



**The Hon Penny Sharpe MLC**

Minister for Climate Change, Minister for Energy,  
Minister for the Environment, Minister for Heritage,  
Leader of the Government in the Legislative Council

MD24/5751

Ms Arizona Hart  
Principal Council Officer  
Committee Office  
Legislative Council  
Parliament of New South Wales

By email:

Dear Ms Hart

Thank you for your email about the 31 July 2024 hearing for the Animal Welfare Committee Inquiry into proposed aerial shooting of brumbies in Kosciusko National Park.

I have enclosed my responses to questions that I took on notice during the hearing. I do not wish to propose transcript corrections.

If you have any further questions, please contact Mr Atticus Fleming, Deputy Secretary, National Parks and Wildlife Service at \_\_\_\_\_ or on \_\_\_\_\_

Sincerely

**Penny Sharpe MLC**

Minister for Climate Change, Minister for Energy,  
Minister for the Environment, Minister for Heritage

*30/8/24*  
Enclosures



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: 31 July 2024

## No. Question

1. Transcript pages 14-15

**The Hon. EMMA HURST:** Can I start by clarifying something? In your opening statement, you talked about a number of horses that were euthanised or classified as "other deaths".

**The Hon. PENNY SHARPE:** Yes.

**The Hon. EMMA HURST:** Do you know what that actually refers to?

**The Hon. PENNY SHARPE:** I don't know. I will take it on notice. I don't know, but it is things like horses getting hit by cars in the park. I know that one of the recent media inquiries we had was this allegation that a horse had been shot in the leg and not dealt with. That wasn't the case. The advice I have is that the horse was hit by a car and had wandered off. When officers found it, they euthanised it. I'm happy to get a breakdown of what the other deaths are. Sometimes they break their legs in the waterways and that kind of thing. But if you want a full breakdown, as much as I can give it to you, I will get it, but I don't have it today.

### Answer:

"Other deaths" refer to horses that have died or were euthanised in relation to trapping and/or holding activities, either directly or indirectly.

If a horse dies or sustains a significant injury requiring euthanasia while in trap or holding yards, this would be considered a death directly related to trapping and or holding.

An indirect trapping or holding death may occur when a trapped or held horse is found to have an existing significant injury or illness, meaning it cannot be rehomed and euthanasia is required because the injury or illness would have resulted in death and/ or suffering in the wild if the horse had not been trapped.

"Euthanasia", in contrast to "other deaths", relates to horses found in the national park (outside of trap or holding yards) with significant illness or injury, requiring euthanasia for animal welfare reasons. The euthanasia of these animals does not occur as part of the wild horse population control program. An example of this is a horse found in the wild with a broken leg.

2. Transcript page 15

**The Hon. EMMA HURST:** I want to ask a few questions about the investigation report that you provided yesterday. The redacted version of the report we received is titled "A Rapid Initial Assessment".

**The Hon. PENNY SHARPE:** This is the Centium one.

**The Hon. EMMA HURST:** Yes. It says it completes phase one and it talks about the terms of reference. I don't believe we have a copy of the terms of reference. Is that something that can be provided to the Committee?

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**The Hon. PENNY SHARPE:** I don't see why not. If you don't have it, I don't see why that would be a problem, and I will be happy to provide it.

### Answer:

The 'Centium' report documents the outcome of the independent investigation into allegations made against an employee of the Department of Climate Change, Energy, Environment and Water (DCCEEW).

The terms of reference are attached, with appropriate redactions to protect the privacy and safety of individuals.

The following statement from the Secretary of DCCEEW about the investigation was published on the DCCEEW website on 23 May 2024:

"Specific allegations against an unnamed employee of DCCEEW were aired on 2GB in April. The name of the staff member was subsequently provided to the Department.

On receiving these allegations, an independent investigation was initiated.

The allegations have now been investigated and the Department has determined no misconduct was engaged in by the staff member. The investigation was conducted independently by a private investigation company. Further it involved a comprehensive review of electronic and phone records and interviews with affected staff, amongst other inquiries. The source of the allegation was requested, but declined, to provide further information.

The allegations have been comprehensively considered and the matter has now been closed by the Department.

It is noted that:

- an audit by National Parks and Wildlife Service has found only one horse was unaccounted for out of about 2,760 that were trapped since 2019
- multiple staff are required and are present when trapping occurs, and detailed records are kept of trapping activity, making it difficult for one staff member to act alone
- the staff member against whom the allegation was made has no involvement in decisions to allocate horses to re-homers
- the horses are provided free of charge and are obtained when requested (and if available), suggesting there is no incentive to make improper payments.

Given the nature of the program as outlined above, and the processes in place, it is highly unlikely that conduct as alleged would or could occur.

The broader investigation into the administration of Wild Horses Rehoming Program remains ongoing and a final investigation report is due with the department by 14 June 2024."

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**The Hon. EMMA HURST:** And also, the report concludes that "there are no allegations of wrongdoing that should be put to" – and it is redacted. I assume that is the subject of the investigation.

**The Hon. PENNY SHARPE:** Yes, correct.

**The Hon. EMMA HURST:** Does this say that the allegations of wrongdoing were never actually put to the staff member involved?

**The Hon. PENNY SHARPE:** I would have to take that on notice.

### Answer:

The DCCEEW staff member was formally interviewed as part of the independent investigation.

The summary of findings made in the report were:

- There are no allegations of misconduct that should be put to [REDACTED].
- This matter should not proceed under Rule 38(3) of the *Government Sector Employment (General Rules) 2014* and the matter should not continue to be treated pursuant to section 69 of the *Government Sector Employment Act 2013*.

The finding that there are “no allegations of misconduct that should be put to the DCCEEW staff member” reflects the fact there was no evidence provided to support the allegation. In other words, there was no basis for any formal allegation to be made under the *Government Sector Employment (General Rules) 2014*.

## 4. Transcript page 20

**The Hon. WES FANG:** How much did this report cost, Minister?

**The Hon. PENNY SHARPE:** I don't know. I'd have to take it on notice.

### Answer:

The report examining allegations with respect to a DCCEEW staff member, referred to in questions 2 and 3, cost \$25,800 (GST exclusive).

The report into the Kosciuszko National Park Wild Horses Rehoming Program, referred to in question 6, cost \$110,800 (GST exclusive).

## 5. Transcript page 22

**The Hon. WES FANG:** You've mentioned a number of times that there was a whole-of-government response being handled by the Premier's Department.

**The Hon. PENNY SHARPE:** Yes.

**The Hon. WES FANG:** Have they generated a report?

**The Hon. PENNY SHARPE:** Good question. I don't know. I'd have to take it on notice. What they did is they pulled everything together and we all dealt – because, as I said, there was the food safety authority, there was Racing, there was National Parks and Wildlife, there was the RSPCA and there was also local council. So I can't answer whether there was a report or whatever. I can take it on notice and let you know.

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### Answer:

The Premier's Department provided a brief about the status of the matter, being the alleged unauthorised knackery at Wagga Wagga and ongoing investigations, to:

- the Hon Chris Minns MP, Premier
- the Hon Yasmin Catley MP, Minister for Police and Counter-terrorism, and Minister for the Hunter
- the Hon David Harris MP, Minister for Aboriginal Affairs and Treaty, Minister for Gaming and Racing, Minister for Veterans, Minister for Medical Research, and Minister for the Central Coast
- the Hon Ron Hoenig MP, Minister for Local Government
- the Hon Tara Moriarty MLC, Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales
- me.

### 6. Transcript page 25

**The Hon. WES FANG:** The question is how. Nothing in this report indicates how you are going to do it.

**The Hon. PENNY SHARPE:** I just disagree with you on that. We can take this up. If you want me to provide to the Committee some more specific work that is being undertaken in relation to those recommendations, I can assure you —

**The Hon. WES FANG:** Yes, Minister.

**The Hon. PENNY SHARPE:** I'm happy to do that.

**The Hon. WES FANG:** That's exactly what this Committee wants.

**The Hon. PENNY SHARPE:** Great!

**The Hon. WES FANG:** We want the details, which is why the Chair is upset that you have redacted half the report.

### Answer:

Two investigation reports have been prepared:

- The report examining allegations with respect to a DCCEEW staff member. The Committee is referred to my responses to questions 2 and 3 for further information.
- The report into the Kosciuszko National Park Wild Horses Rehoming Program was published on the DCCEEW website. All recommendations have been accepted in-principle. Key actions being implemented include:
  - a review of the wild horse domestication (rehoming) standard operating procedure, and all associated documentation (including the rehoming guidelines and application form), to incorporate findings from the report

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- the development of a Program Statement of Intent, to clearly articulate the roles and responsibilities of the National Parks and Wildlife Service (NPWS) and rehomingers during the rehoming process
- strengthened application requirements and processes and initiating a proposed memorandum of understanding with agencies such as Racing NSW and RSPCA NSW to ensure communication across these agencies in relation to animal welfare issues is optimised
- NPWS will also undertake an end-to-end review of internal administrative procedures and improve aspects such as data management systems.

Updates to key program documents, including the standard operating procedure, will be reviewed by an independent veterinarian and RSPCA NSW.

Once finalised and approved, updated rehoming procedures and guidelines will be released to support all prospective rehomingers to be assessed for approval to receive wild horses.

I understand that the Committee has also asked NPWS a series of detailed questions about implementation of the report's recommendations. The Committee is referred to the responses provided by NPWS.

### 7. Transcript pages 26-27

**The CHAIR:** Going back to the part of the rehoming report about any welfare issues concerning the horses once rehomed being a matter for the authorities, I also asked the RSPCA in this morning's session –

**The Hon. PENNY SHARPE:** Yes, I saw the tail end of that.

**The CHAIR:** They said that they don't think that they have the power to investigate if it is an individual rehominger; they are unclear if they have the power to investigate rehoming organisations unless there is a specific complaint. There is obviously still a big gap here. Is this something that you are going to be working with the agriculture Minister on, in any capacity, to try to make sure there is some sort of change?

**The Hon. PENNY SHARPE:** I thought it was an interesting discussion. I'm happy to take on notice that sort of specific, but my understanding of the way that the legislation operates is this is not dissimilar to how it all operates. RSPCA acts on the basis of complaints. They don't necessarily just do proactive walking in. There is a whole range of issues around whether they have got the powers to just walk onto someone's private property and under what circumstances. My understanding is that is the same as everywhere else. There is nothing particularly different about that.

But I'm not a lawyer and this is not my legislation, so I would put the caveat on that that I'll come back to the Committee to clarify what our understanding is in relation to that, just to make sure that I haven't said the wrong thing. But that's how I understand it. The broader issue that this has thrown up is, again, when do we intervene in relation to animal welfare, under what circumstances, what powers do people have? I think that's part of the broader conversation around POCTAA and the way in which the animal welfare organisations legislation is established. The horses and rehoming is a very small part of the whole kind of way in which we manage the care and protection of

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animals. But I'll come back, if there is sort of – based on those questions, just to clarify any of that.

### **Answer:**

RSPCA NSW is best placed to answer any questions regarding its powers to investigate and respond to animal welfare complaints. Any identified concerns about the limits of such powers would need to be considered in the context of a whole-of-government response.

I note that a separate Legislative Council inquiry into the operation of the approved charitable organisations under the *Prevention of Cruelty to Animals Act 1979* is underway. The terms of reference of that inquiry include inquiring and reporting into the exercise by the relevant organisations of their compliance and enforcement functions under that Act.



Department of Climate Change, Energy, the Environment and Water  
Terms of Reference and Investigation Procedures

## Investigation into allegations regarding NPWS employee: receiving potential kickbacks to supply Brumbies from the Wild Horses Re-Homing Program to [REDACTED]

Centium  
Attn: [REDACTED]  
Level 21, 233 Castlereagh Street  
Sydney NSW 2000  
Email: [info@centium.com.au](mailto:info@centium.com.au)

Dear [REDACTED],

### Confidential: Initial Assessment | Brief to investigator and terms of reference

The Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) wishes to engage Centium to conduct an independent and confidential inquiry into the conduct of [REDACTED], who is employed by DCCEEW in the role of [REDACTED] within National Parks and Wildlife Service (**NPWS**).

The investigation is to be conducted in accordance with the *Government Sector Employment Act 2013* and the *Government Sector Employment (General) Rules 2014* regarding a possible breach of the DCCEEW Code of Ethics and Conduct (attached).

### Background

1. On 18 April 2024, Minister Penny Sharpe MLC (**Minister Sharpe**) received information from 2GB broadcaster Ray Hadley alleging that NPWS had failed to comply with its *Domestication (rehoming) guidelines* (**Guidelines**) when re-homing approximately 250 wild horses to [REDACTED], who allegedly operates an illegal knackery in the Wagga Wagga area. It was further alleged that [REDACTED] may have received kickbacks, to supply these horses.
2. On 18 April 2024, Minister Sharpe requested that the DCCEEW investigate concerns that administration of the NPWS wild horse re-homing program (**Program**) as a whole (the Program Investigation). The Program Investigation has commenced and it is expected that a report will be issued on [date].
3. Also on 18 April, DCCEEW issued a section 10 notification to the Independent Commission Against Corruption regarding [REDACTED] alleged conduct (attached). The ICAC has indicated that it will not proceed with its own investigation but would like to be kept informed regarding the outcome of DCCEEW's inquiries.
4. DCCEEW wishes to conduct an investigation into [REDACTED] involvement in the supply of horses to [REDACTED] (**Conduct Investigation**) which will be separate to the Program

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Investigation. Relevant information obtained from the Program Investigation will be shared with the Conduct Investigation and vice versa.

5. [REDACTED] is aware that the Program Investigation has commenced, and is aware, in a broad sense, of the Conduct Investigation. While the investigations are underway, [REDACTED] has been temporarily reallocated to duties unrelated to the rehoming of wild horses in the Kosciuszko area.

### Conduct Allegations and Terms of Reference

Based on the documents and information available to DCCEEW, Centium is briefed to:

1. Phase 1:
  - a. Conduct a rapid initial assessment into whether there is sufficient evidence to suggest that [REDACTED] may have engaged in behaviour in breach of the DCCEEW Code of Ethics and Conduct by receiving kickbacks from a member/s of the public to supply horses from the NPWS Wild Horses Re-Homing Program to [REDACTED];
  - b. Prepare an initial report which should:
    - consolidate all the material gathered.
    - outline the process followed.
    - set out Centium's opinion as to whether this matter should proceed under Rule 38(3) of the [Government Sector Employment \(General\) Rules 2014 - NSW Legislation](#) and whether the matter should continue to be treated pursuant to s.69 of the *Government Sector Employment Act 2013*.
    - draft any misconduct allegations to be put to [REDACTED] [and any other relevant employee who is identified during your inquiries].
    - include all relevant attachments, such as correspondence with employees, statements, record of interviews.
    - be signed and dated.
2. Phase 2:
  - a. If DCCEEW determines that the investigation should proceed to Phase 2, conduct a detailed and complete assessment of the facts relating to [REDACTED] [REDACTED] conduct in relation to the supply of horses to [REDACTED] to a standard which enables conclusions to be drawn on the balance of probabilities;
  - b. Prepare a final report setting out the results of Centium's inquiries, including Centium's opinion as to whether there is credible evidence to support the allegations.

### Investigation Process

It is recommended that Centium:

- Review all relevant documentation including the relevant policies and attachments (indexed

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in Attachment A and included with this letter),

- Contact DCCEEW if Centium requires further material or background information,
- Interview [REDACTED],
- Interview [REDACTED],
- Interview [REDACTED],
- [Interview [REDACTED], either in Phase 1 or subsequently during any Phase 2 process].

DCCEEW will assist Centium to make contact with the persons listed above prior to interview. We will inform them of this process and that Centium will be in contact.

### Procedural Fairness

To ensure procedural fairness to all parties involved in the investigation:

- a. The investigators will confirm and declare that they hold no conflict of interest in relation to the investigation, including but not limited to all parties to the investigation, the scope of the investigation and any recommendations made in the investigation report.
- b. The investigation process be completed in a timely and expeditious manner.
- c. Any information disclosed to the investigators by a party that may be adverse, to the interests of another party will be put to that other party for response, except for confidential information or disclosures subject to PID Act requirements.
- d. Should your inquiries identify additional witnesses or matters outside the terms of reference you are directed to report those findings to Kate Watts, General Counsel regarding an assessment of the information and for decisions about any further actions which will be made.

### Estimate of fees and scope of work

Once you have had an opportunity to review the background material, please provide DCCEEW with an initial cost estimate for the inquiry and a scope of work/investigation plan for DCCEEW to review and approve.

Over the course of the inquiry, please let us know as soon as possible if you believe your fees are likely to exceed our agreed cost estimate.

### Investigation Report – milestones and timing

- a. The Phase 1 investigation report will be provided to DCCEEW by close of business on 17 May 2024.

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- b. If Phase 2 proceeds, a draft Phase 2 investigation report is to be provided to DCCEEW within three weeks of commencement of Phase 2. Flexibility with this timeline may be considered if required to ensure proper consideration of all relevant matters and to allow for the possibility that new issues come to light that require investigation.
- c. DCCEEW will consider the findings and recommendations of the Phase 2 report, and be given the opportunity to review and comment on the draft investigation report within one week of receipt. All comments on the draft investigation report will be considered by the investigators prior to the investigation report being finalised.
- d. It is at the sole discretion of DCCEEW to determine whether the investigation report will become publicly available.

An example of the key milestones is provided in the table below:

	<b>Event</b>	<b>Date</b>
1.	Phase 1 commences	1 May 2024
2.	Phase 1 report provided	17 May 2024
3.	DCCEEW requests Centium to prepare Phase 2 report	20 May 2024
4.	Draft Phase 2 report provided	10 June 2024
5.	DCCEEW provides comments on draft Phase 2 report	14 June 2024
6.	Final Phase 2 report provided	21 June 2024

### Confidentiality of information and material

All the information and material provided to you in connection with this engagement is confidential.

You must not use or disclose to any other person or entity any materials provided to you or any information you obtain during the course of, or in conjunction with, this engagement, except for the purposes authorised by the department. This obligation:

- does not prevent you from disclosing information to the department, whether in your report or otherwise; and
- continues after your engagement ends.

Similarly, you must not provide access to, or copies of, correspondence from the department during the course of your engagement, and after your engagement ends, to any person or authority without the department's prior written consent.

Department of Climate Change, Energy, the Environment and Water  
Terms of Reference and Investigation Procedures

**Contact Details**

For further information or to seek instructions your contact is [REDACTED]

Thank you for your assistance in this matter.

Yours sincerely

**DELEGATE NAME / TITLE**

Date:

Department of Climate Change, Energy, the Environment and Water  
Terms of Reference and Investigation Procedures

**Attachment A:**  
**Index of relevant**  
**background**  
**material**

1. DCCEEW Code of Ethics and Conduct
2. The NPWS Domestication SOP – Rehoming Guidelines Reviewed March 2024
3. The NPWS Domestication SOP – Application to Rehome Reviewed March 2024
4. The NPWS Removal for Domestication – Wild horse control standard operating procedure
5. The NPWS Removal for knacker or abattoir – Wild horse control standard operating procedure
6. Social media searches relating to [REDACTED], recipient of rehomed wild horses
7. Mailbox search results [REDACTED] with references to [REDACTED]
8. [others]