

Animal Defenders Office condemns anti-democratic changes to legal status of kangaroos

The Animal Defenders Office (ADO) is appalled by the radical and anti-democratic change in the legal status of kangaroos in the ACT, brought in last week by the Environment Minister, Mick Gentleman.¹ The Minister's decision fundamentally changes how the Government can treat kangaroos, and the Government's obligations to be accountable for decisions to kill them. Up until now, anyone wanting to kill a native animal in the ACT had to apply for a licence. This included the Government. Now the Government has exempted itself (and only itself) from that requirement in relation to kangaroos.

The ADO's Executive Director, Tara Ward, said: 'If there's no decision to grant a licence, then there's nothing to be reviewed. So the once fundamental right to seek review of the decision to kill kangaroos in ACT's nature reserves has been swept away by a single ministerial declaration—a declaration that became law with no parliamentary scrutiny or public consultation. From now on, the Government can decide when and how it will kill kangaroos on public land without being accountable to the public.'

But the Minister's decision has much broader implications than its effect on a particular species of native wildlife. Fundamental civil and human rights have been compromised. The *Human Rights Act 2004* (ACT) says that everyone has the right to have obligations recognised by law 'decided by a competent, independent and impartial court or tribunal after a fair and public hearing' (s21(1)). Courts have held that this right extends to the ability to seek review of government decisions.

'It's a fundamental principle of our democratic society that decision-makers must be accountable for the decisions they make,' Ms Ward said. 'To remove mechanisms in place to test the merits of government decisions is extremely anti-democratic. There is no justification to remove such a fundamental right in this context. The proper and humane treatment of our native wildlife is, and always has been, a matter of significant public interest, and the merits of a government's decision to kill wildlife must be able to be tested by an "impartial tribunal" in a "fair and public hearing".'

ACT courts and tribunals have already found significant aspects of the Government's kangaroo culls to be unlawful. For two years the Government killed kangaroos under a licence that the ACT Supreme Court held to be invalid.² Since 2009 the animals were shot with devices that the ACT Civil and Administrative Tribunal found to be illegal.³ Now more than ever the Government's decisions to kill kangaroos on public land should be open to public scrutiny. Yet the Government has reacted in the opposite way, by removing the public's ability to seek review of these decisions.

'The public has a fundamental right to know that government decisions affecting wildlife are good decisions,' Ms Ward said. 'Yet the Minister's declaration does not simply undermine this right. It utterly destroys it.'

¹ <http://www.abc.net.au/news/2017-02-08/change-to-canberra-roo-cull-cuts-legal-options-for-activists/8249600>

² <http://www.abc.net.au/news/2016-07-21/canberra-kangaroo-cull-in-2015-was-unlawful-justice-says/7648890>

³ <http://www.canberratimes.com.au/act-news/no-action-to-be-taken-on-illegal-use-of-silencers-in-kangaroo-cull-since-2009-20170113-gtqtfz.html>