

PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT

HEALTH AND WELLBEING OF KANGAROOS AND OTHER MACROPODS IN NEW SOUTH WALES

Questions on notice RSPCA NSW

1. **Question:** The Hon. MARK PEARSON: If an RSPCA inspector was notified that a cull was going to occur during the evening on a property, whether it be a commercial cull or a non-commercial one, and it was pointed out to the inspector there was concern that there are likely to be acts of cruelty, that RSPCA inspector would have the power to enter the property. Is that correct?

Response: The Inspectorate operates within the limitations of powers afforded under s24E *Prevention of Cruelty to Animals Act 1979* (NSW). That requires an Inspector to suspect on reasonable grounds a breach of POCTAA is, is likely or has occurred. Inspectors cannot exercise powers based on assumption or even belief, it requires suspicion on reasonable grounds.

2. **Question:** The Hon. MARK PEARSON: The legislation that I am talking about is the New South Wales Prevention of Cruelty to Animals Act, even though there are two other legislations that are in place federally and statewide to protect animals. Let's just say under the Prevention of Cruelty to Animals Act, the RSPCA has powers as appointed officers. If they were of the view they had the power to enter the property the next morning and they found heads that had not been shot through the brain and joeys that have had part of their head crushed into the ground, and if there were several pieces of evidence that would lead to the suspicion that some of these kangaroos are likely to have been killed in an inhumane manner both in breach of the Prevention of Cruelty to Animals Act or the codes of practice in relation to commercial killing, would there be grounds then for the RSPCA to run a prosecution?

Response: The Inspectorate operates within the limitations of POCTAA. Hypothetical questions are difficult to answer because they require an adoption of assumptions that might not be reasonably made. However a situation as described would justify an inspector investigating further, seeking expert veterinary advice for example. If an investigation revealed evidence capable of proving an offence beyond reasonable doubt, and it was appropriate to do so (a defendant could be identified for example), then proceedings could be commenced.