



Animal Defenders Office

Using the law to protect animals

ABN: 12837355070 | Member: CLCNSW Inc. | GPO Box 2259 Canberra ACT 2601 | www.ado.org.au | contact@ado.org.au
The Animal Defenders Office is accredited by Community Legal Centres Australia Inc.

Parliamentary Officer NRC
C/- Parliament House
GPO Box 572
ADELAIDE SA 5001

By email: nrc.assembly@parliament.sa.gov.au

Dear Sir/Madam

Submission to the inquiry into Kangaroo and Wallaby Populations in South Australia

Thank you for the opportunity to provide a submission to the Parliament of South Australia's Natural Resources Committee's inquiry into Kangaroo and Wallaby Populations in South Australia (**the Inquiry**). The Animal Defenders Office's submission is set out below.

About the Animal Defenders Office

The Animal Defenders Office (ADO) is a nationally accredited not-for-profit community legal centre specialising in animal law and providing free legal services to the community. The ADO is a member of Community Legal Centres Australia Inc., the national peak body representing community legal centres across Australia. The ADO does not receive government funding. Established in 2013, the ADO has been run by volunteers since that time.

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

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). According to this view, humans should co-exist with wildlife rather than destroy it. This approach is based on the view that the routine practices engaged in by commercial kangaroo industries, non-commercial shooters, and other industry stakeholders (eg pastoralists), particularly in relation to female and young kangaroos, are unconscionable, and that 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 so-called 'damage mitigation' purposes is currently legal in South Australia, the ADO's comments on the framework that ostensibly regulates these activities in this State are set out below.

The ADO's comments relate in particular to the following terms of reference of the Inquiry:

- (b) The adequacy and enforcement of the 'National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes' and the 'National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-commercial Purposes' including methods used and their impact on animal welfare; and

(e) Alternative strategies and practices that could be implemented to ensure the humane treatment and conservation of these animals.

The protection and legalised harming of kangaroos in South Australia

Under the *National Parks and Wildlife Act 1972* (SA) (**NPW Act**), it is an offence to take (ie harm) a protected animal (s 51). ‘Protected animal’ includes ‘any mammal...indigenous to Australia’ but does not include animals of the species referred to in Schedule 10 to the NPW Act or declared by regulation to be unprotected (s 5). As no kangaroo species is listed in Schedule 10 or declared to be unprotected, and as kangaroos are mammals indigenous to Australia, kangaroos are protected animals under South Australian wildlife law.

Despite the general protection given to kangaroos, the NPW Act allows the harming of kangaroos (and other protected animals) by giving the relevant Minister the power to grant a person a permit to ‘take’ or ‘harvest’ protected animals (ss 53, 60J). ‘Take’ is defined to include hunting, killing or injuring an animal (s 5). A permit therefore allows the permit holder to kill animals to benefit the permit holder (not the animal), and to render lawful the killing of a protected animal, which would otherwise be a breach of the NPW Act.

In 2023, 58,456 kangaroos were reported as being killed in the commercial ‘harvest’, ie killing, of kangaroos in South Australia.¹ This figure is obtained from kangaroo field processor returns.

Kangaroo shooting in South Australia is regulated by the Department for Environment and Water (**the Department**)². The Department states on its website that ‘Animal welfare is very important to the Department, both commercial and non-commercial shooters must adhere to their respective code of practice when destroying kangaroos.’³ The two codes are:

- The *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Commercial Purposes*, 2020 (“the Commercial Code”);⁴ and
- The *National code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes*, 2008 (“the Non-commercial Code”).^{5 6}

The adequacy of enforcement of the codes of practice and the impact on animal welfare of methods used to kill kangaroos (TOR (b))

Before considering how well the kangaroo shooting animal welfare codes are complied with and enforced in South Australia, this submission will assess the adequacy of the minimum standards specified in these codes in relation to kangaroos affected by shooting, especially juvenile animals and adult females.

¹ [2023 Commercial Kangaroo Harvest Report for South Australia](#), Government of South Australia, through Department for Environment and Water, 2024, p4 (**2023 Harvest Report**).

² <https://www.environment.sa.gov.au/topics/animals-and-plants/sustainable-use-of-animals-and-plants/kangaroo-conservation-and-management>.

³ ‘Commercial kangaroo harvesting’, <https://www.environment.sa.gov.au/topics/animals-and-plants/sustainable-use-of-animals-and-plants/kangaroo-conservation-and-management>.

⁴ The Commercial Code, op.cit.

⁵ The Non-commercial Code, op.cit.

⁶ A reference to ‘kangaroo shooting animal welfare codes’ in this submission is a reference to these two codes of practice.

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 (which, as discussed below, is 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*’.⁷ 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.

In practice, there is no financial benefit for a commercial shooter to retrieve orphaned young who flee from the killing site given their low weight (and corresponding low commercial value as commercial shooters are paid a price per kilogram).⁸

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.⁹ Further, they found that the main method of disposal of large pouch young was by releasing them into the bush.¹⁰ 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.¹¹

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.¹²

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.’¹³ 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’.¹⁴ This ‘unintended mortality’¹⁵ 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

⁷ The Commercial Code, pp14, 49, emphasis added.

⁸ Unlike in other jurisdictions, there does not appear to be a legislated minimum weight restrictions for kangaroo carcasses in South Australia. The most recent NSW Commercial Kangaroo Harvest Annual Report available at the time of writing this submission notes that in NSW commercial harvest licence conditions required that kangaroo carcasses delivered to chillers for sale were not to weigh less than 14 kg: NSW Department of Climate Change, Energy, the Environment and Water, [Kangaroo Management Program 2023 annual report](#), 2024, p16.

⁹ T Pople, and G Grigg, *Commercial harvesting of Kangaroos in Australia*. Department of Environment, Water, Heritage and the Arts, 1999.

¹⁰ Ibid. See also Dr D Ben-Ami, *A Shot in the Dark. A Report on Kangaroo Harvesting*, 2009, p23.

¹¹ 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.

¹² Dr D Ben-Ami, *A Shot in the Dark. A Report on Kangaroo Harvesting*, 2009, p22.

¹³ *Animal Liberation ACT v Conservator of Flora and Fauna* (Administrative Review) [2014] ACAT 35, at [48]. The applicant was represented by Counsel who was instructed by the Animal Defenders Office.

¹⁴ Ibid.

¹⁵ 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.

Government was still trying to refute the existence of ‘a “ghost population” comprising suckling young at foot kangaroos ... orphaned during culling’.¹⁶

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 non-commercial shooters alike, and measures must be implemented to eliminate it. As a minimum, the ADO submits that the South Australian regulatory framework pertaining to kangaroo killing should contain mandatory requirements (eg permit conditions) 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’.¹⁷ 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’.¹⁸

However, the Commercial Code states that the ‘efficiency and humaneness of this method depends on the operator’s skill and determination’.¹⁹ 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’²⁰ 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),²¹ 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 South Australia proscribes the killing of adult female kangaroos, notwithstanding the possibility that they will have dependent young. Despite the preference for larger (and therefore more commercially valuable) male kangaroos, the latest South Australian Harvest Report (2023) notes that the ‘male bias in the harvest has been declining since 2018, most likely in response to the lifting of the

¹⁶ *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>.

¹⁷ The Commercial Code, op.cit., Appendix 5.

¹⁸ The Non-commercial Code, op.cit., p13.

¹⁹ The Commercial Code, op.cit., p32.

²⁰ Ibid.

²¹ 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.

“male only” harvest requirement of some kangaroo meat processors and drought conditions changing population demographics.’²²

Given the pain and suffering that can be inflicted on both the adult female and, where relevant, any orphaned dependent young,²³ the ADO submits that at the very least the shooting of adult females should be prohibited.

The ADO notes the guideline in the Commercial Code that offspring be killed before their mothers are shot, and presumably within sight of their mothers.²⁴ In addition to the suffering inflicted on the joey, the ADO submits that this would cause significant 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.

Regulatory and compliance mechanisms—commercial kangaroo killing

Individual shooters can apply for and obtain a licence to harm kangaroos for commercial purposes under the NPW Act.²⁵ Under the *National Parks and Wildlife (Kangaroo Harvesting) Regulations 2018* (SA), a person licensed to kill kangaroos for the commercial industry cannot sell or supply the carcass of a kangaroo unless the kangaroo was taken in accordance with the Commercial Code (reg 33). This is a condition of a shooter’s licence (reg 16). It is an offence under these regulations for a permit holder to contravene or fail to comply with regulations under the Act (reg 17).

Given that shooting occurs in vast remote areas and at night, it is necessary to determine how compliance with the regulations 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 (**the 2013 article**), several academics posed this very question.²⁶ The authors found that the legal framework underpinning commercial kangaroo killing across Australia, including in South Australia, 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 enforcement agencies meant that the agencies could not ensure that shooters were complying with the relevant animal welfare shooting code (p11);
- Inspections of shooters are an essential precondition to ensure compliance and the detection of offences, particularly in relation to the killing of dependent young and injured kangaroos (p11);

²² 2023 Harvest Report p4.

²³ The Commercial Code, op.cit., p34, discussing when to euthanase young at foot ‘to prevent significant suffering’.

²⁴ The Commercial Code, op.cit., p36.

²⁵ NPW Act s 60J.

²⁶ 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.

- 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 South Australia, while regulations apply to shooters, no conditions were placed on dealers or processors to reject carcasses shot other than in accordance with the Code (p6);
- In general, inspections which may detect breaches of the Code were conducted at a low rate (p11); for example, the South Australian regulator did not meet its goal of inspecting each chiller at least once a year (p10);
- Although the South Australian regulator claimed to inspect shooters on an opportunistic basis, it did not report the number of inspections carried out (p11);
- Relevant details such as the total number of carcasses inspected were not disclosed in reports (p12), so it is impossible to determine the percentage or number of carcasses that were not inspected at all during the reporting period;²⁷ and
- The ability and resolve of enforcement 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).

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 shooting 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 SA commercial killing regions

Since the publication of the 2013 article, the Department has continued to report on compliance aspects of commercial kangaroo killing on an annual basis.²⁸

The reports reveal that not much has changed since 2013, and that the South Australian 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.

The Department’s most recent Harvest Report (2023) states under the heading of ‘Compliance checks’ that departmental staff ‘routinely checked’ only field processor returns and that this was done for ‘incorrect information which was then investigated and corrected’.²⁹ The report also states that of the 61 field chiller sites in operation, ‘a total of 52 individual field chillers were inspected’,³⁰ meaning

²⁷ Only the Queensland government agency disclosed this detail: p12.

²⁸ The Department’s webpage ‘Quotas and harvest data’ contains annual Harvest Reports from 2019 to 2023: <https://www.environment.sa.gov.au/topics/animals-and-plants/sustainable-use-of-animals-and-plants/kangaroo-conservation-and-management/quotas-harvest-data>.

²⁹ 2023 Harvest Report p10.

³⁰ Ibid.

that not every field chiller was inspected even once during the year.³¹ Given that the field chiller inspections are the closest the enforcement agency gets to actual field operations, it is significant that 10 years after the publication of the 2013 article, the Department is still failing to inspect each chiller at least once in a year. Moreover, the actual numbers of inspections are reported only in relation to field chiller sites, meat processing facilities and tanneries.³² The number of carcasses inspected continues to be a notable omission from the recent harvest reports.

Most importantly from an animal welfare perspective, there is no information in the Department's Harvest Reports about inspections or monitoring carried out at shooting locations, and nor is this expected to change. The South Australian 2025-2029 Kangaroo Management Plan contains an Action item proposing that 'Compliance with the Commercial Code by commercial kangaroo industry operators is monitored'.³³ Yet the proposed action to meet this goal refers only to inspections of kangaroo carcasses 'stored for sale by kangaroo field processors' and all premises registered to kangaroo meat processors. It also commits to inspecting only active chiller premises 'at least once each year', and meat processing works 'at least twice per year'³⁴ – the same rates as a decade ago and which the enforcement agency has rarely achieved in the past.

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.

This submission has 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.

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.³⁵ 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,³⁶ and has been accepted by the Commonwealth Administrative Appeals Tribunal.³⁷ 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

³¹ This was also the case in 2021 and 2022. According to the 2022 Harvest Report, 38 of 57 individual chillers were inspected (6 were inspected twice) (p10). According to the 2021 Harvest Report, 31 of 52 individual chillers were inspected (14 were inspected twice) (p10).

³² Ibid p10.

³³ [South Australian Commercial Kangaroo Management Plan 2025-2029](#), Government of South Australia, through Department for Environment and Water, p6, Chapter 4.1 'Aim 1: Ensure Humane Treatment of Kangaroos'.

³⁴ Ibid.

³⁵ Commercial Code, op.cit., p8 and 13; Non-commercial Code, op.cit., p9.

³⁶ Commercial Code, op.cit., p26.

³⁷ *Wildlife Protection Association of Australia Inc and Minister for the Environment, Heritage and the Arts [2008] AATA 717* at [47].

etc. Hind legs can be shattered with the kangaroo desperately trying to get away on the other or without the use of either...³⁸

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 the process is monitored in South Australia (or anywhere). Instead, long after the killing has occurred and far away from the point of kill, chillers are inspected for ‘non-compliant carcasses’ as the only performance measure related, albeit indirectly, to animal welfare (the other measures relate to tags and landowner permissions).³⁹

The failure to monitor for body shots at the point where they are inflicted is reflected in the low number detected in inspections further down the commercial killing process. The 2023 Harvest Report shows that of the 27 ‘compliance activities’ for 2023, five were for ‘non-compliant carcass’ (which presumably refers to non-head shot animals), resulting in four ‘expiations’ (fines), and one caution.⁴⁰ This compares with 11 ‘compliance activities’ relating to the supply of returns, and seven relating to tags.⁴¹ Early reports refer to ‘kangaroo carcass with projectile damage’, including three instances in 2020 resulting in one caution and two education letters.⁴²

The ADO submits that monitoring the prevalence of body shots at chillers or meat processor facilities is 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.⁴³ 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. Even where the body of the animal is tagged, the 2019 Harvest Report shows the difficulty in linking a carcass to a permit holder due to tags not being retained with the skins.⁴⁴

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.⁴⁵ Again, this number is conservative because it would not include animals unretrieved by the shooter.

The ADO therefore submits that as a bare minimum South Australia’s wildlife or animal welfare legislation (as opposed to the Codes which are managed at the Commonwealth Government level) 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 instigated until adequate inspection and compliance measures are implemented to reduce the incidence of body shots and the unconscionable suffering they inflict.

³⁸ 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.

³⁹ See for example the 2023 Harvest Report, op.cit, p10.

⁴⁰ 2023 Harvest Report, op.cit, p10 table 15.

⁴¹ Ibid.

⁴² [2020 Commercial Kangaroo Harvest Report for South Australia](#), Government of South Australia, through Department for Environment and Water, 2021, p10, Table 15.

⁴³ Voiceless, ‘How are kangaroos killed?’, <https://voiceless.org.au/hot-topics/kangaroos/>.

⁴⁴ [2019 Commercial Kangaroo Harvest Report for South Australia](#), Government of South Australia, through Department for Environment and Water, 2020, p11, Table 12.

⁴⁵ RSPCA Australia, *A Survey of the Extent of Compliance with the Requirements of the Code of Practice for the Humane Shooting of Kangaroos*, 2002.

Other enforcement mechanisms

As in the period assessed in the 2013 article discussed above, recent reporting periods are similarly characterised by a preponderance of low-level enforcement outcomes such as cautions, warning notices, education letters, and expiations (fines or penalty infringement notices). There is no reference to any court action taken against a permit holder or a permit being cancelled.⁴⁶

There is no data on reports of illegal shooting in the South Australian Harvest Reports, although it is acknowledged that the enforcement agency may investigate such reports.⁴⁷ There is also no reporting on surveillance activities.⁴⁸ By contrast, NSW kangaroo commercial killing reports can include information about ‘surveillance activities ... with NSW Police to investigate firearms issues and to inspect allegations of illegal activities reported to the Department’⁴⁹ and ‘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).⁵⁰ The ADO submits that even the absence of surveillance activities should be reported on in South Australia. Surveillance activities provide another way to determine whether non-compliance with the relevant animal welfare shooting code or potential animal cruelty offences are being committed or, conversely, to assert that there is compliance, and the absence of such data should be acknowledged.

Thus, the current compliance framework in South Australia 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. 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 South Australia are as significant today as they were in 2013, and that these gaps must be filled before ‘better welfare [ie less inhumane] outcomes’ can be achieved for kangaroos killed for commercial purposes.⁵¹

Regulatory and compliance mechanisms—non-commercial killing

The South Australian Harvest Reports include information about ‘non-commercial destruction of kangaroos per commercial harvest region’ which since 2019 has consisted of the numbers of permits issued and total animals on permits. In 2023, 60,997 animals were able to be killed under these permits.⁵² The number of animals actually killed in these regions is not reported on.⁵³

Without knowing the numbers of animals killed on a non-commercial basis across the State, the ADO submits that the true number of kangaroos killed on a non-commercial basis is not known, nor either the sex bias of the kills (ie how many females) or whether dependent young were harmed under the permits.

⁴⁶ Harvest Reports 2019-2023, op.cit.

⁴⁷ 2019 Harvest Report, op.cit., p10.

⁴⁸ In NSW surveillance activities were reported on between 2014 and 2018. The NSW Department of Planning, Industry and Environment’s webpage ‘[Kangaroo management plans, reports and research—Annual Reports](#)’ contains Annual Reports from 2018 onwards. The ADO checked reports from 2010 onwards when available on the Department’s website.

⁴⁹ Ibid, 2019 Annual Report, p17.

⁵⁰ Ibid, 2020 Annual Report, p21.

⁵¹ K Boom et al, ‘The Role of Inspections in the Commercial Kangaroo Industry,’ op.cit., p19.

⁵² 2023 Harvest Report, op.cit., p9, Table 14.

⁵³ The Reports do include numbers of animals killed on Government reserves. According to the 2023 Harvest Report, 1,752 kangaroos were destroyed in these reserves in 2023 (p12, Table 16).

It therefore appears that the degree to which animal welfare laws and codes are complied with in non-commercial killing zones is unknown or unknowable. This point is acknowledged in a 2020 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.⁵⁴

The Non-commercial Code—compliance issues

A permit to destroy protected wildlife, including kangaroos, on grounds including that the animals are harming the environment or crops, can be applied for and granted under s 53 of the NPW Act and the *National Parks and Wildlife (Wildlife) Regulations 2019* (SA). A permit lasts for up to 12 months. Within 14 days of the permit ending, the permit holder must deliver to the Minister a report stating the number of animals of each species taken in pursuance of the permit (NPW Act s 53(4)). It does not appear to be mandatory for permit holders to comply with the Non-commercial Code,⁵⁵ and the enforcement agency's website does not appear to provide any information about how compliance with the Non-commercial Code by permit holders 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 Non-commercial Code is being implemented effectively or at all in relation to non-commercial kangaroo killing in South Australia.

The ADO submits that compliance with the Non-commercial Code must be monitored and its (minimalist) animal welfare standards enforced. At the very least, the same level of 'compliance checks' 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 South Australia in 2025. There is little doubt that expectations of standards of care in relation to the shooting of kangaroos have changed since 2008. For example, the current Commercial Code was released in November 2020⁵⁶ and replaced the previous commercial code that was published in 2008. The current Commercial Code states that it includes 'clearer guidelines for harvesters with particular regard to minimising the suffering of dependent young'.⁵⁷ However, by comparison, non-commercial shooters need comply only 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.

⁵⁴ McLeod and Hacker (2020), 'Balancing stakeholder interests in kangaroo management - historical perspectives and future prospects,' *The Rangeland Journal*, 41, p571.

⁵⁵ NPW Act s 53(5).

⁵⁶ The Commercial Code, op.cit.

⁵⁷ <https://www.agrifutures.com.au/kangaroo-commercial-code/>.

Finally, the ADO notes that the Non-commercial Code itself states that it will be reviewed within five years of its adoption (effective 7 November 2008).⁵⁸ However, there is no evidence that this ever occurred, and the original 2008 code remains the version in use in 2025.

Given the flaws and weaknesses of the Non-commercial Code, and while shooting healthy wild kangaroos remains legal, the ADO submits that South Australia should require shooters killing kangaroos in a non-commercial capacity to comply with the current 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 (higher) animal welfare standards should apply to all shooters, as was the case prior to the release of the current Non-commercial Code in 2008.⁵⁹

Compliance: the kangaroo shooting codes and animal welfare laws

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

One way this can be done is for a code to be incorporated into the *Animal Welfare Regulations 2012* (SA) (**AW Regulations**) under s 42A of the *Animal Welfare Act 1985* (**AW Act**)⁶⁰. The AW Act specifies that nothing in the Act renders unlawful anything done in accordance with a prescribed code (s 43).

However, the codes prescribed for this purpose do not include the kangaroo shooting animal welfare codes.⁶¹

The ADO does not recommend that the kangaroo shooting animal welfare codes be prescribed for the purposes of section 43 of the AW Act. This is because both codes explicitly state that they set out the *minimum* required of persons shooting kangaroos.⁶² This is at the opposite end of the spectrum from best practice. The ADO submits that 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.

Animal cruelty offences

The AW Act applies to kangaroos by virtue of the definition of 'animal' which includes a member of a vertebrate species other than a human being or a fish.⁶³ The as-yet 'uncommenced' *Animal Welfare Act 2025* (SA) acknowledges that 'animals are recognised as living beings that can feel, perceive, and experience positive and negative states', which is an elaborate way of saying they are sentient (s 5(1)).

South Australian animal welfare law therefore applies to kangaroos and will soon explicitly acknowledge that they are sentient.

Under the AW Act, a person who ill treats an animal is guilty of a criminal offence (s 13(2)).

As the AW Act applies to kangaroos, shooters would be committing an act of cruelty to a kangaroo if they ill treat a kangaroo during shooting,⁶⁴ including in the following specified ways (s 13(3)):

⁵⁸ The Non-Commercial Code, op.cit., p2.

⁵⁹ *Code of Practice for the Humane Shooting of Kangaroos*, first edition 1985; second edition 1990.

⁶⁰ At the time of writing this submission the *Animal Welfare Act 2025* (SA) has not yet commenced, so the AW Act 1985 is the version referred to unless otherwise specified.

⁶¹ AW Regulations, reg 5 and Schedule 2.

⁶² Non-commercial Code (2008), p4; Commercial Code (2020), p1.

⁶³ AW Act s 3. The 2025 AW Act (uncommenced) includes 'fish' in the definition of 'animal' (s 3).

⁶⁴ AW Act s 13(2).

- unreasonably causing the kangaroo unnecessary harm,
- failing to take reasonable steps to mitigate the harm,
- killing the kangaroo in a manner that causes the kangaroo unnecessary pain, or
- killing the kangaroo by a method that does not cause death to occur as rapidly as possible.⁶⁵

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 in South Australia. Rather than indicating compliance with those laws, this suggests a lack of enforcement activity and consequential failure to detect offences.

The ADO submits that enforcement agencies under the AW Act 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.

Alternative strategies and practices to ensure humane treatment and conservation of kangaroos (TOR(e))

The ADO is 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 rescuers and carers 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.’ Wildlife advocates are desperate for a legal solution to stop the immense suffering inflicted on wildlife by barbed wire fencing.

The ADO submits that landholders who use barbed wire fencing on their properties could be required, if they find animals, including kangaroos, caught in barbed wire 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 objects of South Australia’s new animal welfare law, including to protect the welfare of animals and to take a proactive approach in preventing harm to, and the ill treatment of, animals.⁶⁶

Noting the serious pain and suffering it causes wildlife, the ADO submits that the use of barbed wire for 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 South Australian Government could subsidise these actions.

⁶⁵ AW Act s 13(3)(a), (c), (g), (h) respectively.

⁶⁶ AW Act 2025 (uncommenced) s 5(3).

Conclusion

The ADO leaves the final word on the plight of kangaroos in South Australia to an ethicist rather than a lawyer. In 2005, the internationally renowned Australian philosopher Peter Singer proposed what would be a gamechanger for how the law regards wildlife.⁶⁷

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 2025, this kind of legal recognition is more urgent than ever for South Australia's kangaroos in light of the significant 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.

Thank you for taking this submission into consideration.

Tara Ward
Executive Director and Senior Lawyer (Volunteer)
Animal Defenders Office

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⁶⁷ Peter Singer, 'Preface' to *Kangaroos: Myths and Realities*, ed. M Wilson and D B Croft, op.cit.