



INQUIRY INTO THE PROPOSED AERIAL SHOOTING OF BRUMBIES IN  
KOSCIUSZKO NATIONAL PARK

## **Animal Welfare Committee**

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Answers to Questions on Notice

Hearing: 23 May 2024

## No. Question

### 1. Ballistics used during wild horse shooting operations – Transcript page 61

**The Hon. ROBERT BORSAK:** You disagree with me? Okay, could you please give me the basis upon which you disagree? Can I have a paper on it, please? Would you like to take that on notice?

**ATTICUS FLEMING:** I'll happily go back and see if there's anything we need to add to our previous response.

#### Answer:

The Committee is referred to the Answers to Questions on Notice for the 18 December 2023 hearing of the Committee for a detailed response previously provided on this matter. That response includes detail on the ballistics testing methodology undertaken by the National Parks and Wildlife Service (NPWS) and an extensive list of peer-reviewed published scientific references to support the ballistics selection.

The .308 calibre cartridge is routinely used across Australia in aerial shooting of large feral herbivores and is prescribed in the relevant national standard operating procedures (SOP) for the aerial shooting of feral horses, camels, donkeys, pigs and deer.

No scientific or technical evidence has been tendered to NPWS to suggest that the .308 rifle or ammunition, as used in the NPWS SOP, is inadequate for use on large feral herbivores.

### 2. How matters are investigated – Transcript pages 64 – 65

**The Hon. SUSAN CARTER:** Thank you for joining us this afternoon. I wonder, Mr Fleming: If there was an allegation that brumbies were perhaps being diverted and not officially included in the count, upon receiving that allegation, what would National Parks and Wildlife Service do?

**ATTICUS FLEMING:** It's a hypothetical, so the best way for me to answer it is just to –

**The Hon. SUSAN CARTER:** Sorry, just to be clear: When you say "hypothetical", are you saying that nobody has ever come to you or any of your officers –

**ATTICUS FLEMING:** No, I guess what I was going to say is –

**The Hon. SUSAN CARTER:** – saying, "We believe that this is happening."

**ATTICUS FLEMING:** Let me rephrase it. The best way for me to answer that is to point to what happened with the allegation that was made only a few weeks ago. When that was made, the secretary of the department established an independent inquiry. I envisage something similar would happen if there was evidence to support an accusation of that kind.

**The Hon. SUSAN CARTER:** Sorry, when you say "evidence", are you saying the threshold for an investigation is being provided with evidence, or is the threshold for an investigation an allegation or a concern that is being raised?

## No. Question

**ATTICUS FLEMING:** I'm not sure I can answer that. I'm struggling at the moment because —

**The Hon. SUSAN CARTER:** It's a fairly standard process question. If a concerned member of the public rings up and says, "I am tremendously concerned because I have seen this happening," or "I have seen this truck driver doing this," or "I have observed these horses in a place where I wouldn't expect to see them. I'm tremendously concerned that the plan of management for brumbies is not being followed," what do you do?

**ATTICUS FLEMING:** As I said, I think the best response to that is to point to what happened when it —

**The Hon. SUSAN CARTER:** Which is?

**ATTICUS FLEMING:** — occurred a few weeks ago, which is that the secretary of the department established an independent inquiry. That was conducted at arms-length to National Parks and Wildlife Service.

**The Hon. SUSAN CARTER:** Were all the people who raised issues spoken to as part of that inquiry process?

**ATTICUS FLEMING:** I can't answer that in relation to that because that's getting into a report that hasn't yet been released. But can I assure you —

**The Hon. SUSAN CARTER:** I wonder if you could take on notice —

**ATTICUS FLEMING:** Can I provide some assurance that if there's an allegation — and it's hard for me to answer in the abstract. But if someone comes forward and says, "I have witnessed horses being taken from national parks in a particular" — to me, again, this is an abstract sort of hypothetical. But if someone has come in with enough evidence to say —

**The Hon. SUSAN CARTER:** Sorry, can I just clarify? You keep saying it's hypothetical. Does that suggest that you haven't received these reports from people?

**ATTICUS FLEMING:** As I said to Mr Fang, there are lots of allegations that have been made, and I said I can't —

**The Hon. SUSAN CARTER:** Therefore, it's not a hypothetical situation. This must occur, and I'm inquiring as to the standard process that you would have in place. That's surely part of the training: If we get a report, what do we do with it?

**ATTICUS FLEMING:** Yes, and there's a multi-stage process, but I'll take on notice the question and give you a proper answer.

**The Hon. SUSAN CARTER:** Could you take it on notice and could you provide the Committee with details of what the procedure is?

**ATTICUS FLEMING:** Sure.

**The Hon. SUSAN CARTER:** Also, could you provide the Committee with details of the process that was followed in relation to the inquiry that you're speaking about? Specifically —

## No. Question

**ATTICUS FLEMING:** I will, but that response will come from the secretary, I think, not from National Parks and Wildlife Service.

**The Hon. SUSAN CARTER:** We're happy with wherever it comes from, and specifically whether anybody who raised concerns was spoken to as part of the inquiry process.

**ATTICUS FLEMING:** I'm happy to take that on notice and the secretary will respond, yes.

### Answer:

Information received by NPWS in relation to the operation of the wild horse control program is considered on its merits to ensure the program's high standards are maintained. How that information is considered and managed is case dependant and varies based on the issues raised and the evidence supplied (if any).

With regard to the now closed independent investigation into an unnamed employee of the Department, this process was managed by the Office of the Secretary, which initiated an independent investigation. The investigating organisation did not interview any person external to the Department. This was because it was not possible to identify any relevant external person for interview, given the source of the allegation was requested, but declined, to provide further information, and no other information had been provided to NPWS or the Department by any other person on the matter.

### 3. Firearms and ammunition used in shooting operations – Transcript pages 65

**The Hon. SUSAN CARTER:** Thank you very much. I just have a couple of questions, very briefly, in relation to the culling process itself. Is that done by National Parks staff, or do you have contractors who come in?

**ATTICUS FLEMING:** National Parks staff.

**The Hon. SUSAN CARTER:** And you provide all the equipment that they need for this process?

**ATTICUS FLEMING:** Correct.

**The Hon. SUSAN CARTER:** Were guns purchased specifically for this, or was there an existing stock of guns that you had on hand?

**ATTICUS FLEMING:** I'd have to take that on notice.

**The Hon. SUSAN CARTER:** If you could. For the guns that were used, what was the decision-making process for deciding that these particular guns were appropriate?

**ATTICUS FLEMING:** Happy to take that on notice.

**The Hon. SUSAN CARTER:** Could you also take on notice the same question with respect to the selection of ammunition?

**ATTICUS FLEMING:** I can but, again, I'd refer you – there's a two- or three-page response that deals with that issue from a previous –

**The Hon. SUSAN CARTER:** If you would be kind enough to just provide that again so it's in one place.

## No. Question

**ATTICUS FLEMING:** Sure.

**The Hon. SUSAN CARTER:** What's the review process for ensuring that the initial gun selection and the ammunition selection is, in fact, fit for purpose?

**ATTICUS FLEMING:** I'll cover that in the response. As I said, some of that has been addressed in the response and the information that we've already provided to the Committee.

### Answer:

Firearms used in aerial shooting operations for wild horses in Kosciuszko National Park were sourced from both existing and newly purchased stock. Ammunition used in the aerial operations was purchased new.

The firearms and ammunition are also used in other NPWS feral animal control operations throughout the State. This is standard agency practice.

The ammunition selection and testing methodology is covered in the response to Question 1.

Firearm types for aerial shooting are mandated in the Feral Animal Aerial Shooting Team (FAAST) Manual and are standardised across all NSW Government operations. The precision and accuracy of firearm-ammunition configurations are tested according to the methodology explained in the response previously provided on ballistics testing (refer to Question 1 response). This methodology is prescribed in peer-reviewed scientific literature.

## 4. Speed limits on park roads – Transcript page 66

**The Hon. STEPHEN LAWRENCE:** In recent times, have there been any adverse incidents in the park involving horses that the Committee should be aware of?

**ATTICUS FLEMING:** That's a good question. We have had at least two car accidents, I think in the last month, where people were hitting horses. That is another risk that's often not discussed, but there are roads that go through Kosciuszko National Park and the risk of collision obviously increases as populations of feral animals grow. In some parts of the State I think people are noticing that with the increase in deer populations, but it's also an issue when you have a large feral horse population, and the impact of hitting a horse is obviously significant.

**The CHAIR:** What's the speed limit on the roads inside national parks? I imagine there are a lot of animals that could be hit by these cars.

**ATTICUS FLEMING:** I assume that there are different speed limits in different parts of the park.

**The CHAIR:** I assume those speed limits would potentially be based on the risk to animal and human life – or not?

**ATTICUS FLEMING:** Some of the roads are not managed by National Parks so we wouldn't be making those decisions.

## No. Question

**The Hon. WES FANG:** Are any of those horses running away from helicopter operations?

**ATTICUS FLEMING:** No.

**The Hon. WES FANG:** Are you sure?

**ATTICUS FLEMING:** Not to my knowledge, and I'd be very surprised if that was the case.

**The Hon. WES FANG:** Have you checked?

**ATTICUS FLEMING:** There wasn't a helicopter in operation when it happened, so I can be pretty confident.

**The CHAIR:** Could I ask you on notice, then, to please find out what the speed limit was on those roads that you're referring to?

**ATTICUS FLEMING:** Yes.

**The CHAIR:** And whether there's been any consideration on those speed limits of the fact that there are probably a large number of animals in that same space, which would obviously be at risk.

**ATTICUS FLEMING:** Happy to take that on notice, again, just noting that some of the roads aren't managed by the National Parks service.

**The CHAIR:** But you mentioned here as evidence that there have been two horses hit and I think that's relevant information, if that's going to be put on record, to find out what the actual speed limit is.

**ATTICUS FLEMING:** I'm happy to take that on notice.

### Answer:

The reported collisions of vehicles with wild horses occurred on the Snowy Mountains Highway, which is managed by Transport for NSW. Each of the relevant collisions occurred at night when helicopters are not flying.

NPWS has no authority over the setting of vehicle speed limits on Transport for NSW managed roads.

The speed limit on the portion of the Snowy Mountains Highway through Kosciuszko National Park varies between 60 to 100 kilometres per hour.

## 5. Removal of rehoming information from the website – Transcript page 66 – 67

**The CHAIR:** The rules for rehoming have been removed from the National Parks website. When was that removed?

**ATTICUS FLEMING:** I don't know the answer to that off the top of my head so, again, I'll take that on notice.

**The CHAIR:** Do you know why it was removed?

**ATTICUS FLEMING:** Off the top of my head, no. I'm not involved in every decision, so I'm happy to take it on notice.

## No. Question

### Answer:

Information about the rehoming of wild horses was removed from the Environment website on 23 April 2023.

The information was removed in response to the investigation into the wild horse rehoming program that was announced around the same time, and the corresponding suspension of the wild horse rehoming program.

### 6. Process relating to fates of rehomed wild horses – Transcript page 68 – 69

**The CHAIR:** I do uphold part of the point of order, particularly in regard to the fact that the Hon. Wes Fang should have taken a point of order, probably through me rather than directly to the witness. However, I will also uphold the part of the point of order raised by the Hon. Susan Carter that you are compelled, to a degree, to provide an answer. As I said earlier, I understand the sensitivities around the investigation. What I don't understand is that you're not able to discuss anything to do with the work of Parks in any sense around rehoming because of a review, and it has nothing, really, specifically to do with the investigation. My question was quite specific. It was asking whether National Parks has a process, beyond the forms, to ensure whether there are inspections or audits. I'm happy for you to take it on notice if you need to. However, I would encourage you to answer it, given, I believe, it is truly outside of any kind of investigation into this incident at Wagga.

**ATTICUS FLEMING:** Ms Hurst, I'm basically just trying to do the right thing. The question you've asked I believe to be a question that is central to the inquiry that is underway. That is the basis upon which I thought it was inappropriate for me to give you an answer when it is squarely within the remit of the inquiry that is underway. However, maybe the best way forward is for me to take that on notice and I'll get some advice about the extent to which I can respond in a way that doesn't compromise or isn't seen to be inappropriate in terms of that inquiry.

### Answer:

The administration of the wild horses rehoming program is currently the subject of an independent investigation. The rehoming program is suspended while the investigation is underway.

The terms of reference for the investigation include consideration of the types of matters raised by the Committee Chair at the hearing on 23 May 2024.

On that basis, it is not appropriate to provide comment in response to these matters at this time.

### 7. Park closures – Transcript page 70

**The Hon. WES FANG:** Mr Fleming, in your opening statement you talked about the fact that in the retention areas you said you were going to remove a certain number in a certain period of time and that you've reached that number now. Can I take it from that that you will be ceasing aerial culling operations in the retention areas at this stage?

**ATTICUS FLEMING:** Correct.

**The Hon. WES FANG:** Does that mean you can then reopen those retention areas now early so that people can actually access the park?

## No. Question

**ATTICUS FLEMING:** I'm happy to check that answer but my answer today will be no because the retention area and the removal areas are tightly sort of integrated and we'll be continuing operations in removal areas. But obviously throughout this process we've aimed to keep the closures to a minimum and when we have had to close, we've given as much notice as we can. For that northern closure, I don't know if you're aware, we made arrangements for some of the operators who were overlapping by short periods to ensure that there were alternative arrangements or some flexibility. Our aim is always to minimise the impact of any closures. I'm happy to take your question on notice and see.

**The Hon. WES FANG:** I appreciate that. There are business operators and there are tourist operators – even small cafes, for example – that rely on that tourist trade coming through that are all impacted by the closure.

**ATTICUS FLEMING:** I should add that every year there is a closure from, I think, July through to about the beginning of September, at least for the roads and large parts of the north given winter.

**The Hon. WES FANG:** I appreciate that. I meant to ask that first up but obviously I got –

**ATTICUS FLEMING:** I'll happily go back and provide more information for you.

### Answer:

The temporary closure for feral animal control in northern Kosciuszko National Park will remain in place until the end of the publicly notified time period (4 October 2024). Feral animal control will continue during this time, including the removal of wild horses from removal management areas.