



## **SUBMISSION TO THE KANGAROO MANAGEMENT SECTION**

### ***DRAFT CODE OF PRACTICE FOR COMMERCIAL KANGAROO HARVESTING IN NSW***

**28 June 2016**

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Voiceless thanks the Office of Environment and Heritage (**OEH**) for the opportunity to provide comments on the *Draft Code of Practice for Commercial Kangaroo Harvesting in NSW (the Draft Code)*, as developed alongside the *Draft Biodiversity Conservation Bill 2016 (NSW) (the Bill)*. We acknowledge the importance of the public consultation process in enabling the OEH to consider a variety of stakeholder perspectives. Please note that our submission relates specifically to the Draft Code, and we welcome the opportunity to discuss this submission and our proposed recommendations with you further.

We note the objectives of the Draft Code to ensure the commercial industry is ecologically sustainable, and that the harvest is humane and minimises pain and suffering to kangaroos (Clause 2). We have outlined below a number of recommendations that would strengthen the Draft Code in accordance with these objectives.

Section one of this submission outlines our recommendation with respect to the OEH's risk analysis of the commercial kangaroo industry. Section two provides comments on the Draft Code in general. Section Three outlines recommended amendments for specific clauses within the Draft Code.

## **1. Risk profile of commercial kangaroo industry**

- 1.1. Voiceless recommends that the OEH re-categorise the commercial killing of kangaroos from a 'moderate risk' activity to a 'high risk' activity. This section explains why the commercial kangaroo industry generates a high risk in the categories considered in the OEH's risk analysis: impact on populations, animal welfare, and human health and safety. Further, it explains why kangaroo killing cannot be deemed a moderate risk activity, due to the inherent difficulties in ensuring participants in the industry comply with a prescribed Code of Practice.

### *Human health and safety considerations*

- 1.2. Kangaroos and wallabies can carry a wide range of parasitic, bacterial, fungal and viral diseases.<sup>1</sup> The danger posed to humans is demonstrated by repeated food safety incidents, including 16 hygiene compliance breaches in industry facilities reported by the NSW Food Authority in the period of November 2013 to November 2014;<sup>2</sup> the Russian Government's temporary ban on kangaroo meat imports in 2008 and 2014 due to systemic food safety and hygiene violations;<sup>3</sup> tests conducted on supermarket kangaroo meat products in 2012 by Voiceless and Animal Liberation, which found high levels of *Salmonella* and *E. coli*;<sup>4</sup> and, a public statement in 2009 by

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<sup>1</sup> THINKK, the think tank for kangaroos, *Hygiene* <<http://thinkkangaroos.uts.edu.au/issues/hygiene.html>> accessed 22 June 2016.

<sup>2</sup> John Kaye MP, *Stale Blood and Rusty Hooks: Inspections Show Kangaroo Meat a Health Risk* (6 March 2015) <<http://www.johnkaye.org.au/stale-blood-and-rusty-hooks-inspections-show-kangaroo-meat-a-health-risk/>> accessed 22 June 2016.

<sup>3</sup> Ibid.

<sup>4</sup> ABC, 'Roo meat still contaminated, says rights group', Lateline, 27 August 2012 (John Stewart) <<http://www.abc.net.au/lateline/content/2012/s3577170.htm>> accessed 22 June 2016.

former NSW Chief Food Inspector, Dr Desmond Sibraa, that the kangaroo meat industry's failure to adhere to hygiene regulations was placing public health at risk.<sup>5</sup>

#### *Animal welfare considerations*

- 1.3. Kangaroos are shot at night, when they are most active. These hunting conditions affect the ability of shooters to aim precisely and to comply with the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes* (2008) (**the Existing Code**), which requires an instantaneous death by head shot. Past studies indicate that non-fatal body shots are a regular part of the industry, potentially causing horrific injuries and painful prolonged deaths to kangaroos.<sup>6</sup>
- 1.4. Further, the Code allows the killing of both male and female kangaroos, resulting in the collateral deaths of their dependent young (both pouch young and young at foot). Under the Code, shooters are instructed to 'euthanise' the orphaned dependent young of any slaughtered female in accordance with the Existing Code.<sup>7</sup> Critically, reports indicate non-compliance with this aspect of the Existing Code.<sup>8</sup> A 2014 RIRDC report also found that shooters employ a variety of methods to kill dependent young, which may not always result in a quick or painless death.<sup>9</sup> Orphaned dependent young not killed in accordance with the Existing Code are highly likely to suffer and die as a result of starvation, exposure or predation. On a ten year average, it is estimated that 800,000 dependent joeys are killed as part of the kangaroo industry each year,<sup>10</sup> although we acknowledge this figure is likely less given the reduction in kangaroo meat exports

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<sup>5</sup> Kelly Burke, 'Hygiene threatens kangaroo meat industry' (6 March 2015) *The Sydney Morning Herald* <<http://www.smh.com.au/environment/hygiene-threatens-kangaroo-meat-industry-20091117-ikf6.html>> accessed 22 June 2016.

<sup>6</sup> In 2002, RSPCA Australia conducted an examination of kangaroo carcasses at meat processing plants, and found that around 4% of kangaroos (representing approximately 120,000 kangaroos killed across the industry based on annual commercial kill assumptions during that period) may have been shot in the neck or body and not as required by the Code, but a lack of industry monitoring makes it difficult to establish more accurate figures: Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D and Bekoff M, 'The welfare ethics of the commercial killing of free-ranging kangaroos: an evaluation of the benefits and costs of the industry' (2014) 23 *Animal Welfare* 1, 5.

<sup>7</sup> The 'single forceful blow to the base of the skull' can be achieved with a blunt object such as a metal pipe or a car's tow bar: *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes* (2008) s 5.1.

<sup>8</sup> For example, according to a 2014 journal article, it is unlikely that all shooters kill young-at-foot when their mothers are shot, as required by the Code: Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D and Bekoff M, 'The welfare ethics of the commercial killing of free-ranging kangaroos: an evaluation of the benefits and costs of the industry' (2014) 23 *Animal Welfare* 1, 6.

<sup>9</sup> McLeod S, Sharp T, 'Improving the humaneness of commercial kangaroo harvesting' (Australian Government Rural Industries Research and Development Corporation, June 2014).

<sup>10</sup> Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D and Bekoff M, 'The welfare ethics of the commercial killing of free ranging kangaroos: an evaluation of the benefits and costs of the industry' (2014) 23(1) *Animal Welfare* 1, 5. Estimation based on ecological data and national commercial kill statistics for the period of 2000-2009. This does not include the joeys killed as a consequence of non-commercial shooting. Numbers of joeys killed or left to die are not recorded. Accordingly, figures are a 10 year projection based on the authors' calculations (methods outlined in the article) and the national commercial kill statistics provided by the Department of Sustainability, Environment, Population and Communities in 2010.

to Russia (see paragraph 1.2 of this submission) and the industry's voluntary/unenforceable transition to a male-only kill policy in 2012.<sup>11</sup>

- 1.5. Compounding these concerns are issues around compliance, monitoring and enforcement. Government agencies do not regularly inspect carcasses at the point of kill, making it impossible to ensure compliance with the Existing Code (principally, in regard to killing dependent young and injured adult kangaroos in the methods prescribed; ensuring only head-shot kangaroos are sold/processed, and other requirements of shooters in the field).<sup>12</sup> Studies have indicated the inspections of chillers and processing facilities are irregular and infrequent,<sup>13</sup> also impacting on compliance monitoring.

#### *Population sustainability considerations*

- 1.6. The commercial industry promotes itself as sustainable by extracting a shooting quota of between 14% and 20% of population estimates. These estimates are conducted through population surveys for commercial macropod species. Advocates have raised concerns that shooting quotas exceed viable population growth rates across kangaroo species that average a maximum of 10% in good conditions.<sup>14</sup>
- 1.7. Experts argue that the scientific foundations of the kangaroo industry's claims of sustainability lack robustness, credibility and transparency.<sup>15</sup> Our submission will not detail these concerns, however, we urge the OEH to consult with experts – including those from the UTS: Centre for Compassionate Conservation – who have repeatedly expressed concerns with the sustainability of kangaroo killing.

#### *Recommendation*

- 1.8. Given the inherent difficulties of monitoring the commercial kangaroo industry, compliance with a Code of Practice cannot be assumed. Alongside the abovementioned risks of population impacts, animal welfare and human health and safety, it is more appropriate to classify the

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<sup>11</sup> See, for example, Macro Meats, *Quality Assurance* (2016) <<http://macromeats.com/about/quality-assurance/>> accessed 22 June 2016.

<sup>12</sup> Boom, K, Ben-Ami, D and Boronyak, L, 'Kangaroo Court: Enforcement of the law governing commercial kangaroo killing' (2012) THINKK, the kangaroo Think Tank, University of Technology, Sydney, 45-47.

<sup>13</sup> Ibid.

<sup>14</sup> Arnold, G, Grassia, A, Steven, D, Weeldenburg, J, 'Population ecology of western grey kangaroos in a remnant of Wandoo Woodland at Bakers Hill, southern Western Australia' (1991) 18(5) *Wildlife Research*, 561-575; Bilton, A, Croft, D, 'Lifetime reproductive success in a population of female red kangaroos *M. rufus* in the sheep rangelands of western NSW: environmental effects and population dynamics' (2004) 26 *Australian Mammalogy*, 45-60. The average across species is explained by Mjadwesch (2012) as follows: "Given comparable ages to sexual maturity between species (for does), and assuming similar rates of juvenile mortality recorded by the available science applies to all species, a simplistic comparison of time-to-weaning (from Dawson (1995)) has been used ... to suggest an Eastern Grey Kangaroo population growth rate [PGR] of 10%, a Red Kangaroo PGR of 13.5%, a Wallaroo PGR of 14% and a Euro PGR of 12%." See Mjadwesch, R, 'Nomination to list the large macropods as threatened species in New South Wales' (2011) <[http://www.kangaroosatrisk.net/uploads/1/0/8/3/10831721/gipa\\_submission\\_collated.pdf](http://www.kangaroosatrisk.net/uploads/1/0/8/3/10831721/gipa_submission_collated.pdf)> accessed 22 June 2016.

<sup>15</sup> Ramp, D, 'Bringing Compassion to the Ethical Dilemma in Killing Kangaroos for Conservation: Comment on "Conservation Through Sustainable Use" by Rob Irvine' (2013) 10(1) *Journal of Bioethical Inquiry* 267-272.

commercial killing of kangaroos as a high-risk activity under the biodiversity conservation reforms.

- 1.9. As such, Voiceless' ultimate comment on these reforms is that both commercial and non-commercial killing of kangaroos be licenced, and that the licensing requirements incorporate the recommendations outlined below. We also suggest that this regulatory framework be further developed as part of a separate consultation process, again enabling input from a broad range of industry and non-industry stakeholders.

## 2. General comments on the Draft Code

*The need for further OEH resources dedicated to monitoring compliance, as well as prescribing announced/unannounced inspections*

- 2.1. As it currently stands, the proposed framework does not address how the OEH will monitor compliance with both the Existing Code and the Draft Code. Animal welfare laws can only be effective where there are resources, willingness and an ability to enforce them. In our experience, and as previously discussed, this has been a critical failing of the regulation of the commercial industry to date. Studies indicate that non-compliance with the Existing Code is a concern,<sup>16</sup> particularly with respect to non-fatal body shots<sup>17</sup> and the euthanasia of both mis-shot kangaroos and orphaned dependent young.<sup>18</sup>
- 2.2. Accordingly, Voiceless recommends the following:
  - 2.2.1. The OEH commit additional resources to monitor compliance with both Codes.
  - 2.2.2. The insertion of a provision in the Draft Code that OEH inspectors are to conduct regular announced (at least two per annum) and unannounced inspections (at least two per annum) of all chillers and wholesalers.
  - 2.2.3. The OEH work with stakeholders to develop an appropriate method of regularly monitoring compliance of shooters in the field. Ideally, the Draft Code should expressly state that this stakeholder consultation process is to take place within six months of commencement of the Draft Code.

*Maintaining moratorium on skin-only harvesting*

- 2.3. Voiceless does not support lifting the moratorium on skin only harvesting in NSW. We have already noted our concerns with the science underpinning the sustainability, environmental and animal welfare impacts of the industry. The OEH should not consider expanding the industry to include skin only harvesting before a thorough and independent evaluation of these impacts is undertaken. Furthermore, a report prepared for the Department of Environment and Conservation in 2006, entitled 'Report into the feasibility of re-introducing skin-only shooting in

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<sup>16</sup> Boom K, Ben-Ami D, Boronyak L, Riley S, 'The Role of Inspections in the Commercial Kangaroo Industry' (2013) 2 *International Journal of Rural Law and Policy*.

<sup>17</sup> Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D and Bekoff M, 'The welfare ethics of the commercial killing of free-ranging kangaroos: an evaluation of the benefits and costs of the industry' (2014) 23 *Animal Welfare* 1, 5.

<sup>18</sup> *Ibid*, 6.

NSW', concluded after thorough analysis that a skin-only harvest should not be re-introduced in NSW, and urged that the issue "is not considered again in relation to future kangaroo management programs".<sup>19</sup> The reasons provided in this report – such as the extra compliance burden and destabilisation of the NSW industry – are still relevant today.

#### *Addressing hygiene concerns*

- 2.4. Voiceless notes that the Draft Code does not address hygiene requirements of commercial operators. We recommend a new provision requiring all commercial operators to comply with the hygiene standards and laws imposed by the NSW Food Authority.
- 2.5. Further recommendations to significantly improve hygiene within the kangaroo industry include:
  - 2.5.1. A new provision that a carcass must be placed in cold chill within 4 hours of the kangaroo being killed.
  - 2.5.2. A new provision that requires carcasses to be gutted under supervision of an accredited butcher or food processor.

#### *Discretion to permit or deny registration*

- 2.6. The Draft Code does not specify the grounds on which the Chief Executive will exercise its discretion to permit or deny registration for a business or individual. We recommend the Draft Code outline the grounds on which a business or individual will be denied registration, which should include repeated and/or ongoing non-compliance with either Code. A further recommendation is that this information be collated and made available to individuals or organisations upon request to ensure greater transparency of the industry.
- 2.7. We also recommend a new provision requiring the Chief Executive to provide reasons for exercising a discretion to permit registration despite an individual or business not meeting these grounds.

#### *Penalties and offences*

- 2.8. Voiceless commends the OEH for incorporating the Existing Code by reference, with failure to comply constituting an offence. We note that non-compliance with the Draft Code is an offence under the Bill, attracting a financial penalty for individuals or a corporation. In addition to a financial penalty, we recommend that the penalties available for non-compliance with the Draft and/or Existing Code also include suspension or revocation of registration.

#### *Male-only kill*

- 2.9. We recommend the Draft Code mandate that only male kangaroos be killed as part of the commercial industry. However, we note that it is necessary for further studies to be conducted to determine what impact a male only kill policy has on kangaroo populations (demographics, sex ratio, etc.), as well as kangaroo behaviour and genetics. Accordingly, we recommend that the Draft Code require the commission of an independent scientific study two years following

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<sup>19</sup> Environmental & Agricultural Science & Engineering Systems, 'Report into the feasibility of re-introducing skin-only shooting in NSW' (prepared for the Department of Environment and Conservation, 2006) iii <<http://www.environment.nsw.gov.au/resources/nature/SkinOnlyFinal.pdf>> accessed 22 June 2016.

the implementation of the Draft Code to examine the impact, and to re-evaluate, the male only kill policy.

### **3. Specific amendments to Draft Code**

#### PART ONE

##### *Nature and purpose of this Code*

- 3.1. In relation to clause 3, we consider it inappropriate to codify the phrase ‘scientifically robust’, especially considering the current lack of consensus in the scientific community regarding the accuracy of existing methodology for population surveys, as discussed in paragraphs 1.6 and 1.7 of this submission. Instead, we recommend this clause reflect the need for a thorough independent review into the science and methodology underpinning the industry.
- 3.2. Insert a new provision requiring the Draft Code to be reviewed via a public consultation process five years after its endorsement.

##### *Definitions*

- 3.3. Suggest definition of ‘carcass’ be amended to delete the words “head and”. The current definition enables kangaroo shooters to decapitate kangaroos in the field. If carcasses are not inspected with the animal’s head intact, it is impossible for processors and inspectors to determine whether or not the kangaroo was shot in the brain, as opposed to the upper neck or jaw. Alternatively, if shooters insist on decapitating and disemboweling kangaroos in the field, heads must be retained for each carcass to enable processors and inspectors to determine an accurate shot.<sup>20</sup>

#### PART TWO

##### *Registering for commercial kangaroo harvesting*

- 3.4. The Draft Code does not include a timeframe for registration expiry and it is unclear whether or not registration must be renewed on a yearly basis. In order to maintain an accurate and up-to-date register of commercial operators, we recommend a new provision specifying a length of time after which registration expires and provide an outline of the process for renewal.
- 3.5. The Note included under clause 16 should be incorporated into clause 14 to clarify the requirement that individuals employed by a registered business must also register separately as an individual.
- 3.6. Recommend the following elements be included in the list of information required for registering a business under clause 15:
  - 3.6.1. The names and registration details of all employees.

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<sup>20</sup> One study, for example, reported that some kangaroos were decapitated below the atlantal-occipital joint, which is reportedly the most efficient point to sever a kangaroo’s head. The authors argue that a harvester would be unlikely to engage in such a difficult cut unless it was necessary to conceal a neck wound. Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D, Bekoff M, ‘The welfare ethics of the commercial killing of free-ranging kangaroos: an evaluation of the benefits and costs of the industry’ (2014) 23 Animal Welfare 1, 5.

- 3.6.2. A management plan that outlines how the business will comply with:
- the requirements for record keeping as required by the Draft Code;
  - the animal welfare requirements as required by the Existing Code;
  - the requirements for inspections (see paragraph 2.2 of this submission);
  - food safety requirements under relevant NSW legislation and codes; and
  - training of all employees in animal welfare and food safety.
- 3.7. Recommend the following be included in the list of information required for registering an individual under clause 16:
- 3.7.1. Evidence the individual has undergone training and assessment in the Existing Code. This is not currently a requirement under the Existing Code, however, we consider it essential to develop a training and assessment program to ensure individuals are aware of and understand their obligations under the Existing Code. Training must include proper procedure for killing joeys as stipulated under the Existing Code.
- 3.8. Clause 17 currently permits a commercial operator to continue with normal activities once notifying the Chief Executive of any registration changes, regardless of the nature of the change. We recommend the clause be amended to clarify that the Chief Executive will re-assess compliance with the Code upon being notified of the change, and may suspend or revoke registration if it deems the changes render the individual or business non-compliant.
- 3.9. Clause 19 should read 'fee' instead of 'free'.
- Wholesaler and chiller premises*
- 3.10. Recommend new provision requiring operators of chillers and wholesale facilities to comply with all relevant regulations, including the hygiene standards and laws imposed by the NSW Food Authority and conditions of any registration licenses for chillers and facilities.
- 3.11. Recommend this Section include the following new provisions:
- 3.11.1. 'Any wholesaler or chiller premises must only accept kangaroo carcasses killed by a single shot to the brain.'
- 3.11.2. 'Any wholesaler or chiller premises must only accept male kangaroo carcasses.'

### PART THREE

#### *Keeping records*

- 3.12. Recommend new provision requiring all information to be collected by the OEH and stored in a central and publically accessible database each year. This would go some way towards remedying the current lack of accurate data regarding the industry.
- 3.13. Recommend clause 27 also require reporting on:
- 3.13.1. The number of kangaroos shot but not retrieved;
- 3.13.2. The number of females shot with dependent joeys; and
- 3.13.3. The number of dependent young killed (and method used to kill).



- 3.14. Recommend clause 27(f) replace 'shot in the body' with 'shot in the body, jaw or neck'.
- 3.15. Recommend clauses 28 and 29 require reporting on:
  - 3.15.1. The number of kangaroos with shots other than directly to the brain (body, neck and jaw shots).
  - 3.15.2. The number of carcasses rejected, and on what basis.
- 3.16. Recommend the template made available on the OEH website (as referred to in the Note under clause 29) incorporate a statutory declaration for all commercial operators to sign declaring they have complied with both the Existing Code and Draft Code for each harvest.

*Written landholder consent*

- 3.17. Recommend clause 35 include a timeframe on which the landholder's consent expires.
- 3.18. Recommend new provision to the effect that if the landholder of a particular property changes, the previous permission is rendered void and written permission from the new landholder must be sought afresh.

PART FOUR

*Species*

- 3.19. The intention of clause 36 is unclear. We suggest it be deleted.

*Harvest area*

- 3.20. Recommend clause 38 require the commercial management zone to be updated on an annual basis. Accordingly, the indicative map at Attachment A should be replaced with a URL, which will reduce confusion when Attachment A is superseded.
- 3.21. Recommend new provision to acknowledge the existence of registered kangaroo Wildlife Refuges under the *National Parks & Wildlife Act 1974* (NSW) that may operate within the commercial management zone. In this case, kangaroos must not be commercially killed within 500 metres of the border of such Wildlife Refuges.

*Shooting kangaroos*

- 3.22. As noted at paragraph 2.9 of this submission, recommend new provision stating shooting of female kangaroos is prohibited.

*Kangaroos shot in the body*

- 3.23. Recommend title to be amended to read "Kangaroos shot in the body, neck or jaw".
- 3.24. Recommend the phrase 'in the body' be replaced with 'in the body, neck or jaw' in clauses 43 and 45.
- 3.25. Recommend clause 43 require a harvester to confirm death of a mis-shot animal, to check for the presence of any dependent young, and to kill orphaned young in accordance with the Existing Code.
- 3.26. Recommend clause 44 be amended to read "...in a location other than the brain."

- 3.27. Recommend clause 43 be amended so that mis-shot kangaroos are not tagged and left in the field, but that the tag be appropriately marked and returned to the OEH each quarter.
- 3.28. Recommend clause 45 require commercial operators to report any female kangaroos and dependent young shot.

*Using tags*

- 3.29. Clause 50 is currently at odds with clause 48. To prevent misuse of tags and misallocation of tags for the next quarter, recommend clause 50 be amended to require all unused tags to be returned at the end of each quarter.
- 3.30. Recommend that clause 56 be amended to require that operators of chillers and wholesale facilities do not accept carcasses below a higher specified weight of 25 kilograms.

To arrange a meeting to discuss the recommendations contained in our submission, please contact:

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