

Terms of Reference

Department of Biodiversity, Conservation and Attractions
Animal Ethics Committee

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Conservation and Attractions

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Department of Biodiversity, Conservation and Attractions

Table of Contents

Introduction	5
Functions	5
Membership	5
Composition of the AEC.....	5
Appointment of Committee Members	6
Appointment and Role of the Chairperson	7
Obligations of Committee Members	8
Proxy for Committee Members	9
Animal Ethics Committee Executive	9
Support to the AEC	9
Meetings and Operating Mechanisms	9
Number and Timing of Meetings	9
Meeting Quorum	10
Extraordinary Meetings.....	10
Confidentiality	10
Conflicts of Interest	10
Decisions by the AEC	11
Communication of Decisions by the AEC.....	11
Reporting	12
Annual Report to the Department	12
Annual Report to DPIRD.....	12
Independent External Review	12

1 Introduction

The Department of Biodiversity, Conservation and Attractions' (DBCA, hereafter referred to as the department) use of animals for scientific purposes is subject to licensing under the *Animal Welfare Act 2002* and is directed by the *Australian Code for the Care and Use of Animals for Scientific Purposes – 8th Edition* (the Code) published by the National Health and Medical Research Council. The department appoints and supports an Animal Ethics Committee (AEC) to ensure that animals used for scientific purposes are cared for and used in an ethical and humane manner and that the department meets its commitments under the *Animal Welfare Act*, its *Licence to use animals for scientific purposes*, and the Code.

2 Functions

The primary responsibility of the department's AEC is to ensure, on behalf of the department, that all activities relating to the care and use of animals are conducted in compliance with the Code. The department's AEC will:

1. review applications for projects and approve only those projects that are ethically acceptable and conform to the requirements of the Code
2. review applications for activities associated with the care and management of animals in facilities, including procedures applicable to breeding programs integral to the maintenance of an animal line, and approve only those activities that are ethically acceptable and conform to the requirements of the Code
3. conduct follow-up review of approved projects and activities, and allow the continuation of approval for only those projects and activities that are ethically acceptable and conform to the requirements of the Code
4. monitor the care and use of animals, including housing conditions, practices and procedures involved in the care of animals in facilities
5. take appropriate actions regarding unexpected adverse events
6. take appropriate actions regarding non-compliance
7. approve guidelines for the care and use of animals on behalf of the department
8. provide advice and recommendations to the department
9. report on its operations to the department.

3 Membership

3.1 Composition of the AEC

Membership of the AEC is established in accordance with the Code. The department's Animal Ethics Committee will be comprised of a Chairperson and at least two members from each of the four categories of membership (see below). The

appointment of at least two members of category A, B, C and D will ensure ongoing experience and consistency in decision-making over member terms, ensure a quorum at meetings, and provide the AEC with a broad range of knowledge and experience relating to animal welfare and wildlife research. The chairperson may also be appointed as a Category A to D member.

Categories of Membership

Category A: a person with qualifications in veterinary science that are recognised for registration as a veterinary surgeon in Australia, and with experience relevant to the department's activities or the ability to acquire relevant knowledge.

Category B: a suitably qualified person with substantial and recent experience in the use of animals for scientific purposes relevant to the institution and the business of the AEC. This must include possession of a higher degree in research or equivalent experience.

Category C: person with demonstrable commitment to, and established experience in, furthering the welfare of animals, who is not employed by or otherwise associated with the department, and who is not currently involved in the care and use of animals for scientific purposes. Veterinarians with specific animal welfare interest and experience may meet the requirements of this category. While not representing an animal welfare organisation, the person should, where possible, be selected on the basis of active membership of, and endorsement by, such an organisation.

Category D: a person not employed by or otherwise associated with the department and who has never been involved in the use of animals in scientific or teaching activities, either in their employment or beyond their undergraduate education. Category D members should be viewed by the wider community as bringing a completely independent view to the AEC, and must not fit the requirements of any other category.

The department may also appoint to the AEC additional members with skills and background of value to the AEC. The department in consultation with the AEC will determine the requirement for, and the required skill or expertise that they would seek from an additional member(s).

3.2 Appointment of Committee Members

Members are appointed by invitation from, or application to, the Director General, or their delegate, the Executive Director of Biodiversity and Conservation Science. Prospective appointees must submit a resume with a cover letter including a declaration of interests. Members will be selected for their expertise and ability to demonstrate they meet the criteria for the category as described in the Code.

Before appointment, all members of the AEC must acknowledge in writing their acceptance of the AEC *Terms of Reference* and the requirements for confidentiality as required by the department. New members will receive an induction on the operating procedures of the AEC, including the AEC *Code of Practice*, *Code of Conduct*, and the Code. The department will ensure that AEC members undergo appropriate induction and have access to appropriate education programs and

resources e.g. the department's online Animal Ethics training course and ANZCCART ComPass modules.

Members of the AEC who are employees are covered by the department's workers compensation scheme. When acting under direction from the department and performing activities for the department, external members are covered under the department's personal accident insurance. External members will be offered sitting fees for preparation and meeting time (at a rate established by the Department of the Premier and Cabinet) and can claim for out-of-pocket expenses if eligible (e.g., fuel, meals and accommodation). External members cannot be remunerated for time spent undertaking monitoring activities. Where appropriate, suitable training such as conferences, seminars or workshops will be made available to members.

Term of appointment is for a period of four years, with capacity for re-appointment through invitation and/or an expression of interest process. Re-appointment will be confirmed in writing from the Chairperson. Where possible within each category, the terms of members will overlap by a period of two years to ensure consistency in decision-making and experience on the AEC is maintained over time. Consideration should also be given to the skills mix and requirements of the AEC, and the need for regular board member turnover to bring fresh insight to the AEC.

Members may retire from the AEC at the end of a contract term and/or by giving the Chairperson written notice of at least three months prior to their intended retirement date. Members who are employees need to have their commitment to the AEC approved by their manager, and their commitment must be agreed to in the employee's Performance Development Plan.

At any time, the department may after due enquiry, provide in writing a caution or terminate the membership of a member who in the department's considered opinion has failed to comply with their obligations (see Section 3.4).

Any change in membership, including appointment, reappointment, retirement, and termination, will be noted in writing and the Department of Primary Industries and Regional Development's Scientific Licensing Unit will be notified in writing of all changes within 30 days of the changes being made.

In accordance with the Department of the Premier and Cabinet's State Government Boards and Committees: Classification and Appointment Guidelines (October 2022), and as a Tier D State Government committee subject to Premier's Circular 2022/02 - *State Government Boards and Committees*, appointments must be noted by the Minister.

3.3 Appointment and Role of the Chairperson

The Director General, or their delegate, the Executive Director of Biodiversity and Conservation Science, will appoint a person with relevant experience who holds a senior position in the department, to the role of Chairperson of the AEC for a four-year term, with the possibility of extension at the discretion of the Director General/Executive Director.

The Chairperson should have:

- an ability to impartially guide the operation of the AEC
- the skills to manage the business of the AEC
- the ability to communicate, negotiate and resolve conflict
- an understanding of the ethical and animal welfare issues involved in the use of animals for scientific purposes.

The most suitable candidate will be offered a letter of appointment in writing which the appointee will sign upon their acceptance. Prior to commencement, new appointees must acknowledge in writing their acceptance of the AEC *Terms of Reference* and *Code of Conduct*.

In accordance with Clause 2.2.13 of the Code, the Chairperson will:

- impartially guide the operation of the AEC
- resolve conflicts of interest related to the business of the AEC
- represent the AEC in any negotiations with the department.

In addition, the Chairperson will:

- maintain an understanding of the Animal Welfare Act, the Code, relevant departmental policies, procedures, and requirements
- oversee all requirements of the AEC to report and review its operations as outlined in the Code
- ensure the AEC, its Executive and support staff operate in accordance with the Animal Welfare Act, the Code, the department's licence, AEC policies and operating procedures
- hear, and respect the confidentiality of, any concerns raised regarding the ethical and humane treatment of animals used for scientific purposes within the department.

The Chairperson may not direct the AEC to act in a way that is contrary to the requirements of the Code.

3.4 Obligations of Committee Members

Each member is responsible for deciding whether, in their own judgement, an application or other matter under consideration by the AEC is ethically acceptable and meets the requirements of the Code.

To fulfil this responsibility, members should:

- be familiar with the Code and other policies and guidelines relevant to the business of the AEC
- provide opinions on the ethical acceptability of applications and other matters under consideration by the AEC.

Before any deliberations of the AEC, members must declare any interest that could influence the objectivity of their decision making.

Members must maintain confidentiality regarding the content of applications and the deliberations of the AEC, in accordance with department requirements.

3.5 Proxy for Committee Members

The Director General, or their delegate, the Executive Director of Biodiversity and Conservation Science, may invite a person to be a proxy for the Chairperson, or a member of a Category in the absence or incapacity of the member, or where a conflict of interest requires that member to withdraw from a matter being considered by the AEC. Prior notification must be provided to existing AEC members.

Any proxy members must acknowledge in writing their acceptance of the *AEC Terms of Reference* and *Code of Conduct* and any requirements of confidentiality required by the department before the meeting.

A person appointed as a proxy will have the same required qualifications, and the same authority as the member for whom the proxy is appointed.

The Department of Primary Industries and Regional Development's Scientific Licensing Unit will be notified in writing of any appointment of a proxy member within 30 days of the appointment.

3.6 Animal Ethics Committee Executive

The AEC may establish an Executive Committee for out of session approvals. The Executive Committee will usually consist of the Chairperson and one member of each Category (A, B, C and D), but at minimum will consist of at least one member from Category C or D. The AEC Executive is delegated to approve minor amendments to current approved projects or activities, consistent with the Code, out of session. The approvals will be ratified at the next scheduled meeting of the AEC.

The Executive Committee will determine the definition of "minor" on a case by case basis, however, as a guiding principle: a minor amendment may include a change to an approved project or activity where the proposed change is not likely to cause harm to the animals, including pain and distress, and/or where the change may benefit their wellbeing.

Changes to the key aims/objectives of the project are not considered minor.

3.7 Support to the AEC

In addition to the position of Chairperson, the department will make available to the AEC one or more nominated employees, including the appointment of an Executive Officer, as agreed with the AEC, to support the AEC's work and ensure the timely and effective implementation of its decisions and directives.

4 Meetings and Operating Mechanisms

4.1 Number and Timing of Meetings

The AEC will meet at least six times a year in the months of February, April, June, August, October and December. One of the meetings will be set aside to focus on

review of projects (the *Annual Report* meeting). Usually, the Annual Report meeting will be February.

Where necessary and appropriate, the AEC may assess *Adverse Event Reports* out of session. Out of session decisions will be made by consensus as per standard meeting requirements and will be clearly recorded in the next meeting agenda and minutes.

Where necessary and appropriate, the AEC may, on request by the department or a project Chief Investigator, agree to hold an extraordinary meeting.

4.2 Meeting Quorum

At least one member from each of the membership categories A, B, C and D must be present at meetings to establish a quorum for decision resolution. Categories C and D together must represent at least one-third of the members present.

Where a face-to-face meeting is not possible for a quorum of all members, videoconferencing and teleconferencing will be used to conduct the meeting.

4.2.1 Extraordinary meetings

Where circumstances necessitate a project approval, or an amendment to a project that requires a quorate meeting decision (as per Section 2.3.6 of the Code) outside of scheduled meeting dates; that is for emergency or time-limited decisions whereby delays would result in greater harm or distress to animals or an outcome that is inconsistent with the Code, the AEC and department may agree to hold an extraordinary meeting.

Where a face-to-face meeting is not possible for a quorum of all members, videoconferencing and teleconferencing will be the preferred method to conduct the extraordinary meeting. In circumstances where these methods are not possible, quorate consensus via telephone and group email will be used.

4.3 Confidentiality

All documentation provided to the AEC and matters discussed as part of the AEC's decision-making are confidential. All members will maintain confidentiality and not divulge AEC information other than as required by law, or where authorisation is given from the Chairperson.

Where members wish to seek advice on a matter, they may only do so if the advice can be sought without identifying the project, project personnel, project sites or any items identified by the AEC as confidential. The AEC or a member must seek approval from the Chairperson if this is not possible.

4.4 Conflicts of Interest

Any members having a conflict of interest relating to any issues under consideration at AEC meetings must declare their interest in that matter prior to the issue being considered, absent themselves from the meeting room while the issue is discussed

and decided upon, and the conflict of interest is to be recorded in the minutes of the relevant meeting.

If there is any doubt on actual or perceived conflict of interest the Chairperson should rule on the matter. If the absence of a member affects the ability to achieve a quorum the matter must be held over until a quorum is achieved, or the member in consultation with the Chairperson, must identify a suitable proxy to assess the matter.

Conflicts of interest must be dealt with in accordance with Section 2.2.21 of the Code.

4.5 Decisions by the AEC

Members have debate and voting rights for all matters before the AEC unless a conflict of interest exists. The decision-making process must provide an opportunity for all legitimate concerns of individual members of the AEC to be addressed.

The AEC may decide that:

- an application to commence a project or activity, or amend an approved project or activity, is approved with or without conditions, deferred subject to modification, or not approved
- following review of the annual report for an approved project or activity and possible consultation with the applicant, the approval for the project or activity is continued, suspended, modified or discontinued
- an approval is suspended or withdrawn.

The AEC must base its decisions on the information it receives from the applicant in the documentation and in any direct discussions with the applicant, and may use information in addition to that obtained from the applicant.

Decisions should be based on a thorough, fair and inclusive process of discussion and deliberation by AEC members, and should be made only by those present throughout the discussion.

Decisions of the AEC must be made as promptly as possible.

Wherever possible, AEC decisions should be made on the basis of consensus (as per Clause 2.3.11 of the Code).

Where consensus cannot be reached after reasonable effort to resolve differences, the AEC will explore with the applicant ways of modifying the project that may lead to a consensus. If consensus is still not achieved, the AEC should only proceed to a majority decision after members have been allowed a period of time to review their positions, followed by further discussions.

4.6 Communication of decisions by the AEC

The AEC will communicate decisions to the project Chief Investigator, via the Chairperson (or as delegated to the Executive Officer), in writing and in a timely manner. The decision will be communicated clearly and where required, provide reasons for the decision.

5 Reporting

5.1 Annual Report to the Department

The Chairperson with the support of the AEC will provide the department with an annual report on its operations each year. The annual report will include:

- numbers and types of projects and activities assessed, and approved or rejected
- the physical facilities for the care and use of animals by the department
- actions that have supported the educational and training needs of AEC members and people involved in the care and use of animals
- administrative or other difficulties experienced
- any matters that may affect the institution's ability to maintain compliance with the Code and, if appropriate, suitable recommendations.

The Chairperson will participate in an interview with the Director General to discuss the Annual Reports.

5.2 Annual Report to DPRID

As conditioned on the department's *Licence to use animals for scientific purposes*, the department must provide a copy of its Animal Use Report (including an annual statement from the AEC indicating compliance with the Code for the preceding year) to Scientific Licensing Unit upon request using the provided template. Agencies that use the department's AEC are also required to submit an annual report to DPIRD. The department will assist those agencies with their annual reporting requirements by providing animal use statistics and summaries of information that are held in the AEC database.

5.3 Independent External Review

Under the department's *Licence to use animals for scientific purposes* and the Code, the department must ensure that an independent external review is undertaken at least every four years to assess the department's compliance with the Code, and to ensure the continued suitability, adequacy and effectiveness of its procedures to meet its responsibilities under the Code. Section 6 of the Code outlines the requirements for appointing independent reviewers, the scope and the outcomes of the review. Areas covered by the independent external review should include:

1. the conduct of all people involved in the care and use of animals for scientific purposes on behalf of the institution, including the AEC, institutional officers and administrators, investigators and animal carers
2. the adequacy of the institutional program to ensure that the care and use of animals for scientific purposes is conducted in compliance with the Code; is subject to ethical review, approval and monitoring by an AEC; and is conducted in accordance with the AEC approval
3. the adequacy of institutional support, resources and educational programs for the AEC and its members, and for people involved in any aspect of the care

and use of animals for scientific purposes, to ensure that they can meet their responsibilities under the Code

4. whether the AEC is operating effectively in accordance with the Code
5. the effectiveness of institutional strategies to promote and monitor the implementation of the governing principles
6. whether there is effective monitoring of the wellbeing of animals
7. whether facilities used to house animals are managed to support and safeguard animal wellbeing
8. if applicable, an assessment of the report from the previous external review and actions taken in response to recommendations in that report.

The review panel should provide recommendations that:

- identify areas of non-compliance
- support strategies for short-term and long-term continual improvement
- give recognition to behaviours and actions by individuals and teams that support compliance.

Within 120 calendar days of the end of the period under review, unless otherwise approved in writing by DPIRD, the department must provide Scientific Licensing Unit with a copy of:

- i. the External Review panel's final report
- ii. the AEC's response to the External Review panel's final report (which is to be provided to the licensee)
- iii. the licensee's response to:
 - a. the final External Review report
 - b. the AEC's response to that report.