

**INQUIRY INTO THE PROPOSED AERIAL SHOOTING OF
BRUMBIES IN KOSCIUSZKO NATIONAL PARK
RSPCA NSW – QUESTIONS ON NOTICE**

DATE **18 June 2024**

The Hon. SUSAN CARTER: In relation to additional training, what training do any members of the RSPCA receive in relation to the adequacy of firearms and the adequacy of calibre of projectiles being used in aerial culls?

STEVEN COLEMAN: Can I take that one on notice because there is a whole list of training requirements and deliverables that are undertaken. I'm happy to provide that.

The NSW Parliament and the NSW Government decided to reduce the number of wild horses in Kosciuszko National Park. The former Coalition Government set a reduction target of 3,000 brumbies by 2027, which is being continued by the current Labor Government. The National Parks and Wildlife Service (NPWS) is obligated to conduct the aerial culling program on behalf of the NSW Government.

RSPCA NSW has voluntarily provided advice to the NSW Government upon request, aiming to ensure the best welfare outcomes possible for the horses being removed. RSPCA NSW confined its advice to NPWS to parts of the Standard Operating Procedures (SOP) that we have specific knowledge of, which does not include firearms. NPWS is responsible for ensuring the adequacy and safety of firearms and projectiles used in these operations, and we are aware that they consult with relevant experts in this field.

In addition to providing advice on this matter, RSPCA NSW continues to monitor, investigate, and prosecute any instances of animal cruelty under the Prevention of Cruelty to Animals Act (POCTAA) through our law enforcement agency. RSPCA NSW takes great pride in its dedicated team of inspectors who play a crucial role in enforcing the state's animal welfare laws. Upon recruitment, our inspectors undergo rigorous training programs to equip them with the necessary knowledge and skills to carry out their responsibilities effectively.

The Hon. SUSAN CARTER: If there is an autopsy of a horse and it's found to have blood in its lungs, what does that tell you about the way in which that horse has died?

STEVEN COLEMAN: The reports that we've received from experts, from veterinarians, is that that's not necessarily a cause of death.

The Hon. SUSAN CARTER: Sorry, that doesn't answer the question. If a horse autopsy shows that it has received bullet injuries and its lungs are full of blood, what does that indicate in terms of cause of death?

STEVEN COLEMAN: Again, can I take that on notice because I'll need to provide veterinary advice about that.

There is insufficient information to draw any conclusions about the manner or cause of death from this description. A determination of this kind requires consideration of a range of details which may include; an understanding of whether the blood was in the airways, lung parenchyma and/or free in the thoracic cavity, the volume of blood present, evidence of tissue damage to the lungs or any other organs in the body, location of bullet strike(s) and identification and position of a permanent bullet cavity in the body.

Any additional information you wish to provide to the Committee.

RSPCA NSW would like to clarify the following:

- Powers of search and seizure: RSPCA NSW Inspectors may only exercise functions in accordance with the powers they are granted pursuant to Part 2 POCTAA. They may, enter land (s24E), examine animals (s24I) and if necessary, seize animals for the provision of veterinary treatment (including euthanasia where appropriate and permitted – see sections 24J and 24AA for example).
- RSPCA NSW inspectors can only enter dwellings with consent or a warrant (see s24E(2), and the question of whether or not a warrant is required, the extent to which out buildings, sheds, etc might be considered part of the dwelling is interpreted quite broadly, and to the owner/occupier's benefit. That is, where there is any doubt about whether a building forms part of the dwelling, caution will be exercised, and a warrant should be sought to enter. That is due to the strong and historically well understood protections available to owners and occupiers of private property – a person's home is their castle, is a maxim well understood and strongly protected at common law. Law enforcement officers ought not, absent very clear statutory intention, and evidence capable of grounding a reasonable basis to believe the commission of an offence has been, is being, or is about to be committed.
- Where a dwelling is entered without consent or warrant, there is an additional requirement that an Inspector has reasonable grounds to believe that an animal has suffered significant physical injury, is in imminent danger of suffering significant physical injury or has a life-threatening condition that requires immediate veterinary treatment, **and** it is necessary to exercise the power to prevent further physical injury or to prevent significant physical injury to the animal or to ensure that it is provided with veterinary treatment.

In the context of the Wagga Wagga property:

- Cool Room Inspection: Racing NSW referred the condition of the live animals on the property to RSPCA NSW. Inspectors attended and examined those animals. There were no significant issues with the animals inspected. Accordingly, it is unlikely a warrant would have been granted to enter a dwelling when there was no allegation there were animals in that dwelling.
- RSPCA NSW Inspectors could have asked the owner/occupier to enter the cool room; however, without consent, they required a warrant to enter and inspect the property.

These protocols are required to comply with the legal framework established by POCTAA, the associated regulations and standard operating procedure.