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REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 5

**INQUIRY INTO THE RSPCA RAID ON THE WATERWAYS
WILDLIFE PARK**

At Sydney on Monday 5 July 2010

The Committee met at 2.35 p.m.

PRESENT

Mr I. Cohen (Chair)

The Hon. R. L. Brown
The Hon. A. Catanzariti
The Hon. R. H. Colless
The Hon. Marie Ficarra
The Hon. L. Foley
The Hon. H. M. Westwood

CHAIR: Welcome to the first public hearing of General Purpose Standing Committee No. 5 inquiring into the RSPCA raid on the Waterways Wildlife Park. The inquiry's terms of reference require the Committee to inquire into and report on matters associated with the RSPCA raid in Gunnedah on 3 February this year. As such, this inquiry is an opportunity for stakeholders to provide evidence about the investigations undertaken by the RSPCA to assess the welfare of the animals at the park, the criteria used to determine that the animals should be removed and the protocols that the RSPCA follows in its investigations. The Committee will also examine the role of the television program *Animal Rescue* and the actions of the Department of Industry and Investment with respect to the licensing of the Waterways Wildlife Park.

Today we will be hearing from Ms Sally Barnes and Mr Ron Haering from the Department of Environment, Climate Change and Water; Ms Cheyne Flanagan of the Port Macquarie Koala hospital; and Mr Steve Coleman, chief executive officer of the RSPCA New South Wales. Tomorrow the Committee will travel to Gunnedah to hear evidence from Ms Nancy Small, the operator of the park, and her daughter Ms Jodi Markwick, as well as from David Amos of the Gunnedah Veterinary Hospital and representatives of the Gunnedah Shire Council.

Before we commence, I would like to make comments on certain aspects of the hearing. Committee hearings are not intended to provide a forum for people to make adverse reflections about specific individuals. The protection afforded to committee witnesses under parliamentary privilege should not be abused during these hearings. I therefore request that witnesses avoid the mention of individuals unless it is essential to address the terms of reference.

The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of the guidelines covering the broadcast of the proceedings are available at the table by the door. In accordance with the guidelines, members of the Committee and witnesses may be filmed or recorded; however, people in the public gallery should not be the primary focus of any filming. In reporting the proceedings of the Committee the media must take responsibility for what it publishes or what interpretation is placed on anything that is said before the Committee.

Witnesses, members and their staff are advised that any messages should be delivered through the attendants or committee clerks. I also advise that under the standing orders of the Legislative Council any documents presented to the Committee that have not yet been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by any member of such Committee or by any other person. Finally, I ask everyone to turn off their mobile phones for the duration of the hearing, including mobile phones on silent, as these interfere with Hansard's recording of the proceedings.

SALLY BARNES, Deputy Director General, Department of Environment, Climate Change and Water, and

RON HAERING, Manager, Wildlife Licensing and Management Unit, Department of Environment, Climate Change and Water, sworn and examined

CHAIR: Are you conversant with the terms of reference of the inquiry?

Ms BARNES: I am.

Mr HAERING: Yes, I am.

CHAIR: Should you consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Before the Committee commences to ask questions, if either or both of you would like to make a short statement at this point to clarify your position, that would be very helpful.

Ms BARNES: What I would like to do is give some background to the role of the National Parks and Wildlife Service under the Act. Under section 92 of the National Parks and Wildlife Act the Director General has a legislative responsibility for the care and protection of native fauna and every year many hundreds of wild native fauna are found either injured from accidents or sick from disease or illness, or orphaned. To help us in our work there are approximately 30 groups and 30 individuals who hold licences to rehabilitate sick and injured fauna, so the total number of authorised carers under these groups is between about 4,000 and 4,500 people, and they play a vital role in helping to protect the State's native fauna.

Under section 8 (7) (b) of the Act, the Director General may enter into arrangements for the carrying out of work necessary for or in connection with the protection and care of protected fauna. In New South Wales it is an offence to possess, harm or release protected fauna without a licence, so what we do is license groups or individuals to assist us with the rescue and rehabilitation of sick, injured or orphaned fauna with the intention that those animals will be returned to the wild as soon as possible. People or organisations seeking a licence apply to the Department of Environment, Climate Change and Water and successful applicants receive a general licence under section 120, 132C and 127 of the National Parks and Wildlife Act to harm—and "harm" in its broader sense—capture or kill; to hold sick, injured or orphaned native fauna for the purpose of rehabilitation and to dispose of them according to the conditions of the licence; to hold for educational or scientific purposes living and preserved specimens and to place tags, bands for individuals' identification of the animal. In licensing people to care for animals, what we do is require that they comply with the department's policy on Rehabilitation of Fauna 2001, and that policy is all about how individual groups may be licensed, how animals should be cared for, the release or retention of protected fauna and euthanasia procedures, if required.

In addition, the department has two other very relevant policies or guidelines for the rehabilitation of prey, including owls, and guidelines of conditions for koala care. We review licences at the end of every financial year, and there are conditions attached to the licences. Licensees have an obligation to report to us the summary of their activities, the species, what they have done, the animals they take care of. Mr Haering, who is with me today, is the Manager of our Wildlife Licensing Management Unit. He is based in Sydney and has the overall responsibility for the administration of the licences and the assistance we give to rehabilitation groups and individuals. He is assisted in the field by our rangers that are based at our area offices. He and his team work carefully with the NSW Wildlife Council, which is the peak group for rehabilitation groups. We provide some funding to local groups. But really the rehabilitation people we licence are generally volunteers. They give their own time and they are very dedicated in caring for the sick and injured animals. That is the background to our role in the rehabilitation of native fauna.

CHAIR: Mr Haering, did you want to add anything at this point by way of a statement?

Mr HAERING: No.

CHAIR: The Committee understands that the Friends of Waterways Wildlife Park is licensed to undertake that rehabilitation as you have clearly described. Could you describe the department's role in issuing a licence to that park, in particular, and any process you would have gone through with that establishment in renewing a licence or refusing the renewal of a licence.

Ms BARNES: We can do that over the last 10 to 15 years, if you like.

CHAIR: If you think that is relevant.

Ms BARNES: I will ask Mr Haering to fill us in on the contact we have had with that group and the licensing activity.

Mr HAERING: The group has been licensed by the department since 1996. The licences are annual. Each year the license is renewed and the licence is renewed on the basis of information being provided back to the department in relation to certain conditions on the licence, such as, a summary of the animals that have come into care each year and have been released, a list of people who have authority under that licence, and for them to maintain a register of animals that are held in permanent care or any preserved specimens that they may have. That is basically the kind of information that we want from them on an annual basis.

CHAIR: Could you describe the information that came to your department about this establishment that got the ball rolling for these extraordinary circumstances to occur? Why did it happen? What prompted it? Could you describe the outcomes so far?

Ms BARNES: Certainly. As part of our regular follow-up on the annual licences and their returns, we had been seeking from Waterways Wildlife Park some information about their rescue statistics, what they were holding in care and any fauna that had been transferred to other facilities. We had required that information since about September 2009. In January 2010, prior to any of this action, we had written to Mrs Small in regard to the information we required. So that was something that had started earlier.

CHAIR: You say that in 2009 those inquiries were made and you followed up in 2010. Was there anything specific that prompted the follow-up?

Ms BARNES: Yes.

CHAIR: Was there a reply from the establishment or proprietors?

Ms BARNES: No, we had not received the information we had required the previous year as a follow-up to the licence. So we were going about our regular business in following up on non-compliance with licence returns. We wrote a letter on 21 January seeking that information formally. But, as I say, that was mainly around information and low-scale issues. On 1 February we were contacted by the RSPCA regarding a range of issues that, we understand, had been communicated to them by a third party. What they wanted to do was let us know they were going out there to do a check of the facility. Because they know that we licence the facility for some of the activities on site—not all the activities on site but a subset of the activities on site—they asked whether we would come with them on that inspection.

The Hon. ROBERT BROWN: On 3 February when you attended the facility to inspect, I take it, the care part of the subset—

Ms BARNES: The rehabilitation part.

The Hon. ROBERT BROWN: —did your inspectors or rangers provide a report to the department?

Ms BARNES: They did.

The Hon. ROBERT BROWN: Are you able to describe to us what was in that report?

Ms BARNES: I might ask Mr Haering to help here. Our ranger who is based at Coonabarabran went out with the RSPCA and inspected the rehabilitation part of the site and provided a report-back to the department. She had looked at where the animals were and what the plans were for rehabilitation. I might ask Ron to give you a summary.

Mr HAERING: Our initial understanding was to get a better understanding of what was happening in the rehabilitation component of the site, what animals were being held there and under what conditions.

The Hon. ROBERT BROWN: On a point of clarification: Is the rehabilitation part of the site, as you have described, a separate facility or a distinct area, such as a hospital?

Mr HAERING: No, it is not. It is one large site. The rehabilitation part is differentiated from the rest of it by basically a fence, which you could jump over and look through. The entrances to the rehabilitation part have signs on them saying, "Do not enter". I have been to the site myself and I have seen that for myself. We had one officer there on that day from our Coonabarabran area and we asked her to prepare a report. Basically, in general, the kind of findings that she had was that there were some animals from the exhibited part of the facility in the rehabilitation part of the facility and there was one rehabilitation animal in the exhibited part of the facility. We asked her to look into some of the record keeping. She did not look into it extensively on the day but she was finding that some of the basic information we required from the licence conditions were not able to be provided.

The Hon. ROBERT BROWN: On a point of clarification: Do your records relate to animals as they are moved in and out of care?

Mr HAERING: Yes.

The Hon. ROBERT BROWN: An animal goes into the rehabilitation area it is recorded; an animal comes out of the rehabilitation area but not released to the wild it is recorded?

Mr HAERING: That is right. We went through the animals that she had in care and we spoke to her about the status of those animals. There were a variety of animals there from koalas, boobook owls, corellas and cuckoos. Some of the animals there had been there for a period of time. The licensee told us that she was intending to have them permanently there because they could not be released.

The Hon. ROBERT BROWN: What do you mean by "released"?

Mr HAERING: Released back into the wild.

The Hon. ROBERT BROWN: Into the wild or into the exhibited area?

Mr HAERING: No, no animals are meant to go into the exhibited part of the facility. They either remain in the rehabilitation part or they are released into the wild. If they cannot be released, then they formally apply to us to have them as a permanent care animal for the purpose of educating other carers or to have them transferred into the exhibition part of the facility, with the permission of the Department of Industry and Investment and our permission. There were some animals there that had not appeared to have gone through that process of approval. With regard to some of the cages that were there, they were generally compliant with our conditions. However, there were some minor issues that we uncovered and we decided to go back at a later date and do a more formal audit of the facility.

The Hon. RICK COLLESS: The report that you referred to after your visit on 3 February, is that available?

Mr HAERING: It is here.

The Hon. RICK COLLESS: Are you prepared to table that to the Committee?

Ms BARNES: Yes, I think it is pretty straightforward.

The Hon. RICK COLLESS: Thank you. On the day you went there, what animals were in rehabilitation? You mentioned koalas, corellas and so on. How many in total were in there?

Mr HAERING: We think there was probably a total of 18 animals in the rehabilitation part.

The Hon. RICK COLLESS: How many koalas were in there at that time?

Mr HAERING: We are not entirely sure. We think there were probably about seven.

The Hon. RICK COLLESS: That is in the rehabilitation unit, as opposed to the exhibition side of the park?

Mr HAERING: In the rehabilitation area. In the rehabilitation area there were also two animals kept behind a laundry, which were not in a cage. So I am including those animals.

The Hon. RICK COLLESS: Were they, in fact, wild animals that just happened to be living there or were they kept?

Mr HAERING: No—two koalas over six months in care, both came in at about 300 grams from their mothers being killed by cars, both to be released soon. There is a photo of them on the washing machine.

The Hon. RICK COLLESS: They will live anywhere, really.

Mr HAERING: Well, they were put anywhere.

Ms BARNES: The other thing to note is that we decided to go back a second time to spend more time talking to the owner and working through some of the issues. In fact, we have had a couple of visits out there. What we wanted to do is assist her and improve the situation and make sure she had the policies, the guidelines and materials there. Altogether we have been there about four times in a guidance and assisting role.

The Hon. RICK COLLESS: Since February?

Ms BARNES: Yes.

