



Office of the Hon. Duncan Gay MLC
Deputy Leader of Government in the Legislative Council
Minister for Roads and Ports

COPY

12 December 2011

Mr David Blunt
Clerk of the Parliaments
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr Blunt

Please find attached the Government's response to various Legislative Council Select Committee Reports.

These include

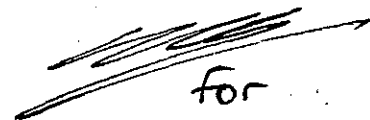
- Wine Grape Market and Prices
- RSPCA Raid of the Waterways Wildlife Park
- New South Wales Planning Framework
- Recreational Fishing.

As well as the response to the Legislative Council Standing Committee on Social Issues – Inquiry into Services provided or Funded by the Department of Ageing, Disability and Home Care.

Yours sincerely

Duncan Gay MLC
Minister for Roads and Ports
Leader of Government Business in the Legislative Council

Received at 1.13pm
Tuesday 13 December
2011


for
Clerk of the Parliaments

**NSW GOVERNMENT RESPONSE TO THE LEGISLATIVE COUNCIL SELECT
COMMITTEE REPORT ON THE RSPCA RAID OF THE WATERWAYS WILDLIFE PARK**

December 2011

Terms of Reference:

1. That General Purpose Committee No 5 inquire into and report on matters associated with the RSPCA raid on the Waterways Wildlife Park, Gunnedah, on 3 February 2010 and in particular:
 - a. the actions and investigations undertaken by the RSPCA prior to the investigation to assess the welfare of the animals at the Waterways Wildlife Park,
 - b. protocols adopted by the RSPCA with respect to investigations and prosecutions and whether those protocols were adhered to,
 - c. the criteria used by the RSPCA to determine that the removal of the animals should be undertaken,
 - d. the actions of the Department of Industry and Investment with respect to the licensing of the Waterways Wildlife Park, and
 - e. the involvement of the television program "Animal Rescue" at the Waterways Wildlife Park.
2. That the committee report by 9 September 2010.

In making a submission to this inquiry, the NSW Government has provided responses only to recommendations which are relevant to the actions and processes of the NSW Government.

Recommendation 3: p 42 - That the Department of Industry and Investment ensure that inspections of facilities licensed under the *Exhibited Animals Protection Act 1986* that are conducted in response to a complaint, be followed up with a further inspection within six months.

Response

This recommendation is supported subject to the final format of the proposed risk-based compliance strategy referred to in the response to Recommendation 5.

Recommendation 4: p 42 - That the Department of Industry and Investment ensure that reports from inspections of facilities licensed under the *Exhibited Animals Protection Act 1986* are provided to licence holders within 30 days of the date of an inspection.

Response

This is supported subject to the final format of the proposed risk-based compliance strategy referred to in the response to Recommendation 5.

Recommendation 5: p 43 - That the Department of Industry and Investment conduct biennial inspections of all facilities licensed under the *Exhibited Animals Protection Act 1986*.

Response

The Inquiry's recommendation of a schedule of biennial inspections does not conform with the Better Regulation Office's recommendation that government agencies take a risk-based approach to compliance. See 'Risk-Based Compliance' at:

http://www.dpc.nsw.gov.au/data/assets/pdf_file/0019/30862/01a_Risk-Based_Compliance.pdf

Recommendations 5 and 8 with respect to the proposal for biennial inspections are not supported. The Department should instead commit to formalising a risk-based compliance strategy. Under such a strategy routine (audit) inspections will be conducted on a risk-based schedule according to each exhibitor's history of compliance.

The Department is developing a cost recovery system (similar to that operated under the Mines Safety Cost Recovery Act 2005) to fund the proposed risk-based compliance strategy. Implementing such a cost recovery scheme requires amendment of the legislation.

Recommendation 6: p 45 - That the Department of Industry and Investment apply the provisions of the *Exhibited Animals Protection Act 1986*, and its associated Regulation and Standards, in a timely manner.

Response

The Department is committed to applying the provisions of the *Exhibited Animals Protection Act 1986*, and its associated Regulation and Standards, in a timely manner.

Recommendation 8: p 48 - That the Department of Environment, Climate Change and Water conduct biennial inspections of facilities which are licensed under both the *Exhibited Animals Protection Act 1986* and the *National Parks and Wildlife Act 1974*. Where practicable, inspections of facilities licensed under both the *Exhibited Animals Protection Act 1986* and the *National Parks and Wildlife Act 1974* should be carried out concurrently.

Response

The Government supports the principle of the Office of Environment & Heritage and the Department of Primary Industries conducting concurrent inspections, where practicable, of facilities which are licensed under both the *Exhibited Animals Protection Act 1986* and the *National Parks and Wildlife Act 1974*.

Recommendation 9: p 49 - That the Department of Industry and Investment and the Department of Environment, Climate Change and Water develop a Memorandum of Understanding with the RSPCA to respond to animal welfare concerns at facilities licensed under the *Exhibited Animals Protection Act 1986* and the *National Parks and Wildlife Act 1974*.

Response

This recommendation is supported. The Department has participated in the development of, and has now endorsed, a MOU between Department of Primary Industries, the Office of Environment & Heritage and the NSW RSPCA in accordance with the recommendation.