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To whom it may concern,

Proposed National Parks and Wildlife Regulation 2009

The Environmental Defender's Office of NSW (EDO) welcomes the opportunity to provide comment on the proposed *National Parks and Wildlife Regulation 2009* (the Regulation). The EDO is a community legal centre with over 20 years experience specialising in public interest environmental and planning law.

The EDO supports the proposed new regulation, particularly its clarification around administrative arrangement and the breadth of permissible activities able to be undertaken in areas administered by the Department of Environment and Climate Change. The amendments provide greater clarity of definitions, facilitate easier enforcement mechanisms and increase the liability of those people who breach the regulation.

In particular ANEDO supports the following amendments:

- the inclusion of “hoofed animals” as opposed to just ‘horses’, enabling regulation of a greater range of animals (clause 7);
- combining the offences to both carry as well as interfere with, dig up, collect or remove certain natural substances, and applying the higher penalty notice amount of \$500 to the offence (clause 11);
- the insertion of the word ‘fossil’ into clause 11(1)(h) to clearly prohibit the interference with, removal or possession of fossils in a park;
- the inclusion of chainsaws in the list of cutting equipment to make clear that to carry, possess or use chainsaws in parks without consent is an offence (clause 11(1)(j));
- the inclusion of hunting collar in clause 12(2)(a) and broadening the scope of “radio tracking equipment” to “tracking equipment” on hunting dogs to better facilitate the protection of animals;
- the clarification of the penalty clauses that apply to both the lighting of fires and leaving fires unattended as proposed by clause 15(1)(b);
- the removal of the word ‘exotic’ to make it an offence to introduce any vegetation into a park as opposed to only exotic vegetation (clause 18(1)(c));
- the increased protection afforded to karst caves (clause 24(1));



- the extension of provisions to allow the imposition of minimum and enforceable standards for the welfare of animals in trade and commercial use, not just birds (clause 57(1));

However, the EDO has identified two issues we would like to see addressed through amendments to the regulation and/or the Act.

First, we are concerned with the proposed increase of the penalty infringement notice (PIN) under proposed clause 24(2)(k) whereby the PIN will be increased from \$300 to \$500 to be in line with clause 16(3)(b) of the Act which states, “A person must not in a park touch or interfere or do anything that may cause or assist the mutilation or destruction of any Aboriginal object in a park.”

Whilst the EDO supports an increase to the amount under 24(2)(K), we believe that the proposed increase to \$500 is inadequate. The EDO submits that the PIN for both offences be increased from \$500 to at least \$1500. Such an increase is appropriate as it would be consistent with the current \$1500 PIN under section 118A¹ of the *National Parks and Wildlife Act 1974*. A \$500 PIN is an insufficient deterrent for the ‘mutilation or destruction of any Aboriginal object’ and does not provide a sufficient disincentive to not ‘interfere with, dig or disturb in a cave or remove from a cave any Aboriginal objects’. We submit that a PIN of at least \$1500 should be introduced to facilitate compliance and to highlight the severity of breaching such clauses. This would also better reflect the value of indigenous areas.

Finally, the EDO notes that clause 3(2)(b) of the Regulation refers to the *Filming Approval Act 2004*, a piece of legislation that is up for review in June this year. This Act relates to exemptions from permit requirements for certain activities within national parks. Whilst this is an issue beyond the terms of the present submission, the EDO submits that the regulation and administration of NSW national parks should be dealt with under the *National Parks and Wildlife Act 1974* and associated regulations, not under separate pieces of legislation.

Please contact me on (02) 9262 6989 or Robert.ghanem@edo.org.au for further detail.

Yours sincerely

Environmental Defender’s Office (NSW) Ltd

Robert Ghanem
A/Policy Director

¹ Section 118A of the *National Parks and Wildlife Act 1974* relates to “Harming or picking threatened species, endangered populations or endangered ecological communities.”

