

Submission
No 234

**INQUIRY INTO HEALTH AND WELLBEING OF
KANGAROOS AND OTHER MACROPODS IN NEW SOUTH
WALES**

Organisation: Animal Defenders Office

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Animal Defenders Office

Using the law to protect animals

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The Director
Portfolio Committee No.7 – Planning and Environment
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Dear Sir/Madam

Submission to the Inquiry into the health and wellbeing of kangaroos and other macropods in New South Wales

Thank you for the opportunity to provide a submission to the NSW Legislative Council's Portfolio Committee No. 7 – Planning and Environment's inquiry into the health and wellbeing of kangaroos and other macropods in New South Wales ("the Inquiry"). Our response to the Inquiry's terms of reference ("ToR") is set out below.

About the Animal Defenders Office

The Animal Defenders Office ("ADO") is a nationally accredited not-for-profit community legal centre that specialises in animal law. The ADO is run entirely by volunteer lawyers, law students and other professionals. It offers information and representation for individuals and groups wishing to take legal action to protect animals. The ADO also produces information to raise community awareness about animal protection issues and works to advance animal interests through law reform.

The ADO is a member of Community Legal Centres NSW Inc., the peak body representing community legal centres in New South Wales.

Further information about the ADO can be found at www.ado.org.au.

Support for this submission

This submission is supported by the following leading animal law organisations:

- The Animal Law Institute;
- The Australasian Animal Law Teachers' and Researchers' Association; and
- Voiceless, the animal protection institute.

Their support is acknowledged at the end of this document.

Kangaroo killing

In this submission 'kangaroo' is taken to refer to all relevant macropod species, including wallabies.

The ADO does not support the deliberate killing of native wildlife by humans other than when it is in the animal's best interests (ie euthanasia). In our view humans should co-exist with wildlife rather

than kill it. The routine practices engaged in by commercial kangaroo industries, non-commercial shooters, and other industry stakeholders (eg pastoralists), particularly the treatment of female and young kangaroos, are in our view unconscionable. It is to Australia's shame that treating animals in this way is *prima facie* legal and actively encouraged by governments.

However, since killing kangaroos for commercial and non-commercial purposes is currently legal in NSW, the ADO's comments on the framework that ostensibly regulates these activities in this State are set out below.

Threats to kangaroo habitat, including the impact of –

The growing prevalence of exclusion fencing which restricts and disrupts the movement of kangaroos (ToR 1(c)(iv))

In these submissions 'exclusion fencing' refers to any kind of sturdy, meshed fencing that prevents the movement of animals from one area to another. It often consists of barbed wire, and can extend for hundreds of kilometres. The term 'cluster fencing' is used to refer to the grouping of multiple exclusion fences by neighbouring property owners.

The negative welfare consequences for animals 'excluded' by such fencing is acknowledged by the RSPCA,¹ and:

...can include injury, distress and prolonged death through starvation, thirst, or exposure. Furthermore, exclusion fences can halt natural wildlife movement patterns and reduce genetic interchange between populations separated by the fence, affecting biodiversity and leading to other ecological impacts. ... While most animals encountering a fence will move along or away from it, some will attempt to go underneath, over the top or push through it. This may result in entrapment. Animals are more likely to injure themselves if they are being chased, are desperately seeking food and water or trying to escape a wildfire. Entrapped or severely injured animals may suffer predation or a prolonged death. Animals prone to entrapment include emus and kangaroos... In other situations where ... access to water is restricted, trapped wildlife will die from thirst and dehydration, unless they are humanely killed.

The RSPCA also notes that entrapped animals or animals injured by the fences may suffer predation or a prolonged death, and that such suffering is rarely alleviated due to the remoteness and limited surveillance of fences.²

When responding to a question as part of the recent NSW Budget Estimates, the NSW Minister for Energy and Environment acknowledged that '[i]t is possible that cluster fences could restrict movement by kangaroos in such a way that their access to available resources is limited, including during periods when resources are scarce (such as.[sic] drought). Noting this, further research may be required to better understand the impact of cluster fencing on native species.'³

¹ <https://kb.rspca.org.au/knowledge-base/what-are-the-risks-to-wildlife-associated-with-barrier-and-cluster-fencing/>.

² Ibid.

³ NSW Parliament, Legislative Council, Portfolio Committee No. 7 Planning and Environment, Budget Estimates 2020-2021, Supplementary Questions, Minister for Energy and Environment, March 2021, response to Q218(c), at: <https://www.parliament.nsw.gov.au/lcdocs/other/15389/Answers%20to%20Supplementary%20questions%20-%20Minister%20Kean.pdf>.

Despite the negative welfare outcomes for kangaroos (and other wildlife), the NSW Government encourages the use of such fencing. For example, in 2017 the NSW Government funded the use of exclusion fencing in the ‘Gilgunnia Cluster Fence Project’ in Western NSW, where 22 landholders secured \$560,000 to erect 210km of ‘Total Pest Exclusion’ fencing, encompassing an area of 500,000 acres.⁴ The rationale for the fencing included increasing the ‘productivity and profitability of sustainable grazing enterprises’.⁵

The ADO is particularly concerned about the use of barbed wire for fencing in areas used by kangaroos and other wildlife. Our community legal centre has been contacted by wildlife carers in NSW horrified at the injuries sustained by wild animals due to fencing. One carer wrote: ‘We receive almost every fence hanger animal with lacerations on main tissues, tendons and ligaments. Most of the damages are irreversible.’ These first responders are desperate for a legal solution to stop the immense suffering inflicted on wildlife by exclusion fencing and barbed wire.

Application of animal welfare laws to fencing

The *Prevention of Cruelty to Animals Act 1979* (NSW) (“POCTA Act”) applies to kangaroos and other macropods by virtue of the definition of ‘animal’ which includes a member of a vertebrate species (s4).

A key purpose of the POCTA Act is to prevent cruelty to animals (s3(a)). Section 5 of the POCTA Act makes it an offence for any person to ‘commit an act of cruelty upon an animal’. An act of cruelty can include causing an animal to be unjustifiably wounded, mutilated, maimed, terrified, or inflicted with pain (s4(2)). Moreover, in certain circumstances depriving an animal of food, drink and shelter is punishable by up to 6 months’ imprisonment. This indicates how serious the NSW Parliament considers such conduct to be, and its acknowledgement of the suffering caused when an animal is deprived of these essentials.

Therefore, while the POCTA Act does not expressly prohibit the use of exclusion and other harmful fencing, the inadvertent impact on wildlife of such fencing, being to wound, mutilate, maim, inflict with pain, or deprive of food and water, makes the use of such fencing inconsistent with the POCTA Act, and could lead to cruelty offences being committed by landholders.

Possible law reform

Section 14(a) of the POCTA Act requires that a driver of a vehicle which strikes and injures an animal must take reasonable steps to alleviate the pain caused to the animal. Section 14(b) provides that where the animal is a domestic animal, the driver must inform, as soon as practicable, an officer or a person in charge of the animal that the animal has been injured.

The ADO submits that a similar requirement could be imposed on landholders who use exclusion fencing on their properties. That is, a legislative requirement could be imposed requiring landholders who find animals, including kangaroos, caught in exclusion fencing on their property, to take reasonable steps to alleviate the pain caused to the animal, and/or immediately report the animal to a relevant authority such as a wildlife protection group or licensed wildlife carer. Such a requirement would be in line with the POCTA Act’s purpose to prevent cruelty to animals (s3(a)).

Landholders and occupants could also be required to monitor their fences and report animals caught in or trapped by them. At the very least, this would lead to greater transparency and understanding of the inadvertent consequences of exclusion fence use.

⁴ <https://landcare.nsw.gov.au/groups/lachlandcare/gilgunnia-pest-exclusion-cluster/>.

⁵ Ibid.

Noting the serious pain and suffering it causes wildlife, the ADO submits that barbed wire in fencing should be legislatively phased out. Construction of fences using barbed wire should be prohibited from a certain date, and landholders should be allowed a specified length of time to replace barbed wire. After that time, landholders could be subject to warnings and ultimately fines if barbed wire fences are found on their land. If the removal of barbed wire from existing fences or replacement of such fences imposes an unreasonable financial burden on landholders, the NSW Government could subsidise these actions.

Licences to kill kangaroos (ToR 1(d)(ii) and (iii))

Under the *Biodiversity Conservation Act 2016* (NSW) (“BC Act”), it is an offence to harm a protected animal (s2.1(1)(c)).

Under Schedule 5 to the BC Act, protected animals include ‘mammals of any species (including aquatic or amphibious mammals but not including dingoes)’ that are native to Australia. Kangaroos are therefore protected animals.

‘Harm’ is defined to include ‘kill’ (s1.6 of the BC Act).

Killing a kangaroo is therefore harming a protected animal, which is an offence under section 2.1(1)(c) of the BC Act.

Under section 2.10 of the BC Act it is a defence to an offence under the BC Act if the alleged offending conduct was *authorised by a biodiversity conservation licence*. For kangaroo shooters, a licence to harm granted under the BC Act is therefore necessary to render lawful what would otherwise be a breach of the Act (killing a protected animal).

The killing of kangaroos for both commercial and non-commercial purposes has historically been regulated through the granting of licences with conditions, including the use of ‘drop tags’ for all animals shot. This at least provided some transparency in relation to commercial and non-commercial killing of kangaroos in NSW.

In 2018, however, this was completely undermined for non-commercial killing when the NSW Government removed the requirement for licences for non-commercial shooters.⁶

This fundamental change to the regulatory framework for non-commercial killing was brought in by changing policy and licence conditions, rather than by amending legislation. The ADO condemns this method of making such a fundamental change to a lethal wildlife control program—that is, via the ‘back door’ without any parliamentary scrutiny.

The ADO notes that the changes were announced on 8 August 2018 by the Minister for Primary Industries as part of the NSW Drought Strategy, and for ‘our drought-stricken farmers’.⁷ The ADO submits, however, that if this were the actual justification for the changes, then those changes would now be wound back because by January 2021 the drought was declared to be over in 98% of the State.⁸

The ADO submits that these alleged drought measures should be removed and at the very least the pre-drought regulatory framework reinstated for non-commercial kangaroo shooting. This

⁶ [Farmers given more power to manage roos \(nsw.gov.au\)](https://www.nsw.gov.au/news-releases/2018/08/08-farmers-given-more-power-to-manage-roos), 8 August 2018.

⁷ Ibid.

⁸ The NSW Department of Primary Industries website states that the ‘NSW DPI Combined Drought Indicator (CDI) shows 98% of NSW is in the Recovery or Non-Drought categories’; <https://www.dpi.nsw.gov.au/climate-and-emergencies/seasonal-conditions/ssu/january-2021>.

recommendation is based on the following concerns about the current framework regulating non-commercial shooting.

Regulatory framework based on licences

As previously noted, killing a kangaroo is *prima facie* an offence under section 2.1(1)(c) of the BC Act. However, under section 2.10 of the BC Act it is a defence if the alleged offending conduct was authorised by a biodiversity conservation licence. A licence to harm granted under the BC Act is therefore necessary to render lawful the killing of a protected animal, which would otherwise be a breach of the BC Act.

Moreover, ‘a person is not eligible to hold a biodiversity conservation licence unless the Environment Agency Head is satisfied that the person is a fit and proper person to hold the licence’.⁹

The inference is that harming a protected animal is considered sufficiently serious that a person can only do it if they have applied for and been granted a licence to harm, and that the applicant’s suitability to hold a licence to harm will be assessed during the application process.

However, under the drought changes, non-commercial kangaroo shooters are no longer required to hold a licence. Only the landholder is required to hold a licence. This means the Environment Agency Head has no control over whether non-commercial shooters, ie the persons actually killing the animals, are ‘fit and proper persons’ because these shooters are not the licence applicants.

It is also unclear what defence applies, if any, to non-commercial shooters who are harming protected animals without a licence, which is *prima facie* an offence under the BC Act.

“Shoot and let lie” policy

Before the drought measures were introduced, both commercial and non-commercial shooters were required to obtain tags that had to be affixed to every kangaroo shot by the shooter. The tags are issued according to species, location and year. The tagging system purportedly enables authorities to track the killing of kangaroos against quotas and to maintain population health.¹⁰

In the NSW Legislative Council on 15 August 2018 Niall Blair MLC, the then Minister for Primary Industries, announced:

...Under the new system carcasses will no longer need to be tagged and left in the paddock and landholders will be able to use the carcasses for a range of non-commercial purposes such as bait meat. ...the condition of the "shoot and let lie"—leaving paper tags sitting on carcasses—was something that no-one was engaging with appropriately.¹¹

By the then-Minister’s own admission, the process of ‘tagging’ and leaving shot kangaroo bodies in the field was not being complied with. However, rather than trying to improve compliance and enforcement of relevant laws and policies, the NSW Government simply removed the requirement altogether.

Another problem with abolishing the ‘shoot and let lie’ policy is that removing carcasses equates to removing evidence. For example, if a kangaroo is shot in the body, this does not meet the definition of ‘humane death’ in the relevant code of practice, because it does not result in an ‘instantaneous loss of

⁹ *Biodiversity Conservation Regulation 2017* (NSW), clause 2.27.

¹⁰ Office of Environment and Heritage (NSW) 2017, *New South Wales Commercial Kangaroo Harvest Management Plan 2017–2021*, Office of Environment and Heritage, Department of Planning and Environment (NSW), Sydney, pp 10, 18.

¹¹ *Hansard*, NSW Parliament, Legislative Council, Wednesday 15 August 2018, pp765-6.

consciousness and rapid death without regaining consciousness'.¹² A body-shot kangaroo carcass is therefore potential evidence of animal cruelty. However, if carcasses can lawfully be removed from the field, there is no evidence of compliance – or non-compliance – with the relevant animal welfare code of practice. By way of comparison, mandatory conditions are imposed on commercial licences to harm requiring body-shot carcasses or underweight carcasses to be tagged and mandating that the kangaroo 'must not be moved from where it was shot'.¹³

For these reasons, and because the non-commercial killing of kangaroos inflicts such great harm on so many animals, the ADO submits that the temporary drought relief policies should be rescinded and that the practice should be tightly regulated rather than deregulated.

Current government policies and programs re 'in pouch' and 'at foot' joeys given... the unrecorded deaths of orphaned young and where females are killed (ToR 1(e))

Kangaroo shooting in NSW is supposed to comply with two codes of practice:

- The *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes*, 2020 ("the Commercial Code");¹⁴ and
- The *National code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes*, 2008 ("the Non-commercial Code").^{15 16}

The ADO submits that the minimum standards specified in the kangaroo shooting animal welfare codes in relation to young kangaroos affected by the shooting are unacceptably low.

Orphaned at-foot joeys

The fate of young at-foot kangaroos orphaned when their mothers are killed is a serious animal welfare issue caused by kangaroo shooting. The Commercial Code (supposedly a higher standard than the Non-commercial Code) requires shooters to 'make every *reasonable effort* to euthanase dependent young-at-foot ... whenever *practically possible*'.¹⁷ The ADO submits that this standard is inadequate and subjective, and may result in unacceptable levels of pain, suffering and distress for orphaned dependent young who flee when their mother has been shot.

¹² *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes*, AgriFutures Australia 2020 ("the Commercial Code"), p8 and 13, <https://www.agrifutures.com.au/wp-content/uploads/2020/11/20-126-digital.pdf>; and *National code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes*, Natural Resource Management Ministerial Council 2008, ("the Non-commercial Code") p9, <http://www.environment.gov.au/biodiversity/wildlife-trade/publications/national-code-practice-humane-shooting-kangaroos-and-wallabies-non-commercial>.

¹³ *Professional Kangaroo Harvester Licence. Conditions of Licence*, NSW Department of Planning, Industry and Environment, effective 1 January 2021, conditions 25 and 27, <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Licences-and-permits/2021-licence-conditions-kangaroo-harvester-professional-200548.pdf>.

¹⁴ The Commercial Code, op.cit.

¹⁵ The Non-commercial Code, op.cit.

¹⁶ A reference to 'kangaroo shooting animal welfare codes' in these submissions is a reference to these two codes of practice.

¹⁷ The Commercial Code, pp14, 49, emphasis added.

In practice, there is no financial benefit for a commercial shooter to retrieve orphaned young who flee from the killing site. Carcasses cannot be sold if they are under-weight¹⁸, or if the animal was shot in the body¹⁹.

Government-commissioned reports into commercial killing have found that shooters find it difficult to kill larger young because of their size and the hazard of shooting them at close range.²⁰ Further, they found that the main method of disposal of large pouch young was by releasing them into the bush.²¹ One report declared that its research:

... shows that kangaroo harvesters need to make a greater effort to locate and euthanase orphaned young-at-foot. Failure to do so will have significant animal welfare implications.²²

The animal welfare implications are indeed significant. Studies have estimated that in a 10-year period:

...a conservative estimate indicates that nearly 4,600,000 young at foot, not including pouch young, were left to suffer an inhumane death during that period.²³

This unconscionable aspect of kangaroo shooting was confirmed in a legal challenge to a government kangaroo cull in 2014. In *Animal Liberation ACT v Conservator of Flora and Fauna* (2014), the ACT Government's expert veterinary witness admitted in cross examination that 'there would be some orphaning of young at foot as a result of the culling.'²⁴ The Tribunal inferred from the expert witness's evidence that 'eventual death of a number of semi independent young at foot would be a probable consequence of a cull, and that this was an undesirable outcome'.²⁵ This 'unintended mortality'²⁶ of the cull was poignantly referred to by the applicant's legal counsel as a 'ghost population' of at-foot joeys, ultimately killed by the cull but not counted as part of it. This concept clearly struck a chord. In a kangaroo management plan released several years later the ACT Government was still trying to refute the existence of 'a "ghost population" comprising suckling young at foot kangaroos ... orphaned during culling'.²⁷

The ADO submits that this 'eventual' death of orphaned young kangaroos who lose their source of food (their mother's milk) when their mother is shot is an inherent part of commercial and non-commercial kangaroo killing, and one which has serious animal welfare consequences. This aspect of kangaroo killing must be acknowledged by industry and volunteer shooters alike, and measures must be implemented to eliminate it. As a minimum, the ADO submits that the kangaroo

¹⁸ *Professional Kangaroo Harvester Licence. Conditions of Licence* (2021), op.cit, conditions 24-25.

¹⁹ *Ibid*, condition 26, and *Licence Conditions Animal Dealer (Kangaroo) 2021*, condition 12:

<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Licences-and-permits/2021-licence-conditions-animal-dealer-210089.pdf>.

²⁰ T Pople, and G Grigg, *Commercial harvesting of Kangaroos in Australia*. Department of Environment, Water, Heritage and the Arts, 1999.

²¹ *Ibid*. See also Dr D Ben-Ami, *A Shot in the Dark. A Report on Kangaroo Harvesting*, 2009, p23.

²² S McLeod, T Sharp (2014) *Improving the Humaneness of Commercial Kangaroo Harvesting* (Project No. PRJ 004103). Canberra, ACT: Rural Industries Research and Development Corporation, piii.

²³ Dr D Ben-Ami, *A Shot in the Dark. A Report on Kangaroo Harvesting*, 2009, p22.

²⁴ *Animal Liberation ACT v Conservator of Flora and Fauna* (Administrative Review) [2014] ACAT 35, at [48]. The applicant was represented by Counsel and the Animal Defenders Office.

²⁵ *Ibid*.

²⁶ Under clause 10(a) of the *Nature Conservation (Licensing Criteria) Determination 2001* (DI2001-47), the decision-maker, when determining an application for a licence relating to animals, was required to have regard to the degree of unintended mortality of animals that was likely to occur.

²⁷ *Nature Conservation (Eastern Grey Kangaroo) Controlled Native Species Management Plan 2017*, Conservator of Flora and Fauna (ACT), May 2017, p34, <https://www.legislation.act.gov.au/di/2017-37/default.asp>.

shooting animal welfare codes should contain mandatory requirements that orphaned joeys be located, and that no further shooting take place until this occurs. The shooter is solely responsible for the injury, pain and/or suffering experienced by the animal. Short of not killing at all, the only responsible action in that situation is to find the animal and to put her or him out of misery if required. Any lower standard is ethically unacceptable.

Euthanasia of joeys by concussive blow to the head

The Commercial Code allows kangaroo shooters to kill young joeys using ‘a concussive blow to the head’ or ‘blunt force trauma’.²⁸ The Non-commercial Code allows shooters to kill young kangaroos ‘using a blow to the head...delivered with force sufficient to crush the skull and destroy the brain’.²⁹

However, the Commercial Code states that the ‘efficiency and humaneness of this method depends on the operator’s skill and determination’.³⁰ The ADO submits that delivering a concussive blow to the head ‘precisely on target to ensure that adequate damage occurs to vital structures of the brain to cause immediate and sustained unconsciousness and death’³¹ is too specialised a procedure to permit shooters, rather than veterinarians or other experts, to administer.

In light of the specialised nature of the procedure and long-standing, if now discouraged, methods of implementing this procedure (eg suspending joeys upside down by the hindquarters or tail and then trying to hit the head with an iron bar),³² the ADO submits that this method of killing young animals should be removed completely from the kangaroo shooting animal welfare codes.

Shooting female kangaroos with young

No law in NSW proscribes the killing of adult female kangaroos. Given the pain and suffering that can be inflicted on both the adult animal and, where applicable, any orphaned dependent young,³³ the ADO submits that at the very least the shooting of adult females should be prohibited.

The ADO notes the suggestion in the Commercial Code that offspring could be killed before their mothers are shot, and presumably within sight of their mothers.³⁴ In addition to the suffering inflicted on the joey, the ADO submits that this would cause immense distress to the mother, especially if the dependent young is only wounded and/or flees.

In conclusion, the ADO submits that the current regulatory framework does not adequately protect ‘in pouch’ and ‘at foot’ joeys from the pain and suffering inherent in commercial and non-commercial kangaroo shooting. Government policies and programs relating to ‘in pouch’ and ‘at foot’ joeys should therefore be thoroughly reviewed, and consideration given as to whether kangaroo shooting should be permitted in light of the devastating impact of the activity on these young and vulnerable animals.

²⁸ The Commercial Code, op.cit., Appendix 5.

²⁹ The Non-commercial Code, op.cit., p13.

³⁰ The Commercial Code, op.cit., p32.

³¹ Ibid.

³² This method is discouraged in the Commercial Code but must have been, or still is, prevalent enough to warrant the Code referring to it, p32.

³³ The Commercial Code, op.cit., p34, discussing when to euthanase young at foot ‘to prevent significant suffering’.

³⁴ The Commercial Code, op.cit., p36.

Regulatory and compliance mechanisms to ensure that commercial and non-commercial killing of kangaroos and other macropods is undertaken according to the Biodiversity Conservation Act 2016 and other relevant regulations and codes (ToR 1(f))

Regulatory and compliance mechanisms—commercial kangaroo killing

Individual shooters can apply for and obtain a licence to harm kangaroos for commercial purposes under the BC Act.³⁵ Commercial kangaroo killing is reportedly monitored by inspectors from the relevant government agency responsible for administering the Commercial Kangaroo Harvesting Management Plan.³⁶

It is a condition of a commercial shooting licence that kangaroos are ‘harvested’ in accordance with the Commercial Code.³⁷ It is an offence under the BC Act not to comply with the condition of a licence granted under the Act (s2.14(4)).

Given that shooting occurs in vast remote areas and at night, it is necessary to determine how compliance with the licence conditions and other legal requirements relating to shooting is monitored and enforced.

In ‘The Role of Inspections in the Commercial Kangaroo Industry’, a seminal article published in 2013, several NSW academics posed this very question.³⁸ The authors found that the legal framework underpinning commercial kangaroo killing across Australia, including in NSW, was characterised by regulatory weaknesses and ‘lacklustre enforcement mechanisms’ (p2). These mechanisms mainly consisted of periodic inspections by government agencies. However, the authors found that:

- The general lack of inspections of shooters by the enforcement agencies meant that the agencies could not ensure that shooters were complying with the relevant animal welfare shooting code (p11);
- Where inspections did occur, they did detect some breaches directly linked to the animal welfare objectives of the Code, calling into question the extent to which those objectives were being met (p2);
- In general, inspections of shooters in NSW did not relate to compliance with the animal welfare code but instead related to other matters (p11);
- The majority of offences detected in NSW related to reporting requirements (p13);
- Relevant details such as the total number of carcasses inspected were not disclosed in reports (p12);³⁹ and
- The ability and resolve of the agencies to inspect, charge and prosecute offenders may have been impeded by conflicts of interest between operating a kangaroo management program and ensuring the welfare of kangaroos (pp7, 18).

³⁵ BC Act, Part 2, Division 3.

³⁶ The current regulator is the NSW Department of Planning, Industry and Environment, which replaced the Office of Environment and Heritage (OEH) in 2019; and OEH, *NSW Commercial Kangaroo Harvest Management Plan 2017–2021*, <https://www.environment.nsw.gov.au/research-and-publications/publications-search/nsw-commercial-kangaroo-harvest-management-plan-2017-2021>.

³⁷ *Professional Kangaroo Harvester Licence. Conditions of Licence* (2021), op.cit, condition 10.

³⁸ K Boom, Dr D Ben Ami, L Boronyak, and Dr S Riley, ‘The Role of Inspections in the Commercial Kangaroo Industry,’ *International Journal of Rural Law and Policy*, 2013.

³⁹ Only the Queensland government agency disclosed this detail: p12.

The 2013 article suggested various improvements to achieve more effective enforcement of the relevant animal welfare shooting code, including:

- More monitoring, to inform whether the code is operating as intended and whether more or less government intervention is required (p11);
- Integrating the code into State regulations ‘to ensure that its provisions are enforceable in relation to all persons participating in the commercial kangaroo industry’ (p18) and ‘with more focus on its objective of animal welfare’ (p19); and
- Enhancing inspection capability by mounting video surveillance on shooters’ trucks (p18).

Recent compliance measures in commercial killing zones

Since the publication of the article, NSW government regulators have continued to report on compliance aspects of commercial kangaroo killing on an annual basis.⁴⁰

The ADO submits that these reports show that not much has changed since the publication of the article in 2013. The legal framework applying to commercial kangaroo killing is still characterised by regulatory weaknesses and lacklustre enforcement mechanisms, and none of the suggested improvements listed above has been implemented.

In terms of raw numbers, the 2018 annual report states that in that year 593,796 macropods were killed for commercial purposes, and there were 424 licensed commercial shooters.⁴¹ In 2019, 625,241 macropods were reported as being commercially killed and there were 502 licensed commercial shooters.⁴²

Late in the afternoon of Friday 23 April 2021, the 2020 Annual Report was uploaded to the Department of Planning, Industry and Environment’s website. It reports that for that year 469,186 macropods were killed for commercial purposes, and there were 557 licensed commercial shooters.⁴³ The ADO notes the high reported number of kangaroos shot on a commercial basis in NSW in 2020 despite the catastrophic loss of wildlife, including kangaroos, resulting from the 2019-2020 bushfires. Specifically, a report into the bushfires’ wildlife toll that was sponsored by the World Wide Fund for Nature (WWF) estimated that just under three billion animals were in the paths of the fires, and were therefore likely killed or otherwise affected. This figure includes approximately five million kangaroos and wallabies.⁴⁴ Leaving aside the significant welfare concerns addressed throughout this submission, which alone present a compelling case for permanently abolishing – or substantially reforming rules governing – kangaroo shooting, the practice should at least be discontinued until the impact of the unprecedented fires on kangaroo populations and habitat is evaluated with certainty and the long-term viability of affected species is confirmed. To do otherwise would flagrantly undermine the objective of ecological sustainable development, which underpins the BC Act (s1.3) and requires the application of the precautionary principle: ‘that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing

⁴⁰ The NSW Department of Planning, Industry and Environment’s webpage ‘Kangaroo management plans, reports and research—Annual Reports’ contains Annual Reports from 2010 to 2020: <https://www.environment.nsw.gov.au/topics/animals-and-plants/wildlife-management/kangaroo-management/kangaroo-population-monitoring-and-reporting/reports-and-research>.

⁴¹ NSW Commercial Harvest Management Plan: 2018 Annual Report, p2 table 1, and p12.

⁴² NSW Commercial Harvest Management Plan: 2019 Annual Report, p6 table 1, and p16.

⁴³ 2020 Annual Report for NSW Commercial Kangaroo Harvest Management Plan 2017-21, p6 table 1, and p20.

⁴⁴ L Van Eeden et al, *Impacts of the Unprecedented 2019-2020 Bushfires on Australian Animals* (Report, 2020) 5, 21.

measures to prevent environmental degradation’ (*Protection of the Environment Operations Act 1991* s6(2)).⁴⁵

Furthermore, all three reports state that ‘[c]ompliance audits of licensees are performed continuously’.⁴⁶ According to the reports, the ‘audits’ consisted of inspections of carcasses, harvesters and/or harvesters’ vehicles and equipment, chiller premises, and processors for compliance with licence conditions.⁴⁷

There is no explanation of what ‘continuously’ means. The only actual numbers of inspections are in relation to chiller premises and processing works,⁴⁸ and the number of carcasses inspected continues to be a notable omission from the reports. Most importantly from an animal welfare perspective, there is no information in any of the three reports about audits or monitoring carried out at shooting locations.

Inspections at the point of kill

The ADO submits that failing to inspect or monitor the shooting locations, or ‘point of kill’, is a serious flaw in the kangaroo killing compliance regime, as this is where pain and suffering is inflicted on animals. It is also where evidence of non-compliance with animal welfare laws and codes will be most readily available.

Our submissions have already highlighted the devastating impact of commercial and non-commercial kangaroo shooting on juvenile kangaroos. The impact on kangaroos of any age who are wounded but not killed by a shot is equally devastating.

As mentioned previously, both the Commercial and Non-commercial Codes require shooters to aim for the target kangaroo’s brain to achieve instantaneous loss of consciousness and rapid death without regaining consciousness.⁴⁹ When a head shot is not achieved and the animal is instead shot in the neck or body, the animal will not be killed outright and will suffer. This is acknowledged in the Commercial Code,⁵⁰ and has been accepted by the Commonwealth Administrative Appeals Tribunal.⁵¹ This first-hand account by a former commercial kangaroo shooter attests to the horrific consequences of a body shot for the target animal:

The mouth of a kangaroo can be blown off and the kangaroo can escape to die of shock and starvation. Forearms can be blown off, as can ears, eyes and noses. Stomachs can be hit expelling the contents with the kangaroo still alive. Backbones can be pulverized to an unrecognizable state etc. Hind legs can be shattered with the kangaroo desperately trying to get away on the other or without the use of either...⁵²

From an animal welfare perspective, establishing accurate figures of the number of kangaroos who are mis-shot and wounded each year should be a key priority, as this could help determine whether the shooting codes are achieving their animal welfare objectives. The obvious place to do this would be in the field at the point of kill, but as previously discussed, there is no evidence that this critical point in

⁴⁵ See Best, Godden and Parker, Submission No 105, Australian Senate, *Lessons to be learned in relation to the Australian bushfire season 2019-2020* (22 May 2020) 10.

⁴⁶ 2018 Annual Report, op.cit., p12; 2019 Annual Report, op.cit., p17; 2020 Annual Report, op.cit, p20.

⁴⁷ 2019 Annual Report, op.cit., p17; 2020 Annual Report, op.cit, p20.

⁴⁸ 2018 Annual Report, op.cit., p13; 2019 Annual Report, op.cit., p17; 2020 Annual Report, op.cit, p21.

⁴⁹ Commercial Code, op.cit., p8 and 13; Non-commercial Code, op.cit., p9.

⁵⁰ Commercial Code, op.cit., p26.

⁵¹ *Wildlife Protection Association of Australia Inc and Minister for the Environment, Heritage and the Arts [2008] AATA 717* at [47].

⁵² D Nicholls, ‘The Kangaroo – Falsely Maligned by Tradition’ in M Wilson and D B Croft (eds), *Kangaroos Myths and Realities* (Australian Wildlife Protection Council, 3rd ed, 2005), 38.

the process is monitored. Instead, long after the killing has occurred and far away from the point of kill, chillers are inspected for ‘non-head-shot carcasses’ as just one of several matters such as ‘valid tags’.⁵³ The last three Annual Reports also refer to investigating ‘instances of non-head-shot kangaroo carcasses’ originating in NSW and reported by animal dealers or processing works from other jurisdictions.⁵⁴ Almost identical wording is used in each report, and no details are provided as to number or outcome. The point of repeating this standard sentence in each report is not clear, other than to confirm that non-head-shot kangaroo carcasses from NSW do end up in processing facilities in other jurisdictions.

The failure to monitor for body shots at the point where they occur is reflected in the low number detected in inspections further down the commercial killing process. The 2020 Annual Report shows that of the 61 ‘compliance response outputs for 2020’, eight (8) were for ‘non-head shot’, resulting in four (4) official cautions, three (3) warning letters, and one (1) penalty infringement notice.⁵⁵ This compares with 21 ‘outputs’ for ‘underweight carcasses’, 11 for ‘untagged carcasses’, and 10 for ‘incorrect display on chiller’.⁵⁶

The ADO submits that monitoring the prevalence of body shots at chillers or ‘animal dealer processing works’ is completely inadequate from an animal welfare compliance perspective because it will never reflect the true number of mis-shot animals. Commercial shooters are not paid for body-shot kangaroos and therefore do not bring them to processing facilities.⁵⁷ Wounded animals who escape will not be counted. Any wounded animal who is not retrieved will not be tagged, so there will be no evidence linking that animal to the shooter responsible for the pain and suffering inflicted on the animal.

As an illustration of the extent of the problem, RSPCA Australia has estimated that in one year, over 100,000 kangaroos presented to processors would not have been head or brain shot.⁵⁸ Again, this number is conservative because it would not include animals unretrieved by the shooter.

The ADO therefore submits that as a bare minimum the kangaroo shooting animal welfare codes should contain a mandatory requirement that an injured animal be located before shooting resumes. In addition, killing points should be frequently monitored and inspected by animal welfare officers. A moratorium on kangaroo shooting should also be considered until adequate inspection and compliance measures are implemented to reduce the incidence of body shots and the appalling suffering they inflict.

Other enforcement mechanisms

As in the period assessed in the 2013 article discussed above, subsequent reporting periods are similarly characterised by a preponderance of low-level enforcement outcomes such as cautions, warning notices, compliance letters, and penalty infringement notices.

⁵³ See for example 2020 Annual Report, op.cit, p21.

⁵⁴ 2018 Annual Report, op.cit., p13; 2019 Annual Report, op.cit., p17; 2020 Annual Report, op.cit, p21.

⁵⁵ 2020 Annual Report, op.cit, p22 table 5.

⁵⁶ Ibid.

⁵⁷ Voiceless, ‘How are kangaroos killed?’, <https://voiceless.org.au/hot-topics/kangaroos/>.

⁵⁸ RSPCA Australia, *A Survey of the Extent of Compliance with the Requirements of the Code of Practice for the Humane Shooting of Kangaroos*, 2002.

By contrast, no licence or registration was cancelled between 2012 and 2019.⁵⁹ Only one licence is reported as having been cancelled in 2020.⁶⁰

Similarly, in 2012 and 2015-2019 no prosecutions were reported.⁶¹ The 2013, 2014 and 2020 annual reports state that there was one prosecution in each year,⁶² but no details are provided about the reason for the prosecutions.

Between 2012 and 2019, OEH (the enforcement agency at the time) confirmed it received reports of illegal shooting during the relevant year but did not provide the number of reports received, investigated, or dismissed.⁶³ Virtually identical wording was used in all reports, suggesting standard words rather than an accurate report on events during the particular year.⁶⁴ The 2020 annual report does not appear to report on illegal shooting per se.

No surveillance activities were conducted between 2014 and 2018.⁶⁵ In 2019 OEH reported that ‘surveillance activities were conducted during 2019 with NSW Police to investigate firearms issues and to inspect allegations of illegal activities reported to the Department.’⁶⁶ The 2020 annual report refers to five ‘multi-agency surveillance and enforcement operations’ conducted during the year with NSW Police (3), NSW DPI Game Licensing Unit (1), and NSW Food Authority (1).⁶⁷ No further information is provided about the surveillance activities, making it impossible to determine whether non-compliance with the relevant animal welfare shooting code or potential animal cruelty offences were detected or investigated.

Thus, the current compliance framework continues to be characterised by low inspection rates, poorly targeted inspections, inadequate monitoring, and insufficient reporting data. There is no information about monitoring or inspecting killing points. As discussed further below, the Commercial Code is yet to be incorporated into State law. More sophisticated compliance measures and regulatory responses such as licence cancellations, surveillance or prosecutions are used rarely, if at all.

The ADO therefore submits that the gaps in the regulatory activity within the kangaroo industry in NSW are as significant today as they were in 2013, and that these gaps must be filled before ‘better welfare outcomes’ can be achieved for kangaroos killed for commercial purposes.⁶⁸

Regulatory and compliance mechanisms—non-commercial killing

As previously noted, in 2018 the NSW Government implemented policy measures ostensibly in response to the drought, allowing shooters to kill kangaroos on private land for non-commercial purposes without a separate licence if the landholder holds a licence to harm kangaroos. These measures remain in place to this day, despite NSW being for the most part drought-free. For this reason, non-commercial killing will be considered only from 2018.

In 2018, 282,927 kangaroos were reported as killed under non-commercial licences, equivalent to 47.7% of the commercial kill.⁶⁹ In 2019, the first full reporting period in which non-commercial

⁵⁹ The NSW Department of Planning, Industry and Environment’s webpage ‘Kangaroo management plans, reports and research—Annual Reports’, op.cit.

⁶⁰ 2020 Annual Report, op.cit, p22.

⁶¹ 2018 Annual Report, op.cit., p14; 2019 Annual Report, op.cit., p18.

⁶² 2013: prosecution completed. 2014: no additional information. 2020: prosecution commenced.

⁶³ 2018 Annual Report, op.cit., p12; 2019 Annual Report, op.cit., p17.

⁶⁴ The 2012 Annual Report contains slightly more detail about the process but not subject matter (p18).

⁶⁵ Ibid, 2018 Annual Report.

⁶⁶ 2019 Annual Report, op.cit., p17.

⁶⁷ 2020 Annual Report, op.cit, p21.

⁶⁸ K Boom et al, ‘The Role of Inspections in the Commercial Kangaroo Industry,’ op.cit., p19.

⁶⁹ NSW Commercial Harvest Management Plan: 2018 Annual Report, p12.

shooters no longer needed licences, the number of animals killed increased to 414,142 or 62.2% of kangaroos killed commercially in the same period.⁷⁰

Both reports acknowledge that these figures are unreliable, given that ‘returns for animals culled are not always submitted to the local National Parks and Wildlife Service (NPWS) Area Office’.⁷¹

According to the 2020 annual report, 76,463 kangaroos are known to have been killed on a non-commercial basis.⁷² The report acknowledges, however, that a ‘number of licensees have not yet submitted reports’.⁷³ The ADO again notes the high reported number of kangaroos shot in 2020 despite the catastrophic loss of wildlife resulting from the 2019-2020 bushfires.⁷⁴

The ADO also notes that the reported numbers of kangaroos killed on a non-commercial basis may not include dependent young, as the mandatory conditions on a non-commercial licence to harm specifically state that ‘[t]he dependent young of animals harmed under this licence do not count towards the licence quota’.⁷⁵

Given the acknowledged unreliability of the reported numbers, the ADO submits that the true number of kangaroos killed on a non-commercial basis is not known and, most probably, will never be known.

It appears that the degree to which animal welfare laws and codes are complied with in non-commercial killing zones is just as unknown or unknowable. This point is acknowledged in a recent peer-reviewed article, which comments:

...although enforcement of animal welfare standards is feasible in the commercial system since there are points in the supply chain (e.g. chillers and processing works) where carcasses can be checked for compliance with the Code of Practice, this is much more difficult with the non-commercial cull as there are no definable locations where checking can occur.⁷⁶

The Non-commercial Code—compliance issues

The NSW Department of Planning, Industry and Environment (the current regulator), states on its website that:⁷⁷

All non-commercial shooting of kangaroos and wallabies must comply with the [National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes](#) to ensure kangaroos are killed in a way that minimises pain and suffering. Landholders must ensure all shooters operating under their licence are provided with a copy of this code.

While compliance with the Commercial Code is a mandatory condition on commercial shooters’ licences,⁷⁸ the same cannot be said for non-commercial shooting as the shooters are not required to obtain a licence. It is, however, a condition on the landholder’s licence to harm that ‘[a]ll kangaroos including dependent young (i.e. pouch young, young at foot) must be harmed in accordance with the

⁷⁰ NSW Commercial Harvest Management Plan: 2019 Annual Report, p16.

⁷¹ 2018 Annual Report, op.cit., p12; 2019 Annual Report, op.cit., p16.

⁷² 2020 Annual Report, op.cit, p19.

⁷³ Ibid.

⁷⁴ L Van Eeden et al, *Impacts of the Unprecedented 2019-2020 Bushfires on Australian Animals*, op.cit.

⁷⁵ *Licence to Harm Kangaroos. Licence conditions* (non-commercial, 2018), Department of Planning, Industry and Environment, condition 7.

⁷⁶ McLeod and Hacker (2020), ‘Balancing stakeholder interests in kangaroo management - historical perspectives and future prospects,’ *The Rangeland Journal*, 41, p571.

⁷⁷ <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/licences-to-harm-kangaroos>.

⁷⁸ *Professional Kangaroo Harvester Licence. Conditions of Licence*, op.cit, condition 10.

National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-commercial Purposes.⁷⁹

However, neither the website nor the kangaroo management program annual reports provide any information about how compliance with the Code by non-commercial shooters is monitored or enforced. There is no data in relation to inspections, surveillance, or any kind of compliance activity conducted at any point in the non-commercial killing process. It is therefore impossible to determine whether the Code is being implemented effectively or at all.

The ADO submits that compliance with the Non-commercial Code must be monitored and its animal welfare standards enforced. At the very least, the same level of ‘compliance audits’ and monitoring currently performed in commercial killing zones should also be carried out at non-commercial killing sites.

The Non-commercial Code—other issues

The ADO has other concerns about the adequacy of the Non-commercial Code even within a ‘welfarist’ paradigm. The Non-commercial Code was published in 2008. As such, the ADO queries whether it is appropriate to have a code written in 2008 apply to the shooting of healthy native wild animals in NSW in 2021. There is little doubt that expectations of standards of care in relation to the shooting of kangaroos have changed since 2008. For example, the new national code of practice for commercial kangaroo shooting (the Commercial Code) was released in November 2020⁸⁰ and replaced the previous commercial code that had also been published in 2008. The new code states that it includes ‘clearer guidelines for harvesters with particular regard to minimising the suffering of dependent young’.⁸¹ However, by comparison, non-commercial shooters need only comply with the outdated guidelines for killing dependent young in the 2008 Non-commercial Code.

Moreover, the Non-commercial Code specifically, and almost defiantly, states that no competency training is required for shooters (clause 3.1):

There is no competency testing regime for non-commercial kangaroo and wallaby shooters nor is there an intention to introduce a regime.

Finally, the ADO notes that the Non-commercial Code itself states that it will be reviewed in 5 years. However, there is no evidence that this ever occurred, and the original 2008 code remains the version in use in 2021.⁸²

Given the flaws and weaknesses of the Non-commercial Code, and while shooting kangaroos remains legal, the ADO submits that NSW should require shooters killing kangaroos in a non-commercial capacity to comply with the newly revised Commercial Code. As the capacity for kangaroos to suffer is the same regardless of who is killing them or the purpose for which they are killed, one set of animal welfare standards should apply to all shooters, as was the case prior to the release of the current Non-commercial Code in 2008.⁸³

⁷⁹ Licence conditions, Licence to Harm Kangaroos, effective 8 August 2018, condition 6.

⁸⁰ The Commercial Code, op.cit.

⁸¹ <https://www.agrifutures.com.au/kangaroo-commercial-code/>.

⁸² The Non-commercial Code, op.cit., p9.

⁸³ *Code of Practice for the Humane Shooting of Kangaroos*, first edition 1985; second edition 1990.

The Volunteer Non-Commercial Kangaroo Shooters Best Practice Guide

With the easing of restrictions on non-commercial kangaroo shooting in 2018, the regulator published a ‘best practice guide’ for non-commercial, or ‘volunteer’, shooters. The Department of Planning, Industry and Environment’s website states that:⁸⁴

...the NSW Department of Primary Industries Game Licensing Unit has developed the [Volunteer Non-Commercial Kangaroo Shooters Best Practice Guide \(PDF 525KB\)](#), which covers critical aspects of safe and humane kangaroo culling including legislative requirements, kangaroo species identification, firearm calibres and projectiles, marksmanship and shot placement, disease identification and handling game meat.

Compliance with this ‘best practice guide’ is not mandatory. The landholder non-commercial licence-to-harm conditions do not refer to it. As with the Non-commercial Code, there is no information as to how compliance with this ‘best practice guide’ is monitored, or how the guide leads to better animal welfare outcomes in the field. Its value from an animal welfare perspective therefore appears to be nugatory at best.

The ADO therefore submits that there is no framework in place in NSW for monitoring or reporting on compliance with animal welfare codes or guidelines by non-commercial shooters. The ADO submits that this is completely unacceptable, given the significant numbers of kangaroos killed in NSW on a non-commercial basis.

Compliance: the codes and animal welfare laws

Some animal welfare codes of practice are incorporated into NSW’s animal welfare laws, giving those codes a certain legal force, or at least legal recognition.

Codes able to be used as evidence of compliance with welfare laws

One way this can be done is for a code to be prescribed or adopted by the *Prevention of Cruelty to Animals Regulation 2012* (NSW) (“POCTA Regulation”) under s34(4) of the POCTA Act. Where this occurs, compliance, or failure to comply, with the prescribed or adopted code is admissible in proceedings under the POCTA Act as evidence of compliance, or failure to comply, with the Act or regulations.

However, this applies only to guidelines relating to the welfare of ‘farm’ or ‘companion’ animals (POCTA Act, s34(1)). The guidelines prescribed for this purpose do **not** include the kangaroo shooting animal welfare codes (POCTA Regulation, reg 33).

The ADO does not recommend that the kangaroo shooting animal welfare codes be prescribed for the purposes of section 34(4) of the POCTA Act (should it be expanded to include wildlife). This is because both codes explicitly state that they set out the *minimum* required of persons shooting kangaroos.⁸⁵ This is at the opposite end of the spectrum from best practice. In our view, minimum standards should not be enough to protect a person from being convicted of animal cruelty if, *but for the code*, their conduct would otherwise constitute an animal cruelty offence.

Mandatory codes for animal trades

The POCTA Regulation also prescribes certain codes relating to animal trades and makes compliance with the prescribed codes mandatory for those trades (reg 26(3)(i)). Failure to comply with the code is

⁸⁴ <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/licences-to-harm-kangaroos>.

⁸⁵ Non-commercial Code (2008), p4; Commercial Code (2020), p1.

an offence, with a maximum penalty of 50 penalty units (\$5,500) for an individual, and 200 penalty units (\$22,000) for a corporation.

The relevant codes and standards are prescribed in Schedule 1 to the Regulation.

However, the commercial kangaroo shooting animal welfare code is not included in the list of animal trade codes and standards prescribed in Schedule 1.

The ADO submits that the commercial kangaroo shooting animal welfare code should be prescribed in Schedule 1 to the POCTA Regulation, given that it is an 'animal trade' and that non-compliance with the code should be an animal cruelty offence under the POCTA Regulation.

Prevention of Cruelty to Animals Act

As previously noted, the POCTA Act applies to kangaroos and kangaroo shooters. In theory therefore, shooters would be committing an act of cruelty to a kangaroo if they committed an 'act or omission as a consequence of which the animal is unreasonably, unnecessarily or unjustifiably... beaten, ...killed, wounded, ...mutilated, maimed, abused, tormented, tortured, terrified or ...inflicted with pain' (ss4(2) and 5).

The ADO is unaware of any actual investigations into or proceedings against shooters for failing to comply with animal welfare laws in the course of shooting kangaroos. Rather than indicating compliance with those laws, this instead suggests a complete absence of enforcement activity and consequential failure to detect offences.

The ADO submits that enforcement agencies under the POCTA Act, being RSPCA NSW, the Animal Welfare League, and NSW Police, should monitor commercial and non-commercial kangaroo shooting at the killing points, to ensure compliance with animal welfare laws. Animal cruelty complaints and tip-offs from industry participants should also be encouraged, even if on an anonymous basis. Finally, monitoring and inspections relating to animal welfare laws should be reported in kangaroo management program annual reports.

The final word in these submissions will be left not to a lawyer but to a philosopher. In 2005, the internationally renowned Australian philosopher Peter Singer proposed what would be a gamechanger for how the law regards wildlife:⁸⁶

We need a Mabo decision for Australia's wild animals, a legal recognition of their special status as original residents of Australia, alongside its original [human] inhabitants. The only ethical approach is one that gives their interests equal consideration alongside similar human interests.

In 2021, such a legal recognition is more urgent than ever for NSW's kangaroos in light of the vast numbers killed across the State, the pain and suffering inflicted on so many of the victims, and the fundamental flaws and gaps in the legal framework that is supposedly designed to protect them.

These submissions were prepared with assistance from Katie Gamble and Farnham Seyedi, volunteer lawyers, and Karen Storer, volunteer legal intern, Animal Defenders Office.

⁸⁶ Peter Singer, 'Preface' to *Kangaroos: Myths and Realities*, ed. M Wilson and D B Croft, op.cit.

Thank you for taking these submissions into consideration.

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Animal Defenders Office

26 April 2021



The Animal Law Institute (ALI) supports the recommendations made by the Animal Defenders Office in this submission.

ALI is a registered charity and a not for profit community legal centre that is dedicated to protecting animals and advocating for their interests through the Australian legal system. ALI is a member of peak bodies, the Victorian Federation of Community Legal Centres and the National Association of Community Legal Centres.



The Australasian Animal Law Teachers' and Researchers' Association supports the substantive law reform recommendations made in this submission.

The Australasian Animal Law Teachers' and Researchers' Association (AALTRA) is an incorporated association dedicated to using law and policy as a means of improving animal well-being. AALTRA's members comprise university teachers, researchers, personnel from non-government bodies, corporate bodies and students whose work or research demonstrates an interest in improving animal well-being by means of animal law teaching, animal law research or animal law practice. AALTRA supports the substantive recommendations made by the Animal Defenders Office in this submission in regards to improving the legal and regulatory framework governing kangaroo management in NSW. AALTRA is a legal academic association with limited purposes and accordingly makes no statement as to the ethics of kangaroo killing in Australia.



Voiceless, the animal protection institute supports the recommendations made by the Animal Defenders Office in this submission.

Voiceless is a national animal protection organisation, established in 2004. As the dedicated home of [Animal Law](#) and [Animal Protection Education](#), Voiceless envisions a world in which animals are treated with respect and compassion. By harnessing the power of education, Voiceless works to inspire a new generation to think critically and make positive changes for animals. www.voiceless.org.au