



ARAZPA Additional Submission – EPBC Act Review

ARAZPA at its meeting with the review panel on 30 March 2009 was invited to make a further submission to the EPBC Act Review outlining discussion points. This document is ARAZPA's additional submission.

This submission represents concerns and opinions of ARAZPA member zoos with respect to assessment and approval of permits issued as a requirement of the EPBC Act. This includes existing Australian legislative requirements relating to imports and exports of those species included in Appendix I under CITES. Furthermore, we express concern about the requirement to provide detailed submissions relating to animal welfare in relation to CITES permits, and interpretation of 'commercial activities' consistent with CITES requirements.

1. Potential to acknowledge the 'zoo industry' as a legitimate and valid purpose for the import of animals to Australia and as a criteria of an approved Cooperative Conservation Program to facilitate the issue of import/export permits for those species included in CITES Appendix I.

Preamble:

Australia is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), a convention that regulates the international movement of fauna and flora listed in various Appendices of CITES.

Under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), the import and export of live animals included in Appendix I of CITES generally may only be carried out for a small number of specified non-commercial purposes, including conservation breeding.

A CITES Import/Export Permit for the purpose of conservation breeding shall only be issued when the import/export is to an approved Cooperative Conservation Program (CCP). Approval of a CCP is dependent upon satisfying the requirements of Section 303FF of the EPBC Act and Regulation 9A.12 of the EPBC Regulations. See [Appendix I](#) 303FF and 9A.12.

Comment

The EPBC Act provides for those species not included in Appendix I of CITES to be imported for exhibition purposes. For those species included in Appendix I of CITES, species may only be imported as part of an approved cooperative conservation program, i.e. for conservation breeding.

Currently there is no provision for Australian zoos to be able to import a species included in Appendix I of CITES for roles other than conservation breeding.

Australian zoos contribute to conservation outcomes through community education and encouraging community actions. In 2005-06, nearly 36 per cent of the population over 15 years of age visited a zoo at least once. More Australians visit zoos each year than nearly any other form of cultural entertainment. Zoos have maintained this rate of visitation for over ten years. There are an estimated 12.7 million visits to zoos per annum, which include about 2.7 million overseas visits and 10 million visits by Australian residents (Aegis 2009).

Exotic species displayed may be regarded as 'ambassadors', and at times it may be appropriate to acquire species for purposes other than conservation breeding programs. The species would be acquired without detriment to wild populations, the species would be maintained to provide for biological and psychological wellbeing, but there may not be an objective of establishing a viable captive breeding program.

Under the current interpretation of the EPBC Act, importing for educational purposes is confined only to those organisations/institutions having students enrolled. Zoos clearly provide a valuable educational role, both to the community and supporting formal education programs attended by students enrolled at schools, colleges or universities as part of course requirements. In 2007/08 a recent industry survey showed 19 zoos provided formal education to 612 877 students nationally. In many states zoo education programs are either integrated with or reflect state education curriculum (Aegis 2009).

Zoos also serve to provide an educational role for interns such as veterinarians. It would seem appropriate for zoos to be able to import animals, including those species included in Category I of CITES for educational purposes.

The draft *National Standards and Guidelines for the Exhibition of Animals*¹, define exhibition purposes as:

'Exhibition Purposes: public display, conservation, public education and public entertainment or other prescribed purposes.'

While Cooperative Conservation Programs provide a valuable contribution towards the conservation of, and sustainable use of, wildlife it is not always possible for ARAZPA member zoos to establish and operate programs consistent with CCP requirements. For example, only a small number of member zoos may seek to hold the species. A zoo may seek to acquire 'rescued' animals in the interests of contributing to animal welfare and community education rather than establishing a breeding program. The option for collaboration with breeding programs managed by other regions continues to be explored, but typically other regions are reluctant to establish partnerships with the Australasian Species Management Program (ASMP). One of the reasons cited for this reluctance is complex bureaucracy and permitting processes associated with transfer of animals to/from Australia. Other factors include logistics such as costs associated with such transfers.

¹ The National Standards and Guidelines for the Exhibition of Animals are being developed under the Australian Animal Welfare Strategy being fostered and implemented through the Australian Department of Agriculture Fisheries and Forestry

If under CITES the import and export of a species is legal, then options other than a Conservation Breeding Program should be available for import/export of those species to/from Australia. Whilst 'research' may be used, other activities such as education and promoting community awareness of threatening processes should be considered a legitimate purpose and validated. For example, the acquisition of captive-bred Komodo Dragon for display purposes by an Australian zoo might be associated with fund-raising to support *in situ* conservation or research programs for the species. Large numbers of many 'CITES I species' are held in international rescue centres and sanctuaries. Often these animals are unsuitable for release. Providing for the ongoing health and well-being of these animals stretches limited resources and may compromise the potential for these sanctuaries to acquire and rehabilitate specimens that could be released. Acquisition of 'non-releasable' animals by ARAZPA member zoos may well serve a valuable community education role as 'ambassadors'. Typically such an acquisition would be in conjunction with a long-term partnership providing resources and support to the sanctuary/rescue centre.

ARAZPA zoos and the Department of Environment Water Heritage and Arts (DEWHA) have worked collaboratively during 2008 to develop a mutually agreeable outcome to preparing Applications for Cooperative Conservation Programs (CCPs). DEWHA has provided information about the assurances that they seek; enabling ARAZPA to ensure that submissions satisfy DEWHA requirements. This has resulting in significantly stream-lining processes and no longer is DEWHA making repeated requests for additional information. This outcome has in part been facilitated by discussions relating to the need for both a CCP to be approved and a CITES Permit to be issued. The CITES permit requires facility inspection, thus it seems repetitive to include detailed information regarding facilities in the CCP assessment process. The requirements for CCP assessment are 'open to interpretation', and it is hoped that the previous requirement to include detailed information regarding facilities does not re-appear.

Recommendation

ARAZPA recommends that the legislation be amended so that the zoo industry be considered as a valid category to support import and export of specimens of species listed under CITES. In particular it is recommended that purposes other than 'conservation breeding program' be used for importation of species belonging to Appendix I of CITES.

ARAZPA seeks to continue to work with DEWHA to resolve any issues regarding assessment and issue of permit applications as has occurred with respect to CCPs.

2. Clarification on 'commercial/primarily commercial/non-commercial' in relation to zoo activity and the actual text of the CITES Treaty.

Preamble

The CITES Convention provides the following criteria relating to trade in specimens of species included in Appendix I, as noted in Article III of the Convention.

Regulation of Trade in Specimens of Species Included in Appendix I

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
- (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;
- (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and,
- (d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;
- (b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- (c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

The EPBC Act includes the purposes of exhibition, education and conservation breeding programs as suitable reasons for import, details of these reasons may be found in [Appendix 2](#) of this document.

For species in CITES Appendix I, the EPBC Act requires that they may only be imported for conservation breeding or propagation consistent with requirements of the Act, see [Appendix 3](#)

Comment

Australia's EPBC Act adopts a more stringent interpretation of the CITES Treaty than other countries. Whilst Article XIV of the Convention does provide for 'stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof...' the impact of this interpretation on the potential of Australian zoos to exhibit threatened species for exhibition and education purposes should be considered, and potential to respond to need for recovery programs and increased captive populations of endangered species.

The CITES Convention (see Article III) states that 'import will be for purposes which are not detrimental to the survival of the species involved'; and that 'the specimen is not to be used for primarily commercial purposes'.

Under the EPBC Act, species not in Appendix I may be imported for non-commercial purposes. Eligible non-commercial purposes include research, exhibition, education and conservation breeding programs.

Conservation breeding programs relate to those species included in Appendix I of CITES, further requirements of import for a conservation breeding program include not primarily for commercial purposes.

The terms 'non-commercial' and 'primarily non-commercial' require further definition. In his decision and reasons for decision² Justice Downes noted that "*commercial purposes*" is not defined in either the Act or the Regulations. Subsection 303CM(1) provides that expressions in the Act have the same meaning as they have in CITES.' Justice Downes notes that "primarily for commercial purposes" has been 'defined in a resolution of the Conference of the Parties to CITES' in Conference resolution 5.10 as follows:

2. *An activity can generally be described as 'commercial' if its purpose is to obtain economic benefit, including profit (whether in cash or in kind) and is directed toward resale, exchange, provision of a service or other form of economic use or benefit.*
3. *The term 'commercial purposes' should be defined by the country of import as broadly as possible so that any transaction which is not wholly 'non-commercial' will be regarded as 'commercial'. In transposing this principle to the term 'primarily commercial purpose', it is agreed that all uses whose non-commercial aspects do not clearly predominate shall be considered to be primarily commercial in nature with the result that the importation of specimens of Appendix I species should not be permitted. The burden of proof for showing that the intended use of species of Appendix I is clearly non-commercial shall rest with the person or entity seeking to import such specimens.*

² Decision and reasons for decision, Administrative Appeals Tribunal N2005/916 by Justice Downes.

The Application Form for the approval of a Cooperative Conservation program states that at item 6):

Under the EPBC Act, it is possible for an institution maintaining a CITES I species to charge admission, however the display of a CITES I species should not be primarily for commercial purposes. Revenue is typically used to finance the cost of the support of the animal, maintenance and upgrades to facilities or otherwise non-commercial activities.

The DEWHA Supplementary D Form requires a declaration that animals (including progeny) will not be used for commercial purposes. This declaration will be required for any CITES I species being imported to Australia.

The above notes that ‘the display of a CITES I species should not be primarily for commercial purposes’, and then when talking about Supplementary D Form states ‘will not be used for commercial purposes’.

Thus there appears to be inconsistencies in descriptions, and, lack of definition. There is acknowledgement that zoos may well engage in commercial activities in order to provide for animals that they maintain, exhibit and participate in conservation breeding programs. The definition should also be considered relative to definitions that present a different perspective to the wildlife management plans for the farming of CITES 1 animals such as Estuarine Crocodiles for their skins etc.

Criteria other than conservation breeding programs should be recognised for those species included in Appendix I of CITES. Due to the overlap between these research, education, exhibition and conservation outcomes from the care and display of wildlife they should not be regarded as mutually exclusive.

Therefore the management of a cooperative conservation program can only be conducted where the program is not used for primarily commercial purposes.

While recognising that the primary purpose of a conservation breeding program is for establishing a self-sustaining population, where the animals are displayed at a zoo which charges an admission price this creates a philosophical tension that intimates that the activity must be defined as either primarily commercial or primarily conservation. Clearly there is a need to recognise that there are areas of integration of financial and conservation goals as a financially nonviable institution will be unable to care for the specimens and fulfil the breeding program objectives. This distinction should not need to be made.

Recommendation

That the EPBC Act and Regulations define ‘non-commercial’, and ‘not primarily commercial’ and acknowledge that whilst zoos may engage in commercial or revenue-generating activities that the acquisition of CITES species is not primarily for commercial reasons. Furthermore, those statutory zoos that belong to ARAZPA are operated as ‘not-for-profit’ with any revenue being directed towards maintenance of species held and in many instances support of conservation programs.

3. That the CITES authority of 'developed' countries be recognised by DEWHA and that the current practice of seeking sometimes exhaustive information from overseas zoos cease.

If an international CITES authority issues a permit enabling the export of a specimen into registered zoo facilities in Australia that meets appropriate standards and State licensing requirements (if existing), there should not be a further requirement for the sending institution or organisation (i.e. the exhibit from which the specimen is departing) to provide detailed information regarding management of species to the Australian CITES Authority in relation to applications for Co-operative Conservation Programs.

It is our understanding that the original intent of the application's requirement is to seek assurance that any animals proposed for import into Australia are from 1) a zoo that is of an appropriate standard and 2) that the animal to be exported is not replaced by another CITES specimen into a potentially non-standard export facility.

Article III of the CITES Convention states that 'a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it'. There is no requirement concerning the 'sending organisation'.

A detailed assessment of management practices of the 'sending institution/organisation' by DEWHA seems onerous and unnecessary, and is impacting on the ability of Australian zoos to acquire exotic species. This means that animals that could be valuable to Australian management programs are less likely to be sent to Australia if there is interest shown in the specimens by zoos in other countries with a less comprehensive and demanding application.

Understanding the husbandry management practices that the animal is departing must only be a minor consideration in a Departmental importation assessment when the animals are coming to institutions that have demonstrated their proposed facilities and husbandry of the imported specimens in the import application. The main basis of the consideration must surely be that the specimens are going into facilities that have been assessed by the Department or on the advice of the relevant State authority (if appropriate) as suitable.

Therefore if an international CITES Authority were prepared to issue an export permit, there should not be an additional requirement for the CITES Authority in the recipient country (i.e. Australia) to seek detailed information from the exporting country.

Recommendation

That the EPBC Act and Regulations provide for acceptance of the export/import advice/decision of CITES Authorities in countries which have a professional zoo association and accreditation program eg USA and Europe. Or individual institutions which are recognised as professional practitioners by the World Association of Zoos and Aquariums. Furthermore, where countries have a professional zoo association

which operates an accreditation program, that the accreditation by that association be recognised by DEWHA as appropriate husbandry standards of the sending institution. DEWHA should also recognise the ARAZPA accreditation program, and assessment of member zoos by relevant state authorities in Australia, as demonstrating an appropriate animal management standard.

4. That the placement of confiscated CITES fauna seized by various Australian agencies that occurs as a result of illegal smuggling or keeping is coordinated and formalised between agencies and where necessary the temporary or permanent placement of such fauna be incorporated into ARAZPA zoo animal collections .

There has been a number of instances where zoo personnel were required to capture or identify illegally held exotic specimens that had been confiscated by Customs, DEWHA or Federal Police, as well as such animals confiscated by State wildlife agencies. However the subsequent treatment and placement of such CITES specimens is not necessarily dealt with consistently, there is often confusion regarding the responsibilities between the confiscating parties regarding jurisdictional issues.

The placement of these animals could include appropriate Australian zoos subject to those zoos meeting quarantine, biosecurity or other requirements for the holding of exotic species. ARAZPA would like to reiterate to the Review Committee its offer to be actively involved in the development of a mechanism to deal with such circumstances, and assist with potential avenues for the permanent care of wildlife that has been confiscated.

Recommendation

It is recommended that the placement of confiscated CITES fauna seized as a result of illegal smuggling or keeping by various Australian regulatory agencies is coordinated and formalised between agencies and, where necessary, the temporary or permanent placement of such fauna be incorporated into ARAZPA zoo animal collections and that such mechanism is described in the amended EPBC legislation.

5. Significance of ARAZPA member zoos to the Australian community

By way of background on the cultural importance of zoos; a recent review on the economic value of Australian zoos (Aegis Consulting, March 2009) determined some parameters on the value of the zoo community. Those values that were determined included:

- 1) that the total annual production by zoos is worth about \$424 million per annum consisting of operating expenditure of about \$358 million and capital expenditure of about \$66 million.
- 2) Zoos employ about 5276 people, including 3693 full-time employees and 1583 part-time employees.
- 3) In 2005-06, nearly 36 per cent of the population over 15 years of age visited a zoo at least once. More Australians visits zoos each year than nearly any other form of cultural entertainment. Zoos have maintained this rate of visitation for over ten years.
- 4) There are an estimated 12.7 million visits to zoos per annum, which include about 2.7 million overseas visits and 10 million visits by Australian residents.

5. The Management of Biodiversity Conservation

ARAZPA believes the governance model for managing conservation activities in Australia does not reflect best practice. ARAZPA believes that conservation management should reside at a Federal level. The Government's recent policy draft on the National Strategy for Biodiversity Conservation states 'The state of biodiversity reflects the state of the nation'. It therefore follows it's a national responsibility with the Federal Government. Furthermore, the Federal Government is a signatory of the CBD 1992 therefore the Federal Government needs to have control of meetings the nation's commitments.

Our ecosystems span State borders making those borders irrelevant to the conservation of the environment. However State agencies makes decisions and carry out actions up to those borders often without consultation or cooperation with neighbouring State agencies. State agendas are followed not national objectives.

Recommendation

ARAZPA advocates a governance framework based on a Federal Minister, a Federal Department and the establishment of a national operational. This would be based on the Minister for the Environment, DEWHA and a new service, 'The Environment Service' established as the operational arm to deliver the action plans stemming from the National Biodiversity Strategy. The service would most probably be based on the current state agencies but moved under the management of DEWHA. Community groups and NGOs would partner with the Service as appropriate in the delivery of the plans.

As an analogy the Defence Force is administered by the Department of Defence which is responsible to the Minister for the implementation of the National Defence Strategy. The Services are tasked to address issues of national importance. Intelligence is collected, analysis conducted, plans developed and then implemented based on a accepted doctrine and established procedures to which all parties are trained. Aid agencies and NGOs work along side the defence force where appropriate.

The Environment Service would operate in a similar way to conserve and restore the nation's biodiversity assets. As the defence force collects intelligence to make informed decisions so would the National Environment Service. It would develop plans based on a national doctrine and recognised procedures open and understood by stakeholder groups. Most importantly it would take command of implementing those plans to address the issues at hand regardless of internal boundaries. The Environment Service would also oversee training to staff and stakeholders to provide the foundation to its operations.

Appendix 1:

Sections 303FF and 9A.12 and CITES Convention Article III

Section 303FF of the EPBC Act:

(1) The export of a specimen is an export for the purposes of conservation breeding or propagation in accordance with this section if:

- (a) the specimen is a live animal or a live plant; and
- (b) the specimen is for use in a program the object of which is the establishment and/or maintenance of a breeding population; and
- (c) the program is a program that, under the regulations, is taken to be an approved cooperative conservation program; and
- (d) the export is not primarily for commercial purposes; and
- (e) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

(2) The import of a specimen is an import for the purposes of conservation breeding or propagation in accordance with this section if:

- (a) the specimen is a live animal or a live plant; and
- (b) the specimen is for use in a program the object of which is the establishment and/or maintenance of a breeding population; and
- (c) the program is a program that, under the regulations, is taken to be an approved cooperative conservation program; and
- (d) the import is not primarily for commercial purposes; and
- (e) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

Section 9A.12 of the EPBC Regulations

(1) For paragraphs 303FF (1) (c) and (2) (c) of the Act, a program is taken to be an approved cooperative conservation program if the Minister tells a participant in the program in writing that the Minister is satisfied that:

- (a) the program's objectives are based on the conservation status and conservation needs of the species of which the specimen is a member; and
- (b) it is operated in a way that:
 - (i) applies best practice to the management of husbandry, genetics, biology and behavioural needs of the species to which the specimen belongs; and
 - (ii) is not detrimental to the survival of the species in the wild; and
- (c) it is operated with the intent of conserving the species (in the wild or in captivity, or both); and
- (d) it does not allow a specimen, used in the program, to be used for commercial purposes; and
- (e) it takes into account the conservation breeding or propagation needs of each country from which specimens are imported; and
- (f) a specimen is removed from the program only in accordance with the program's objectives; and

- (g) a specimen is not moved between institutions within the program, or out of the program, in a way that is detrimental to other conservation programs or activities; and
 - (h) for a live export of a koala, platypus, wombat or Tasmanian devil, or an animal of an eligible listed threatened species, the exporter, the importer and the Department enter into an agreement about the treatment and disposal of the animal and any progeny of the animal.
- (2) A participant in a breeding or propagation program may apply to the Minister in writing for a decision under subregulation (1), and must include with the application enough information for the Minister to decide whether the program has taken into account the views of:
- (a) authorities in the States, Territories or countries where the relevant species occurs naturally; and
 - (b) international organisations that are concerned with the conservation status and needs of that species.
- (3) For the purpose of deciding whether a program's objectives are based on the conservation status and conservation needs of a species, the Minister may take into account the views of bodies mentioned in paragraphs (2) (a) and (b).
- (4) If the Minister ceases to be satisfied of any of the matters mentioned in subregulation (1):
- (a) the Minister must tell the person who applied under subregulation (2) in relation to the program, or any other person nominated by the person who so applied, in writing, of that fact; and
 - (b) at that time the program ceases to be an approved cooperative conservation program.

CITES Convention Article III – Regulation fo Trade in Specimens of Species included in Appendix I

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:
- (a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;
 - (b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
 - (c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

Appendix 2: Decision making re permits, from EPBC Act

The Minister must not issue a permit unless the Minister is satisfied that:

(a) the action or actions specified in the permit will not be detrimental to, or contribute to trade which is detrimental to:

- (i) the survival of any taxon to which the specimen belongs; or
 - (ii) the recovery in nature of any taxon to which the specimen belongs; or
 - (iii) any relevant ecosystem (for example, detriment to habitat or biodiversity);
- and

(b) the specimen was not obtained in contravention of, and the action or actions specified in the permit would not involve the contravention of, any law of the Commonwealth, of a State or of a Territory; and

(e) if the permit authorises the export of a CITES specimen:

- (i) the proposed export would be an eligible non-commercial purpose export (within the meaning of section 303FA); or
 - (ii) the relevant conditions set out in the table in section 303CH have been met;
- and

(f) if the permit authorises the import of a CITES specimen:

- (i) the proposed import would be an eligible non-commercial purpose import (within the meaning of section 303FB); or
 - (ii) the relevant conditions set out in the table in section 303CH have been met;
- and

(g) if:

- (i) the permit authorises the import of a CITES II specimen; and
- (ii) the proposed import would be an eligible non-commercial purpose import (within the meaning of section 303FB);

the country from which the specimen is proposed to be imported has a relevant CITES authority and permission to export the specimen from that country has been given by a relevant CITES authority of that country; and

(h) if the permit authorises the export of a CITES specimen that is a regulated native specimen—the conditions set out in subsection 303DG(4) have been met; and

- (i) if the permit authorises the import of a CITES specimen that is a regulated live specimen—the conditions set out in subsection 303EN(3) have been met.

303CH Specific conditions relating to the export or import of CITES specimens for commercial purposes

CITES I Import (a) the proposed import would be an import from an approved CITES-registered captive breeding program in accordance with section 303FK; or

(b) the specimen is, or is derived from, a plant that was artificially propagated (section 527C).

The EPBC Act provides import for non-commercial purposes consistent with the following:

303FB Eligible non-commercial purpose imports

For the purposes of this Part, the import of a specimen is an eligible non-commercial purpose import if, and only if:

- (a) the import of the specimen would be an import for the purposes of research in accordance with section 303FC; or
- (b) the import of the specimen would be an import for the purposes of education in accordance with section 303FD; or
- (c) the import of the specimen would be an import for the purposes of exhibition in accordance with section 303FE; or
- (d) the import of the specimen would be an import for the purposes of conservation breeding or propagation in accordance with section 303FF; or
- (e) the import of the specimen would be an import of a household pet in accordance with section 303FG; or
- (f) the import of the specimen would be an import of a personal item in accordance with section 303FH; or
- (g) the import of a specimen would be an import for the purposes of a travelling exhibition in accordance with section 303FI.

The EPBC Act provides import for education purposes consistent with the following:

303FD Export or import for the purposes of education

(1) The export of a specimen is an export for the purposes of education in accordance with this section if:

- (a) the specimen will be used for the purpose of education or training; and
- (b) the export is not primarily for commercial purposes; and
- (c) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

(2) The import of a specimen is an import for the purposes of education in accordance with this section if:

- (a) the specimen will be used for the purpose of education or training; and
- (b) the import is not primarily for commercial purposes; and
- (c) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

The EPBC Act provides import for exhibition purposes consistent with the following:

303FE Export or import for the purposes of exhibition

(1) The export of a specimen is an export for the purposes of exhibition in accordance with this section if:

- (a) the specimen will be used for the purpose of an exhibition; and
- (b) the export is not primarily for commercial purposes; and
- (c) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

(2) The import of a specimen is an import for the purposes of exhibition in accordance with this section if:

- (a) the specimen will be used for the purpose of an exhibition; and
- (b) the import is not primarily for commercial purposes; and
- (c) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

303FF Export or import for conservation breeding or propagation

(1) The export of a specimen is an export for the purposes of conservation breeding or propagation in accordance with this section if:

- (a) the specimen is a live animal or a live plant; and
- (b) the specimen is for use in a program the object of which is the establishment and/or maintenance of a breeding population; and
- (c) the program is a program that, under the regulations, is taken to be an approved cooperative conservation program; and
- (d) the export is not primarily for commercial purposes; and
- (e) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

(2) The import of a specimen is an import for the purposes of conservation breeding or propagation in accordance with this section if:

- (a) the specimen is a live animal or a live plant; and
- (b) the specimen is for use in a program the object of which is the establishment and/or maintenance of a breeding population; and
- (c) the program is a program that, under the regulations, is taken to be an approved cooperative conservation program; and
- (d) the import is not primarily for commercial purposes; and
- (e) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.

Appendix 3:

Export or import for conservation breeding or propagation

- (1) For paragraphs 303FF (1) (c) and (2) (c) of the Act, a program is taken to be an approved cooperative conservation program if the Minister tells a participant in the program in writing that the Minister is satisfied that:
 - (a) the program's objectives are based on the conservation status and conservation needs of the species of which the specimen is a member; and
 - (b) it is operated in a way that:
 - (i) applies best practice to the management of husbandry, genetics, biology and behavioural needs of the species to which the specimen belongs; and
 - (ii) is not detrimental to the survival of the species in the wild; and
 - (c) it is operated with the intent of conserving the species (in the wild or in captivity, or both); and
 - (d) it does not allow a specimen, used in the program, to be used for commercial purposes; and
 - (e) it takes into account the conservation breeding or propagation needs of each country from which specimens are imported; and
 - (f) a specimen is removed from the program only in accordance with the program's objectives; and
 - (g) a specimen is not moved between institutions within the program, or out of the program, in a way that is detrimental to other conservation programs or activities; and
 - (h) for a live export of a koala, platypus, wombat or Tasmanian devil, or an animal of an eligible listed threatened species, the exporter, the importer and the Department enter into an agreement about the treatment and disposal of the animal and any progeny of the animal.
- (2) A participant in a breeding or propagation program may apply to the Minister in writing for a decision under subregulation (1), and must include with the application enough information for the Minister to decide whether the program has taken into account the views of:
 - (a) authorities in the States, Territories or countries where the relevant species occurs naturally; and
 - (b) international organisations that are concerned with the conservation status and needs of that species.
- (3) For the purpose of deciding whether a program's objectives are based on the conservation status and conservation needs of a species, the Minister may take into account the views of bodies mentioned in paragraphs (2) (a) and (b).
- (4) If the Minister ceases to be satisfied of any of the matters mentioned in subregulation (1):
 - (a) the Minister must tell the person who applied under subregulation (2) in relation to the program, or any other person nominated by the person who so applied, in writing, of that fact; and
 - (b) at that time the program ceases to be an approved cooperative conservation program.