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11 March 2008

Director General

Department of Environment and Conservation
Locked Bag 104
Bentley Delivery Centre WA 6983

Attention: Principal Zoologist, Species and Communities Branch

By email: wildlife@dec.wa.gov.au

Dear Director General,

Draft National Code of Practice for the Humane Shooting of Kangaroos and Wallabies

1. We refer to the above Draft Code, which has been developed following a review of the second edition of the Code of Practice for the Humane Shooting of Kangaroos ('Current Code'). We wish to make a submission to the Department in relation to the Draft Code.
2. For ease of reference, in this Draft Code we refer to all the species of kangaroo and wallaby covered by the Draft Code as 'kangaroos'.

About us

3. The objective of Lawyers for Animals Inc (LFA) is to alleviate the suffering of animals by increasing their protection under law, encouraging better welfare practices among animal-related industries and educating the legal profession and public about issues affecting the welfare of animals. LFA is a not-for-profit association run by an Executive Committee consisting of lawyers.

Success of the Draft Code

4. We wish to commend the Department on its efforts to address concerns regarding the value of the Current Code and ways in which it could be improved in the interests of animal welfare.
5. In particular, we wish to commend the Department on clarifying the purpose of the Draft Code as being '... to ensure that all persons intending to shoot free-living kangaroos and wallabies for either commercial or non-commercial purposes undertake the shooting so that the animal is killed in a way that **minimises pain and suffering.**'¹

¹ Draft Code, Section 1.1 (emphasis added)

6. We agree with the statement that, when shooting a kangaroo, 'the primary objective must be to achieve instantaneous loss of consciousness and rapid death without regaining consciousness'. The Draft Code states that this is to be regarded as a '**sudden and humane death**'. We also agree with the position that, where there is doubt about achieving a sudden and humane death due to prevailing conditions, then 'shooting must not be attempted'.²

Shortcomings of the Draft Code

7. We wish to draw the Department's attention to the following aspects of the Draft Code which we believe are inconsistent with the Draft Code's purpose and primary objective as well as current social values and community expectations regarding the humane treatment of animals.
8. The Draft Code continues to permit the shooting of kangaroos in essentially the same circumstances as the Current Code. This means that, in our view, the Draft Code fails to fulfil its purpose 'to ensure... that the animal is killed in a way that minimises pain and suffering' and fails to fulfil the primary objective of a 'sudden and humane death'. Our reasons are as follows:
- 8.1 There is no requirement for animals to be stunned (as in an abattoir) or otherwise anaesthetised prior to killing;
- 8.2 There is no certainty that an animal will be shot in the brain and die immediately³, instead suffering painful and horrific injuries⁴;
- 8.3 Animals may be injured and escape before being shot again, therefore suffering a prolonged and painful death;
- 8.4 Pouch young and young at foot are also killed using brutal methods or left to die from predation, dehydration and starvation;
- 8.5 There is no competency testing regime in place for non-commercial shooters of kangaroos,⁵ and
- 8.6 The maximum permitted shooting range is up to twice the range required under competency testing regimes.

There is no requirement for animals to be stunned (as in an abattoir) or otherwise anaesthetised prior to killing

9. Killing of kangaroos without stunning or anaesthetic fails to minimise pain and suffering or provide a humane death. Other animals killed for human consumption (such as cows, pigs and sheep) must generally be stunned prior to being killed. The exemption of kangaroos from this requirement is therefore a legal anomaly and must be rectified.
10. The different conditions under which kangaroos live and are harvested (compared to farm animals) is not, in our view, a legitimate basis upon which to allow less humane

² Draft Code, Section 2 (emphasis added)

³ Section 2.5 of the Draft Code, under the heading 'Follow-up', explicitly recognises this fact and provides that, 'If a kangaroo or wallaby is still alive after being shot, every reasonable effort must be made immediately to locate and kill it...'

⁴ David Nicholls (former commercial kangaroo shooter), 'The Kangaroo – Falsely Maligned by Tradition' in 'Kangaroos: Myths and Realities', 2005, p 38

⁵ Draft Code, Section 4

slaughter practices to occur; it is arbitrary and capricious. Kangaroos have the capacity to suffer and feel pain in a way that is the same or similar to farm animals. The Department must therefore impose requirements on the slaughter of kangaroos that is equal to that of farm animals in the area of stunning or anaesthesia prior to slaughter.

There is no certainty that an animal will be shot in the brain and die immediately, instead suffering painful and horrific injuries

11. The Draft Code provides that a shooter 'must aim so as to hit the target... in the brain'.⁶ However, the fact remains that animals are not always shot in the brain and do not die immediately. Instead, they suffer painful and horrific injuries. Even at a modest estimate, in 2000, over 100,000 kangaroos shot for commercial purposes were not shot in the head and therefore not killed humanely.⁷
12. Regardless of the cause of failure to shoot the kangaroo in the brain, it means that the animal is not killed in a way that minimises pain and suffering and the animal is not provided with a sudden and humane death.
13. We recognise that commercial shooters are generally required to pass a competency test before obtaining a licence, however, due to the 'large differences in the terrain and prevailing weather conditions that might exist at the time of shooting',⁸ as well as human mistake, there is significant room for error. The Department is therefore obliged to mandate procedures and practices which provide certainty that a kangaroo will be shot in the brain and die immediately, in order to minimise pain and suffering and provide a sudden and humane death. The current permitted practices fail to achieve this.

Injured animals may escape before being shot again, therefore suffering a prolonged and painful death

14. As stated above, despite the fact that the Draft Code requires a shooter to aim to shoot a kangaroo in the brain, the fact remains that this does not always occur. Some animals will be shot a second time and killed (providing for a more humane death, relatively speaking), but other animals will escape and die prolonged deaths from their injuries.
15. The RSPCA's report into compliance with Current Code notes that '... shooters are reluctant to chase a wounded kangaroo to kill it. The 'lost time' in retrieving a kangaroo is the main cost to a shooter.'⁹ These animals are plainly not killed in a way that minimises pain and suffering, nor are they provided with a sudden and humane death. As such, the Department must take steps to mandate practices and procedures in the Draft Code which prevents such situations from occurring, in order to achieve the Draft Code's stated purpose and primary objective.

⁶ Draft Code, Section 2.5, 'Point of Aim'

⁷ RSPCA Australia, 'Kangaroo Shooting Code Compliance: A Survey of the Extent of Compliance with the Requirements of the Code of Practice for the Humane Shooting of Kangaroos', 2002, para 4.4.1

⁸ Draft Code, Section 2

⁹ RSPCA Australia, 'Kangaroo Shooting Code Compliance: A Survey of the Extent of Compliance with the Requirements of the Code of Practice for the Humane Shooting of Kangaroos', 2002, Box 3.1

Pouch young and young at foot are also killed using brutal methods or left to die from predation, dehydration and starvation

16. Section 2.4 of the Draft Code states that if a female kangaroo is shot then 'any dependent young at foot should be shot as soon as possible to avoid dispersal in accordance with the methods in Section 6,' and that any pouch young 'must be killed in accordance with the methods in Section 6'. Section 6 allows for the euthanasia of pouch young by methods such as a 'forceful blow'¹⁰ and 'decapitation'.
17. We submit that the destruction of joeys as a by-product of the commercial kangaroo industry is inherently cruel and inconsistent with current social values. Killing by the methods stipulated in the Draft Code is particularly abhorrent (compared to methods used by veterinarians to euthanase animals, for example). We also note that at foot joeys frequently escape, only to die later as a result of predation, dehydration, or starvation. Whilst the Draft Code states that shooters should avoid shooting a female kangaroo where it is 'obvious' that she has dependent pouch young, in our view, this does not go far enough because it leaves significant room for discretion and human error. These factors mean that targeting female kangaroos, particularly those with pouch young or young at foot, is an inhumane practice.
18. As such, the Draft Code should be amended to prohibit shooting female kangaroos with pouch young or young at foot.
19. We note that RSPCA Australia previously formed the view that '... the only solution which would avoid the potential of cruelty to pouch young would be to avoid shooting females altogether.' RSPCA Australia then went on to recommend that research be carried out to determine the potential effects of such a policy on gender balance in kangaroo populations.¹¹ We endorse this recommendation for such research to be carried out.

There is no competency testing regime in place for non-commercial shooters of kangaroos

20. According to section 4 of the Draft Code, kangaroos may be shot for non-commercial purposes, such as 'damage mitigation, recreational hunting, and for the provision of meat for pest animal control programs'. The Draft Code further states: 'There is currently no competency testing regime for non-commercial kangaroo and wallaby shooters to ensure the shooters meet competency standards', however, shooters 'still have a responsibility to ensure they kill humanely and in accordance with this Code'.¹²
21. We draw the Department's attention to the general view of those associated with kangaroo management that 'there is a far higher degree of inhumane killing of kangaroos in the non-commercial sector ... associated with a much lower relative level of control over compliance with the Code or enforcement of other licence conditions'.¹³
22. To ensure that kangaroos killed for non-commercial purposes are killed in a humane manner, we submit that licences to shoot kangaroos in these circumstances should be

¹⁰ The Draft Code recommends using a solid steel bar or water pipe, or forcefully swinging the head of the young against a vehicle tow bar.

¹¹ RSPCA Australia, 'Kangaroo Shooting Code Compliance: A Survey of the Extent of Compliance with the Requirements of the Code of Practice for the Humane Shooting of Kangaroos', 2002, Recommendation 5.6

¹² Draft Code, Section 4.1

¹³ RSPCA Australia, 'Kangaroo Shooting Code Compliance: A Survey of the Extent of Compliance with the Requirements of the Code of Practice for the Humane Shooting of Kangaroos', 2002, para 5.1.3

phased out. In circumstances where a reduction of the kangaroo population is considered necessary, more humane methods of population control such as euthanasia by veterinarians, sterilisation programs or relocation should be utilised.

23. In the (less preferable) alternative, steps should be taken to ensure that the standard of shooting in these circumstances is at least equivalent to the commercial industry. One way to achieve this would be to make it mandatory for non-commercial shooters to undertake the same training in humane killing and competency testing as commercial shooters. A second option would be to phase out non-commercial licences and replace them with a system that allows for the provision of commercial shooting services in certain circumstances, such as that proposed by RSPCA Australia.¹⁴ This would mean that only appropriately trained and tested persons would be licensed to carry out the shooting of kangaroos. Both of these options would be a practical step to improving standards in the shooting of kangaroos for non-commercial purposes.

The maximum range permitted for shooting of kangaroos is up to twice the range required under competency testing

24. Section 2.1 of the Draft Code states that: 'The distance between the shooter and the target animal should be within the maximum range specified in Schedule 1 (Part A)', which, in some cases, is up to 200 metres. Section 3.1 states, however, that the standards for competency testing of commercial shooters 'seek to demonstrate that a shooter can place five consecutive shots into a specified target area... at a range of 80-100m,' and notes that the purpose of such testing is to ensure that shooters undertaking the testing are 'capable of shooting with sufficient accuracy to meet the animal welfare standards set out in this Code'.
25. We submit that to allow licensed commercial shooters to shoot within a range that is **twice** that within which they have been trained to competently shoot permits commercial shooting practices that are inconsistent with the Draft Code's purpose to minimise pain and suffering and the primary objective of achieving a sudden and humane death.
26. As such, we recommend that the Draft Code be amended to reduce the maximum shooting range set out in Schedule 1 (Part A) from 200 metres to 100 metres.

Further Issues:

Reduction of cull

27. In the circumstances where the Draft Code continues to allow practices which fail to achieve the Draft Code's purpose of minimising pain and suffering and fail to ensure a sudden and humane death, the only way to reduce the scale of animal suffering is to reduce the scale of killing. In our view, a reduction in the number of kangaroos permitted to be killed across Australia should be implemented **immediately** until the issues raised in this submission have been effectively and thoroughly addressed.

Monitoring and enforcement of the Draft Code:

28. The issue of monitoring compliance with the Draft Code and taking enforcement action where necessary is of major concern to LFA. Unless thorough and effective monitoring and enforcement action is undertaken then there is a real risk that the standards in the Draft Code will not be achieved or maintained. Considering that the

¹⁴ Ibid, Recommendation 5.2

commercial kangaroo kill quota for 2007 was over 3.6 million kangaroos, and that commercial harvesting usually takes place in remote locations, the scope for inhumane killing practices is very great.

29. Due to the conditions under which kangaroos are harvested (ie at night and in the wild) we understand that State agencies face difficulties in monitoring compliance with the Draft Code. As such, monitoring generally consists of inspecting carcasses at chillers, processing plants or on shooters' vehicles. This form of inspection ignores the potential for injured animals to escape immediate slaughter, and for kangaroos that suffer wounds making harvest of their meat or fur unviable to be left behind. We understand that the presence of enforcement bodies on-site is rare or non-existent.
30. In our view, the lack of monitoring and enforcement by government at the time and place of killing is irresponsible and unacceptable. If State agencies are unable to provide the resources to monitor and enforce the Draft Code then it follows that the practices in the Draft Code must be amended so as to facilitate monitoring and enforcement. For example, if State agencies are unable to send officers to monitor killing that occurs at night, then the Draft Code should only permit killing during the day.
31. Further, whilst we understand that compliance with the Current Code is generally a condition of a commercial licence, breach of the requirements contained in the Current Code does not constitute an offence per se. In our view, the strength and effectiveness of the Draft Code would be greatly enhanced by making compliance with Draft Code mandatory and introducing direct **penalties** for breach of its requirements.

Psychological testing of shooters

32. To minimise the likelihood of persons with unstable psychological conditions obtaining a licence to shoot kangaroos, we submit that applicants should be required to undergo psychological assessment in addition to current training and competency testing requirements. This measure would support the purpose of the Draft Code to minimise pain and suffering to kangaroos by ensuring that licence holders are able and willing to comply with the terms of the Draft Code. This recommendation is not intended as an indictment upon current licence holders; rather, it would sensibly and effectively enhance current testing regimes and be in accordance with the purpose of the Draft Code.

Summary

33. In summary, LFA submits that the Draft Code fundamentally fails to achieve its stated purpose to ensure that kangaroos are killed in a way that minimises pain and suffering, and fails to achieve the primary objective of providing animals with a sudden and humane death. As such, we submit that the Department must:
 - 33.1 Amend the Draft Code to address the legal anomaly that kangaroos (unlike farm animals) are not required to be stunned or anaesthetised prior to being killed;
 - 33.2 Amend the Draft Code to mandate practices and procedures that **ensure** a kangaroo will be shot in the brain and die immediately;
 - 33.3 Amend the Draft Code to mandate practices and procedures that **ensure** that injured kangaroos do not escape to suffer painful and prolonged deaths;

- 33.4 Amend the Draft Code to prohibit shooting female kangaroos with pouch young or young at foot *and* carry out research on the proposed policy of shooting male kangaroos only;
- 33.5 Phase out non-commercial licensing systems and implement more humane methods of killing where reduction of kangaroo populations is considered necessary. In the (less favorable) alternative, require non-commercial licence holders to undertake the same training in humane killing and competency testing as commercial shooters *or* phase out the non-commercial licensing regime and introduce a system that allows for the provision of commercial shooting services for the purpose of kangaroo population control;
- 33.6 Reduce the maximum shooting range set out in Schedule 1 (Part A) from 200 metres to 100 metres;
- 33.7 Reduce the scale of kangaroo killing across Australia until the Draft Code has been amended to address the above key issues;
- 33.8 Review and amend the Draft Code as necessary to facilitate monitoring and enforcement by State agencies *and* introduce penalties for breach of the Draft Code; and
- 33.9 Amend the Draft Code or work with State agencies to introduce the requirement of psychological testing of licence applicants.

Conclusion

34. The Draft Code continues to endorse industry practices rather than requiring new or different practices to be implemented in order to achieve the stated purpose of the Draft Code to minimise pain and suffering, and to achieve the primary objective of providing kangaroos with a sudden and humane death. The Department can only achieve the stated purpose and primary objective of the Draft Code by specifically addressing and eliminating the issues listed above. Until this has occurred, in our view, the Draft Code fundamentally fails in scope, content and application.
35. If these issues are unable to be addressed, then the Department is faced with the inexorable conclusion that the shooting of free-living kangaroos is an inhumane practice and must cease. And if the Australian government (rightly) intends to continue to condemn as unnecessary the cruel practices of other countries, such as whaling, then it cannot afford to permit cruel practices within its own borders.
36. The Prime Minister has made a promise to the Australian people that he will not abide animal cruelty. LFA expects the Prime Minister to uphold and fulfil that promise.
37. We thank the Department for taking the time to consider our submission, and we look forward to any amendments to the Draft Code made in accordance with our suggestions and in the interests of animal welfare generally.

Yours faithfully,

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