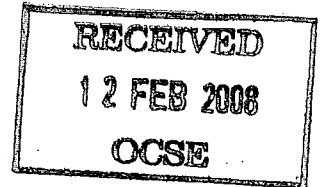


Our reference : ED08/78
 Contact : Alistair Henchman (02) 6298 0322



Dr Maxine Cooper
 Commissioner
 Office of the Commissioner for Sustainability and the Environment
 PO Box 356
 DICKSON ACT 2911

- 7 FEB 2008

Dear Dr *Maxine* Cooper

I am writing in response to your letter of 16 January 2008, seeking advice on the regulatory framework and likely information the NSW Government would require from a proponent, to enable it to consider a proposal to translocate up to 450 eastern grey kangaroos from the ACT to NSW.

As you would appreciate, it is difficult to provide comprehensive answers to your questions in the absence of a formal translocation proposal or identification of preferred release sites. In addition, a future proposal may require consideration under NSW legislation which is not administered by the Department of Environment and Climate Change (DECC) such as the *Environment, Protection and Biodiversity Conservation Act 1999*, *Prevention of Cruelty to Animals Act 1979* and the *Environmental Planning and Assessment Act 1979*.

My response is restricted to matters relating to the *NSW National Parks and Wildlife Act 1974* (NPW Act) and the *Threatened Species Conservation Act 1995* (TSC Act):

The translocation of protected species in NSW, such as eastern grey kangaroos is likely to trigger the provisions of the NPW Act identified below:

- All actions likely to harm a protected species may require a licence under s120 of the NPW Act. Harm in the context of a translocation proposal are those actions that include pursue, capture, trap, injure or kill.
- It is an offence to "liberate" a fauna species in NSW without a licence issued under s127 of the NPW Act. This would apply to the release of the captured kangaroos in NSW.
- In order to import fauna into NSW, a licence will be required under s126 of the NPW Act. The DECC would require an approved export permit from the other jurisdiction, before approving the import of fauna.
- In addition, a Scientific Licence under s132c of the NPW Act may be required should the proposal contain actions to research the impacts of translocation on the individual kangaroos or the environment into which the animals will be released. It is possible that DECC, as part of a future approval, would require the proponent to implement a program of research.

The granting of a Scientific Licence is subject to approval from the relevant NSW Animal Care and Ethics Committee (ACEC). The appropriate ACEC to approach is dependent on which organisation will undertake the research.

The Department of Environment and Conservation NSW is now known as
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The proposal will also need to be assessed under s91 of the TSC Act to determine the likely impacts of the translocation and resulting grazing upon any threatened species, population or ecological community or their habitat. The proposal will therefore require detailed consideration of potential impacts. The TSC Act makes additional provision for the preparation of a Species Impact Statement should the proposal significantly affect the threatened species, population, ecological community or their habitat. A licence under this section would be required should it be deemed that the release of the kangaroos would have a significant effect.

The likelihood of kangaroos resulting in a significant impact would in part be dependant upon the carrying capacity of the site in which they are to be released and the vegetation types present. It is presumed that a significant impact would only result if the grazing was unsustainable and prolonged. Consideration under the Commonwealth's *Environmental Protection and Biodiversity Conservation Act 1999* may also be necessary should the site contain species or communities listed under that Act.

The ecological impacts of the proposal on non-threatened species, particularly the impacts on any resident populations of kangaroos would need to be thoroughly considered.

Such a proposal would also need to comprehensively address all the relevant animal welfare issues. As you would understand, ensuring animal welfare is essential. DECC may thus require documented RSPCA approval of all facets of the proposal including best practice capture, handling, sterilisation and release protocols for the kangaroos including any conditions placed on that approval. These protocols may be referred to the NSW Animal Welfare Advisory Committee for comment.

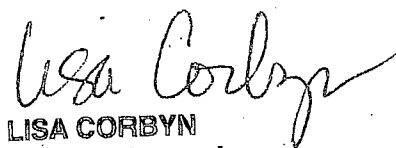
Given the size and scale of the proposal, DECC would likely request additional information relevant to the location, impacts to, and future management and monitoring of release sites, their proximity to parks, neighbouring properties and commercial kangaroo culling areas. Written approval from the relevant owner of the release sites will need to form part of the translocation proposal.

DECC has a policy for the translocation of threatened fauna which provides initial guidance on the matters to be covered by a translocation proposal (Attached). Any approval by DECC to proceed with a translocation program would be dependent on the provision of a fully costed and funded implementation and long term monitoring program. The DECC translocation policy also requires the proponent to seek the endorsement of partner organisations and other stakeholders where appropriate.

With respect to your request for indicative timeframes for DECC to assess such a proposal. I understand that other translocation proposals requiring DECC approval have involved much smaller numbers of animals. A proposal of this kind would be unique in size and scale and likely involve the input of other stakeholders. An indicative timeframe would be in the order of three to six months from receipt of a translocation proposal and licence application which meets all of the above requirements including the RSPCA approval.

If you have any queries regarding this matter, please do not hesitate to contact me or have your staff contact Alistair Henschman on (02) 6298 0322.

Yours sincerely


LISA CORBYN
Director General