds authorised to be killed by the holders of licences complies with the relevant quota.⁵⁴



DPI is to include in its Annual Report details on the number of native game birds killed by licence holders during the reporting year in those parts of NSW in which the killing of native game birds is authorised.⁵⁵

Native game bird management licences can only be issued for up to 12 months.⁵⁶

The *NSW Game Hunting Licence Code of Practice (Hunting Code)* applies to activities carried out under a game hunting licence. Compliance with mandatory provisions in the Hunting Code is a condition of a game hunting licence.⁵⁷ DPI is required to suspend or cancel a game hunting licence if the holder contravenes any mandatory provision of the Hunting Code, is found guilty of an offence in NSW or elsewhere involving cruelty to animals, or has been found guilty of releasing animals for the purpose of hunting.⁵⁸ DPI may also suspend or cancel a game hunting licence for a number of other reasons.⁵⁹

As noted above, the Native Game Bird Management Program is not exempt from the BC Act (which means that a person will require a biodiversity conservation licence to harm native birds, in addition to a native game bird management licence and a game hunting licence, if they are the person who is killing the native game birds under the Program. If a person other than the landholder is killing the native game birds under the Program, they will be required to hold a biodiversity conservation licence and a game hunting licence).

The POCTA Act also applies to all activities carried out under the Game Act.⁶⁰

There are no third-party civil enforcement provisions specifically provided for under the Game Act, so it is unclear whether any person could apply to the court to remedy or restrain a breach of the Act.

While it is generally positive that native game bird management licences will only be granted in specified circumstances, it is concerning that the agency responsible for promoting and regulating hunting is also responsible for regulating the Native Game Bird Management Program. The BC Act should be the only framework under which licences are able to be granted to harm native animals. As noted above, there are also concerns that the Native Game Bird Management Program acts as a backdoor to recreational duck hunting.

► See page 10 for New South Wales's performance against the governance criteria.⁶¹

Recommendations for reform in New South Wales

HSI Australia supports wildlife coexistence and urges the NSW Government to reconsider its approach to managing perceived conflicts between private landholders and native animals. While we acknowledge that the NSW Government promotes a 'living with wildlife' approach, the data shows that licences are still readily issued to harm protected animals (although it is acknowledged that progress has been made in NSW with the removal of the issuing of licences to kill flying-foxes).

To this end, our overarching recommendation is that the NSW Government provides increased resourcing to the NPWS to fund trials of non-lethal methods for managing wildlife, and provide training, capacity building, and workshops for landholders to educate them about wildlife coexistence.

While we oppose licences, we make the following recommendations to ensure a more robust, transparent, and accountable system that prioritises non-lethal strategies, tolerance, and co-existence.

► Amend the BC Act to:

- recognise animal sentience.⁶²
- amend Schedule 5 to include dingoes in the definition of protected animal.
- introduce different categories or tiers of biodiversity conservation licences, with distinct application and assessment criteria for each kind of application. This criterion should be relevant and proportionate to the kind of activity that is wishing to be carried out. For example, for a licence to harm a protected animal that is said to be causing damage or loss to property, a person applying for a licence should be required, by law, to provide proof of the damage or loss, and proof that non-lethal methods have been exhausted before the application has been made.
- remove the ability to authorise harm to native animals without assessment under section 2.9 of the BC Act. It is inappropriate for the BC Act to authorise harm to native animals without any form of assessment or oversight. If this mechanism is retained, the BC Act should require that prior to any regulation being made under section 2.9, an impact assessment must be undertaken, the impact should only be permitted if it is demonstrated that the impact is necessary and other alternatives have been exhausted, it will not affect the conservation status of the species, activities conducted under the exemption must be subject to a licence and conducted humanely, and there must be monitoring and public reporting of any animals killed. Impact assessment must be revisited on an annual basis to ensure that the conservation status of affected species has not changed.
- introduce assessment criteria and mandatory relevant considerations that NPWS must take into account when determining an application for a biodiversity conservation licence. NPWS should be required, by law, to consider whether the applicant has exhausted non-lethal management methods before applying for a biodiversity conservation licence to harm protected animals and precluded from granting a licence if the applicant has not demonstrated same. NPWS should also be required to consider any likely environmental impacts. A definition of 'damage or loss to property' should also be introduced, as well as a minimum damage threshold.

Recommendations

- although it is acknowledged that application forms to apply for a licence to kill flying foxes are no longer available, it is still recommended that the NSW Government codify the policy which prohibits the grant of a biodiversity conservation licence to harm flying foxes (and extends that prohibition to other threatened species).
- prohibit the use of inhumane lethal methods, especially 1080 poison.
- mandate the use of professional shooters, or preclude a person from obtaining a licence unless they have passed a specific native wildlife shooter proficiency test, as well as a species identification test.
- limit the grant of a licence to a maximum of 1 year.
- require the NPWS or the licence holder to notify neighbouring properties of the grant of a licence and if/when the killing of native animals will be carried out under the licence.

► Amend the BC Regulations to:

- repeal the assessment of application for licence provision; this criteria should be in the Act and should be mandatory, not discretionary.
- repeal the provision which unprotects swamphearts, ravens, crows, cockatoos or galas in certain areas. There should be no exemptions and all native animals (including dingoes) should be captured by the licensing regime.
- amend clause 2.12 so that the onus of proof regarding the defence of harming snakes to lie with the person causing harm (i.e., the onus of proof to demonstrate threat should not be on the prosecution, it should be on the person causing harm). There should also be a requirement for a person to contact a licenced snake holder to safely relocate the snake, thereby avoiding the need for harm.
- increase the relevant licence fee.

► Require licence holders to report on licence activities within 1-2 weeks of the maximum kill limit being reached, or every 6 months (whichever is sooner), documenting the species targeted, number of animals killed, and the methods used.

► Increase resourcing for the NPWS to:

- fund trials of non-lethal methods for managing wildlife.
- provide training, capacity building and workshops for NPWS employees and landholders to promote and foster wildlife coexistence (as well as subsidies for landholders to trial non-lethal management methods).
- conduct site inspections during the licence application process to verify the need for a licence, and after licences have been granted.
- carry out compliance and enforcement activities.

Recommendations

- carry out robust monitoring and reporting of animal populations (and develop publicly available population management plans).
 - ensure all information on the NSW Governments website is regularly reviewed, up to date and easily accessible, and coexistence information is prominent.
-
- ▶ All codes of practice should be publicly available, reviewed and updated on a regular basis (with input from animal welfare specialists and are underpinned by contemporary animal welfare science).
 - ▶ The public registers should include information about how many animals are actually killed under a licence (not just how many animals have been authorised to be harmed/killed), although it is acknowledged that this depends on licensees submitting complete and accurate reports and that according to the NPWS, maximum number of animals authorised to be harmed are published when information is incomplete or missing. Population Management Plans and quotas should be developed and published (like those that exist for macropods).
 - ▶ Information on monitoring and compliance and enforcement activities should be reported on and findings made available to the public (including when licence conditions have been breached, or licences suspended or revoked).
 - ▶ A person re-applying for a licence to harm kangaroos should not be permitted to do this over the phone; a full application and assessment process should be mandatory. Shooter details should be registered with NPWS at the time a licence is applied for, not after the killing of kangaroos is occurred, and carcass tags should be required.
 - ▶ The Native Game Bird Management Program should be abolished. It is not necessary for those native birds to be managed under the Game Act; the BC Act should be the only framework under which licences are able to be granted to harm native animals. If this program is to continue, DPI must identify non-lethal methods to protect rice crops from native birds. If shooting is allowed, it must be undertaken by professional shooters with no recreational or amateur hunting allowed. The term 'sustainable agriculture management purposes' must also be defined in the Game Act.
 - ▶ Dingoes should not be considered 'biosecurity matter' or identified as 'priority pests' and should not be managed under the Biosecurity Act.
 - ▶ The POCTA Act should apply to all licence holders under the BC Act (and to persons killing unprotected wildlife, including dingoes) and the defence to an offence of cruelty should be repealed.

Performance of New South Wales against the governance criteria⁶³

Category	Criteria	Status under current law/policy	Result
Animal welfare	Use of professional shooters	Encouraged for kangaroos and wallabies (where the subject property is in a 'commercial harvest' zone)	!
	Shooter competency testing	Not required under the BC Act/BC Regulation⁶⁴	✗
	Animal welfare laws apply	Yes, although there is some ambiguity because the POCTA Act provides that a person will not be guilty of an offence of cruelty if they satisfy the court that an act or omission was taken/not taken in the course of hunting, shooting, snaring, trapping, catching or capturing an animal in a manner that 'inflicted no unnecessary pain upon the animal'	!
	Licence holder to be fit and proper person	NPWS may only grant a licence if they are satisfied the applicant is a fit and proper person	⊙
Prioritise human/wildlife coexistence	Law requires applicants to demonstrate, and decision-maker to consider, wildlife coexistence efforts	There is no requirement under the BC Act to trial non-lethal methods before applying for a licence and the NPWS is not required by the BC Act to consider whether the applicant has trialled non-lethal methods. However, the licence application form says that an application should be a last resort, and the NPWS advised that licences will only be granted where a landholder has demonstrated that non-lethal methods of control are not feasible	!
	'Living with wildlife'/ non-lethal control policy and guidance	There is a formal 'People and Wildlife Policy' and the NPWS encourages the use of non-lethal methods to manage wildlife 'where possible'. The NSW Government houses species-specific, factsheets, but only limited guidance is provided on how to coexist with wildlife (except for kangaroos – more information is provided)	!
	Landholder capacity building/training on non-lethal methods	Advised to contact NPWS for advice	!
Landholder justification for the use of lethal control	Proof of damage/ issues caused by wildlife	The application form asks applicants to tick the box(es) which best describes the impacts the native animal has had to property and/or safety, but not required to provide comprehensive detail and seemingly not required to provide proof of same	✗
Licences	Identification of all persons acting under the licence	Yes (also required to provide all persons' firearms licence details; questions are also asked about prior convictions and permit cancellations and suspensions)	⊙
	Reporting requirements	Within seven days of licence expiry	!
	Report non-target animals harmed/ killed	It is a standard condition of a licence that the licensee must notify NPWS within 24 hours if a species not covered by the licence is harmed	⊙
	Licence lengths	No minimum or maximum length prescribed by the BC Act	✗

Transparency	Government maintains public register/publishes licence data, including number of animals permitted to be killed and reported as killed	The NSW Government maintains a public register, which is said to be updated every three months. The register for licences to harm protected animals is detailed, but does not include information about how many animals are reported as killed⁶⁵	
	Public reporting of compliance and enforcement activity	No	
Responsibility for conservation	Obtain licence to kill threatened species	Technically yes, but does not appear to occur in practice, and the NSW Government has a policy to refuse licences to kill flying-foxes	
	Population Management Plans (PMPs) and quotas	There are maximum cull limits for non-commercial licences to harm kangaroos. These are based on kangaroo population estimates and commercial harvest quotas (through the commercial kangaroo management program). Otherwise, no PMPs/quotas/maximum cull limits for other species	
	Unprotected native species	- Dingo - In certain circumstances - sulphur-crested cockatoo, galah, Australian raven, forest raven, little raven, Australian crow, or little crow, purple swamphen	
	Decision-maker considers likely environmental impacts	The BC Act/BC Regulation does not require this to be considered, and no publicly available information suggests it is a relevant consideration	
Enforcement	Community empowered to enforce breaches of a licence or legislation	Yes, third-party civil enforcement provisions in the BC Act	

Key



Controls that should be in place if killing of wildlife by private landholders is allowed.



Some controls in place but improvement required.



Controls not in place and significant improvement required.

Endnotes

¹ As per section 1.6 of the BC Act, 'harm' includes kill, injure or capture the animal.

² See section 2.1 of the BC Act for the offence provision, and section 1.6 for the definition of 'threatened species' and 'protected animal'.

³ See section 1.6 for the definition of 'protected animal' and also Schedule 5.

⁴ BC Regulation, clause 2.26(e).

⁵ Section 2.11 provides that the Environment Agency Head may grant a biodiversity conservation licence. Environment Agency Head is defined as the Chief Executive of the Office of Environment and Heritage. The NSW Office of Environment and Heritage was abolished in 2019 and in accordance with the *Administrative Arrangements (Administrative Changes—Public Service Agencies) Order 2019*, any reference to the Chief Executive of the Office of Environment and Heritage is now taken to be a reference to the Secretary of DPE. As of 1 January 2024, the DPE has been split to form two departments; Department of Climate Change, Energy, the Environment and Water and Department of Planning, Housing and Infrastructure. However, the NPWS advised that it is the regulatory authority for licences granted under the BC Act.

⁶ BC Act, section 2.11.

⁷ See the register of threatened species licences available at: <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/threatened-species-licences>.

⁸ This is a policy position only; the prohibition has not been legislated.

⁹ Native Game Bird means those birds listed in Part 1A of Schedule 3 of the Game Act and include various species of ducks, quails and pigeons.

¹⁰ The term 'sustainable agricultural management purposes' is not defined in the Game Act. The Department of Primary Industries (who is responsible for administering the program) says that a sustainable agriculture management purpose means native game birds must be impacting agricultural lands and a management licence will contribute positively to farm, regional and the State's productivity and economy; and will also adaptively manage and enhance biological and physical resources while supporting the State's regional and rural communities (see <https://www.dpi.nsw.gov.au/hunting/game-and-pests/native-game-birds/landholders>).

¹¹ Game Act, sections 32A(6) and 6A(2A).

¹² See *NSW Wild Dog Management Strategy 2022 – 2027* available at: https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/445234/wild-dog-management-strategy-2022-2027.pdf.

¹³ See, for example, *Central Tablelands Regional Strategic Pest Animal Management Plan* (p. 22), available at: https://www.ils.nsw.gov.au/_data/assets/pdf_file/0010/820783/central-tablelands-pest-plan.pdf and *Central Tablelands Local Land Services Wild Dog Management Plan 2021 – 2026* (p. 17-19) available at: https://www.ils.nsw.gov.au/_data/assets/pdf_file/0007/1377538/CTLLS-Wild-dog-management-plan_-2021-2026_Final_-V1_20210429-1.pdf.

¹⁴ BC Regulation, clause 2.21.

¹⁵ BC Regulation, clause 2.12.

¹⁶ The register also lists "catch & release" as a method, but this report is focused on the killing of wildlife (although it is recognised that animals may die after they have been caught and released, depending on the circumstances in which they were caught).

¹⁷ Although not within the scope of this report, it is noted that a person harvesting kangaroos for commercial purposes is required, by the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes*, to pass an approved shooting accuracy test at least every five years (see p. 7).

¹⁸ Under the Firearms Act, a person must undergo certain training in order to hold a firearm.

¹⁹ See <https://cms.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/licences-to-harm-kangaroos>.

²⁰ There is nothing in the BC Act, BC Regulations or the POCTA Act which excludes the operation of the POCTA to any act carried out, or not carried out, under a biodiversity conservation licence. Section 6 of the Game Act provides that the nothing in the Game Act affects the operation of the POCTA Act.

²¹ POCTA Act, section 23.

²² See <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/public-register-of-wildlife-licences>.

²³ BC Act, section 2.12(1).

²⁴ BC Regulation, clause 2.28.

²⁵ <https://www.environment.nsw.gov.au/topics/animals-and-plants/native-animals/living-with-native-animals>.

²⁶ <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm>.

²⁷ <https://www.environment.nsw.gov.au/questions/native-animals-causing-damage>.

²⁸ <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/public-register-of-licences-to-harm>.

²⁹ A separate licensing regime applies if a person wants to commercially harvest kangaroos. The NSW Government encourages people that want to control kangaroos on their property (and that live in a commercial kangaroo management zone) to engage a commercial kangaroo harvester.

³⁰ See <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/public-register-of-licences-to-harm>.

³¹ <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/licences-to-harm-kangaroos>.

³² <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/licences-to-harm-kangaroos>.

³³ See <https://www.dpi.nsw.gov.au/hunting/volunteer-non-commercial-kangaroo-shooting>.

³⁴ BC Regulation, clause 2.27(1).

³⁵ BC Regulation, clause 2.29 and 2.29(1)(b) for the power to extend the time.

³⁶ BC Act, section 2.13(1).

³⁷ BC Act, section 2.13(2).

³⁸ BC Act, section 2.14(1). Section 2.14(2) provides a list of conditions that may be imposed.

³⁹ It appears that there are only two relevant codes of practice in place in NSW, being the *Code of Practice and Standard Operating Procedures for the Effective and Humane Management of Pest Birds* (which is available on DPI's website) and the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes* (which is available on the Australian Government's website). Where a licence requires compliance with the code, the code must be complied with and is enforceable (although it is not known how that is enforced in practice).

⁴⁰ BC Act, section 2.14(4).

⁴¹ The NPWS advised that the number of animals actually harmed depends on licensees submitting complete and accurate reports. Where reports are yet to be submitted, NPWS assumes a 'maximum number harmed' i.e., the number of animals that a person was given permission to kill under the licence.

⁴² BC Act, section 2.15.

⁴³ BC Act, section 2.16.

⁴⁴ See page 35 of the Final Report available at: <https://www.parliament.nsw.gov.au/lc/tables/papers/Pages/tables-paper-details.aspx?pk=186428&houseCode=lc>.

⁴⁵ BC Act, section 13.14.

⁴⁶ *Game and Feral Animal Control Regulation 2022* (NSW) (**Game Regulation**), clause 21(1).

⁴⁷ Game Act, section 32A(1).

⁴⁸ Game Act, section 32F. As per this section, official identification test means a test involving the identification of native waterfowl that is recognised by DPI and is conducted in accordance with arrangements made or approved by DPI.

⁴⁹ See section 32A(1)-(2) of the Game Act. The holders of game hunting licences authorised to kill native game birds will be either the owner or occupier of the land concerned or other persons permitted by the owner or occupier to do so. The owner or occupier of land will be the holder of the native game bird management licence. See also section 21 of the Game Act for circumstances in which DPI must refuse applications for game hunting licences (e.g. if the applicant has been found guilty of an offence in NSW or elsewhere (in the previous 10 years) involving cruelty or harm to animals, personal violence, or damage to property).

⁵⁰ Game Act, section 32D and 32C. There are certain requirements that apply to the setting of quotes, including that they are to be set on the basis of the best scientific information available of the estimated regional population of native game birds.

⁵¹ Game Act, section 32E(1)(a).

⁵² Game Act, section 32E(1)(b).

⁵³ Game Act, section 32E(1)(c).

⁵⁴ Game Act, section 32D(3).

⁵⁵ Game Act, section 32E(3).

⁵⁶ Game Regulation (NSW), clause 22.

⁵⁷ Game Act, section 24(2).

⁵⁸ Game Act, section 29(3).

⁵⁹ Game Act, section 29(4).

⁶⁰ Game Act, section 6(b).

⁶¹ We also recommend this be recognised in the Prevention of Cruelty to Animals Act.

⁶² Humane Society International Australia developed a set of governance criteria for the Licence to Kill report to assess each jurisdiction's licensing framework. The governance criteria can be found on pages 27-29 of the Licence to Kill report.

⁶³ This table only refers to licences issued under the BC Act, not the Game and Feral Animal Control Act.

⁶⁴ NB: Under the Firearms Act, a person must undergo certain training to hold a firearm.

⁶⁵ NB: The NPWS advised that the number of animals actually harmed depends on licensees submitting complete and accurate reports. Where reports are yet to be submitted, NPWS assumes a 'maximum number harmed' i.e., the number of animals that a person was given permission to kill under the licence.

Disclaimer

This overview was prepared by Humane Society International Australia. The views expressed in this document are those of the author and do not reflect the views of any Australian government or government agency.

The information contained in this document is for general informational purposes only and does not constitute legal or other professional advice. The insights presented in this overview are based on a general perspective and may not be applicable to specific individual situations.

While every effort has been made to ensure the information in this document is accurate as at the date of this publication, Humane Society International Australia does not accept any responsibility for any errors or any loss or damage that may result from its use.

This document was finalised in October 2024