

Submission  
No 73

## INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

**Organisation:** Heritage Brumby Advocates Australia inc.

**Date Received:** 28 November 2019

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# HERITAGE BRUMBY ADVOCATES AUSTRALIA inc.

PO BOX 309, Yarraville 3013

27<sup>th</sup> November 2019

Via online submission

<https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=263#tab-termsreference>



NSW RSPCA Year in Review 2018 - 19 [https://www.rspcansw.org.au/wp-content/uploads/2019/07/2018-2019\\_Year-in-Review\\_Online.pdf](https://www.rspcansw.org.au/wp-content/uploads/2019/07/2018-2019_Year-in-Review_Online.pdf)

Dear Legislative Council Select Committee on Animal Cruelty Laws in NSW,

**RE: Inquiry into animal cruelty laws in New South Wales Submission**

Thankyou for the opportunity to provide a submission to this inquiry. We are deeply concerned at the lack of protection for the wild horses within the borders of NSW, we are strongly of the opinion that the RSPCA have failed in their duty of care to ensure the prevention of cruelty towards animals is enforced. In the last financial year, **RSPCA NSW had a prosecution rate of under 1%, this is unacceptable!**

We will make particular reference to the role of the RSPCA during the aerial shooting of the wild horses on the Singleton army base, NSW in December 2018.

## **HERITAGE BRUMBY ADVOCATES AUSTRALIA inc**

Heritage Brumby Advocates Australia (HBAA inc) is a legally registered association, formed in November 2018 to give voice to Australian wild horses. HBAA inc is an independent organisation with a focus on advocacy and systemic change, we work with all stakeholders and are not aligned to any political party.

Our primary purpose is **to engage all stakeholders and advocate for the humane treatment, preservation and protection of the Australian Heritage brumby**. We will do this through (but not limited to) creating awareness campaigns, letter writing and making submissions to ensure the voice of the brumby is heard.

We are not a rescue, we do not involve ourselves in individual cases, we do not raise money for brumbies nor do we promote one rescue over another.

### **AERIAL SHOOTING OF WILD HORSES AT THE SINGLETON ARMY BASE**

Refer attachment: “**Letter to RSPCA Board re Singleton**” This letter will outline all the breaches of animal welfare legislation we believe the RSPCA failed in their duty to prevent cruelty to animals when they allowed the aerial shooting of these horses.

On the 18<sup>th</sup> of December 2018, the Australian Defence Force (ADF) reported via media release that “Defence can assure members of the public that this feral population control measure is being carried out in accordance with relevant legislation and codes of practice. The RSPCA has been engaged throughout this process.” This release relates to the brumbies (wild horses) living on the Singleton Army base in the Hunter Valley region, NSW.

On the 19<sup>th</sup> and 20<sup>th</sup> of December, despite significant public intervention via letter writing, phone calls and protests to the Department of Defence, as well as a formal offer to capture and rehome the Singleton brumbies, aerial shooting took place as part of ‘horse population control measures’.

On the 21<sup>st</sup> of December, the ADF reported via media release that “Defence has completed feral horse population control measures at the Singleton Military Training Area. The measures were carried out by a FFAST accredited team professionally, swiftly and accurately. Verification was undertaken throughout the day of 20th December 2018, no injured horses were sighted and no further feral horses were sighted on the base.”

We, Heritage Brumby Advocates Australia inc and partners, contend that the Singleton brumbies which were killed by the aerial shooting may have suffered an inhumane and cruel death, that this cruelty was preventable. Further, the Singleton brumbies were protected by the Prevention of Cruelty To Animals Act (POCTA), as there is precedent that the RSPCA HAS prosecuted acts of animal cruelty on defence force lands, and therefore, a gross injustice has occurred as the aerial shoot, and in our opinion it was a potentially unlawful act and thereby a prosecutable offence.

In January, the HBAAinc wrote to the RSPCA Australia and outlined quite clearly that we believe the RSPCA Australia were in breach of the POCTA Act and the Crimes Act, we suggested that the aerial shooting of the wild horses at the Singleton army base was a prosecutable offence and RSPCA were liable for this.

A meeting was then organised within 14 days at the RSPCA NSW to discuss HBAAincs claims.

### **MEETING WITH RSPCA NSW**

On Wednesday the 23<sup>rd</sup> of January 2019, there was a meeting at RSPCA NSW to discuss 1) Aerial shooting of horses as a non-preferred option and 2) The role of the RSPCA during the Singleton aerial shooting.

The meeting was attended by the president of HBAAinc Ms Justine Curatolo, Ms Erica Jessup and Mr Graeme Baldwin as representatives from the Guy Fawkes Heritage Horse Association together with Mr Grant Holman from Holman Investigations Pty Ltd. In attendance from the RSPCA NSW was the CEO Mr Steve Coleman, the Chief Inspector Mr Scott Meyers and the head lawyer Ms Catherine.

We discussed two key areas: 1) Aerial shooting of horses as a non-preferred option, and 2) the role of the RSPCA during the Singleton aerial shooting.

### **1) Aerial shooting of horses as a non-preferred option**

HBAInc and our partners talked about the impacts of aerial shooting wild horses, and that it is most definitely a non-preferred option, we spoke about the difficulty in guaranteeing any part of the process is humane. We also discussed at lengths the assessment for humaneness in the management methods of wild horses, HBAInc and our partners stated that the assessment tools used for aerial shooting were not accurate, we were able to present first-hand account of the impacts of aerial shooting at Guy Fawkes as well as humane passive trapping options. We then asked for a review of the assessment tools and to submit additional evidence to prove this inaccuracy in measurement. Our request was granted.

A meeting in Canberra with RSPCA Australia Chief Scientist Ms Bidda Jones is currently being scheduled to discuss the aerial shooting of wild horses and to challenge the assessment measures of what is considered as humane.

### **2) The role of the RSPCA during the Singleton aerial shooting**

We discussed the lack of information surrounding what occurred at Singleton. RSPCA NSW (have given us permission to publish this information, RSPCA NSW confirmed they were present during the aerial shoot and witnessed part of it, they were able to check the bodies and inspect the FFAST accredited shooters and the equipment used. RSPCA NSW confirmed they do not consider any need for action, they are comfortable that no breach of the POCTA Act occurred. The RSPCA NSW advised that if people have evidence of cruelty or inappropriate action, then to please forward that information to the RSPCA so they can investigate.

They advised that due to confidentiality arrangements with the Department of Defence, RSPCA NSW are unable to release specific details about the event.

Information the RSPCA NSW has confirmed we can release is:

- The wild horses on Singleton army base were desensitised to the helicopters and were not running wildly during the aerial shoot, we were advised the horses mostly returned to grazing when they heard the helicopters;
- The bodies were not removed from the premises;
- The trucks which entered the base, were for construction works occurring on the base;
- The shooters were Australian and all FFAST accredited;
- The rifles were appropriate and double shots were used to confirm instant death;
- That all horses inspected had died a quick death.

Please note this is the information provided by the RSPCA NSW, but we have not been able to verify any of this information, therefore we have approached Senator Faruqi who has lodged Questions through Parliamentary privilege with the Minister for Defence and which a response was given.

Refer attachment: **“Questions Response from Dept of Defence”** This publicly available document will answer all the questions in regards to the specifics of the aerial shooting of the wild horses at Singleton Army Base. Given the secrecy involved with the Department of Defence, it is impossible for us to verify what information is provided as no-one was allowed in the army base to verify this information.

### **SUMMARY OF CONCERNS REGARDING RSPCA NSW’S ROLE IN THE SINGELTON AERIAL SHOOTING**

‘RSPCA Australia believes that animals must be treated humanely.’ In 2002, RSPCA prosecuted Parks NSW for cruelty to animals for aerial shooting the brumbies in Guy Fawkes National Park. In December 2018, the ADF shot and killed over 100 brumbies on the Singleton army base via aerial shooting in NSW and the “RSPCA has been engaged throughout this process.”

According to the evidence provided and the relevant legislation, we, Heritage Brumby Advocates Australia and our partners, contend that the RSPCA may have engaged in acts of animal cruelty towards the brumbies on the Singleton army base by allowing aerial shooting to take place.

We, Heritage Brumby Advocates Australia inc. are extremely concerned at the apparent lack of animal welfare considerations during the aerial shooting of the Singleton brumbies, furthermore, that this event, left unchallenged could see future acts of animal cruelty take place across other groups of brumbies in Australia.

### **AN INDEPENDENT OFFICE OF ANIMAL WELFARE IS NEEDED**

As a charity and not a legislated agency of the government, the RSPCA is vulnerable to losses at court, this ultimately negatively impacts the financial position of the charity and thus reduces their protective ability. This significant flaw also seriously undermines the RSPCA’s ability and willingness to prosecute for fear of failure and the costs involved.

In 2018 / 2019, the RSPCA NSW received 15,673 reports of animal cruelty, yet only 77 prosecutions were commenced, ***that is a prosecution rate of less than 1%, at approx. .5%***. An unacceptably low rate and one which must be changed! The RSPCA NSW can be responsible for the rescuing, rehoming and education of animals (and be funded accordingly), but the prosecutorial powers **MUST BE REMOVED** and placed within an independent office of animal welfare, which would be a legislated body and thus afforded the same indemnity as a Child Protection department.

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HBAAinc also note that the RSPCA in their Submission to Voice for Animals (Independent Officer of Animal Welfare) Bill 2015, support an independent office of animal welfare.

See attached RSPCA submission.

## CONCLUSION

As mentioned earlier, HBAAinc are concerned at the role of RSPCA NSW during the aerial shooting of wild horses on the Singleton Army Base, we are also concerned at the overall lack of protection towards wild horses in NSW. We strongly advocate for the removal of prosecutorial powers from the RSPCA and placed in the hands of an independent office of animal welfare.

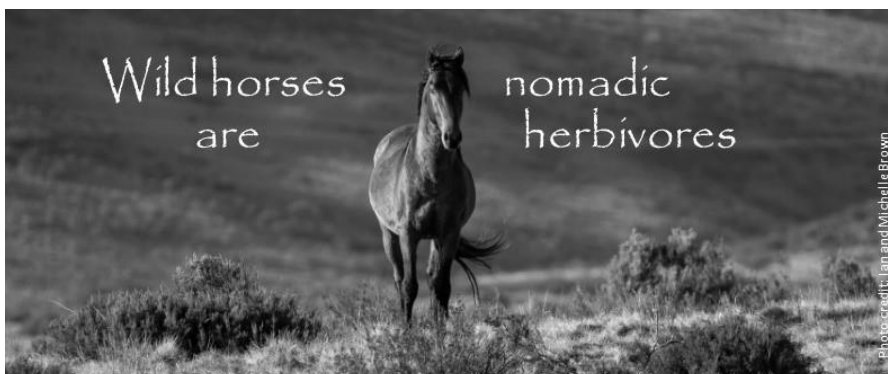
If you would like any more information, please contact me on the details below.

Yours sincerely,

Justine Curatolo

**President**

**HERITAGE BRUMBY ADVOCATES AUSTRALIA inc**



*Wild Horses are nomadic herbivores. They enrich their local environment and promote biodiversity with their unique digestive systems which allows for regeneration of seeds and grasses, as well as their selective grazing patterns which creates habitats for bugs and small birds.*