

REPORT ON PROCEEDINGS BEFORE

ANIMAL WELFARE COMMITTEE

**PROPOSED AERIAL SHOOTING OF BRUMBIES IN KOSCIUSZKO
NATIONAL PARK**

UNCORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 31 July 2024

The Committee met at 13:45.

PRESENT

The Hon. Emma Hurst (Chair)

The Hon. Robert Borsak
The Hon. Abigail Boyd
The Hon. Wes Fang
Ms Sue Higginson
The Hon. Aileen MacDonald
The Hon. Bob Nanva (Deputy Chair)
The Hon. Peter Primrose

PRESENT VIA VIDEOCONFERENCE

The Hon. Stephen Lawrence

The CHAIR: Welcome to the fifth hearing of the Committee's inquiry into the proposed aerial shooting of brumbies in Kosciuszko National Park. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respect to any Aboriginal and Torres Strait Islander people joining us today. My name is Emma Hurst. I am Chair of the Committee. I ask everyone in the room to please turn their mobile phones to silent.

Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of those procedures.

Ms KATHRYN JURD, General Counsel, RSPCA NSW, affirmed and examined

Mr TROY WILKIE, Senior Government Relations Manager, RSPCA NSW, on former affirmation

The CHAIR: Welcome to our first witnesses for today. Thank you for making the time to give evidence. Mr Wilkie, I remind you that you do not need to be sworn in as you have been sworn at an earlier hearing of this Committee. Would either of you like to make a short opening statement?

TROY WILKIE: Thank you and good afternoon, Chair and Committee members. Managing animal populations can be complex and contentious. Ideally, no wild animals would be interfered with or killed. Various methods have been considered and implemented with insufficient success over the years. The ideal method would be aerially deployed, single-action contraceptive control. However, current contraceptive technologies cannot manage large horse populations. Other non-lethal methods, such as trapping and rehoming, are logistically challenging and cause their only animal welfare compromises. We rehome up to 200 horses annually, with an average stay of around 270 days before adoption. This does not indicate a marketplace demanding thousands of brumbies.

Ground shooting can provide a quick death, but is not adequate to manage the vast numbers of horses identified in Kosciuszko National Park and brings other issues. When this inquiry commenced, it was suggested that the wild horse population in Kosciuszko had already fallen below 3,000. Such conclusions are unlikely to be persuasive now, with many thousands more horses having been removed from the park over the last 12 months. Both major parties of government have repeatedly identified aerial culling as the most capable method of achieving the required population reduction. While it is not perfect, it is currently necessary due to the scale of the problem and the ineffectiveness of other methods. When conducted properly, it can be an effective and appropriate population reduction strategy where others have failed.

Unfortunately, some who do not accept this view have attempted to make RSPCA NSW a political target. Our position is based on extensive research and observations, which indicate that aerial culling can be an effective and humane management tool when conducted by trained and experienced personnel and subject to mandatory legislative and procedural standards. We have presented a policy that was agreed upon by Australia's nine independent RSPCA organisations as a federated body. Our views and advice on aerial culling have been consistent for many years and align with organisations like the Australian Veterinary Association, the CSIRO and academics from well-regarded Australian universities.

We provided the same advice to the Liberal-Nationals Government as we have to the Labor Government since their election. Allegations that we have chosen to take this position based on political preference or for government funding are untrue and unsubstantiated. Our inspectorate and law enforcement personnel have also been targeted inappropriately. Every investigation provides a learning opportunity before the next, and we never say we are perfect. However, we strongly support every inspector in the field and their work in challenging circumstances. It is not right to cherry-pick and use one investigation to determine performance without conducting the same analysis for the many tens of thousands of investigations they conduct every year.

RSPCA NSW has operated Australia's largest animal welfare law enforcement agency for over 90 years. In recognition of the State's reliance on this important service for the community, the Government provided \$20.5 million to the inspectorate for FY23/24. Thanks to this investment and the incredible work of our team, we've arguably delivered the State's most significant 12-month improvement to animal welfare law enforcement outcomes since the introduction of POCTAA in 1978.

Our total operations increased by 32 per cent, from \$65.8 to \$86.9 million. Animals rescued by inspectors from cruelty and neglect more than doubled, increasing 124 per cent, and 24N written directions have increased by 55 per cent. Community programs helped 65 per cent more people and 89 per cent more animals. Targeted cost-of-living relief through our access to vet care program helped 53 per cent more animals and 36 per cent more families. Education programs taught 46 per cent more children and reached 45 per cent more schools. Animal cruelty allegations and investigations have surged over the same time. Calls taken have increased 22 per cent, cruelty complaints have increased 55 per cent and cruelty investigations have increased 26 per cent.

Demand for animal re-homing services has also increased dramatically, with our animals who are on a wait list surging 161 per cent from March to June this year. The State budget currently allocates \$21 million for various animal welfare groups and objectives, despite reformers relying on us more than ever. Our staff and operational costs are \$88.5 million this financial year. Without continued government support to maintain our expanded operations, we'll be forced to rapidly reduce our costs below \$65 million. We do not want to have to do this.

We want the phenomenal animal welfare improvement outcomes delivered last financial year to continue. We trust the Animal Welfare Committee shares that desire and recommends government funding that

meaningfully contributes to our operations. This will ensure that RSPCA NSW can continue to provide an end-to-end solution for animal welfare. We always do our best with limited resources. Every member, supporter, donor, volunteer, foster carer and staff member works tirelessly to ensure that every cent delivers the best results for the animals most in need.

We provide excellent value for money compared to government agencies. I'm proud of the results over the last 12 months and I am ambitious for the next 12 months. RSPCA NSW has been involved in the Government's horse management program by providing advice on animal welfare, responding to complaints and proactively monitoring the program to ensure compliance with animal welfare regulations. We do not make the laws. We enforce POCTAA as the Parliament sets, and advocate for reforms that reflect community expectations and improve animal welfare. We maintain our independence and investigate any reports of cruelty or inhumane practices by the Government, National Parks and Wildlife, or their contractors.

Allegations of cruelty will be investigated, and inspectors are well placed to use the powers granted to them under POCTAA to respond appropriately. Evidence of cruelty will lead to prosecution of these parties without hesitation, as we've done before. We remain committed to working with governments and stakeholders to develop and implement humane and effective methods for managing wild animals where necessary. We encourage continued investment in non-lethal methods to research and ensure that future management practices can be more humane. We welcome questions from the Committee that reflect the complex realities of the issue and the necessity of aerial culling under the current circumstances.

The CHAIR: The Committee has resolved for free-flow questions, so we will go to whichever Committee members is seeking the call.

The Hon. WES FANG: I'm just going to circulate this first document, if I could pass it up. Whilst I'm doing that, I've just got a few questions. Mr Wilkie, in your opening statement you spoke about groups that didn't believe that aerial culling was humane and were targeting the RSPCA in a political manner. Who are you referring to?

TROY WILKIE: Who am I referring to specifically?

The Hon. WES FANG: Yes, specifically, who are you referring to? You said groups and people were targeting you. Who are you referring to?

TROY WILKIE: There are groups in politics, groups in the media, groups in the communities.

The Hon. WES FANG: Who? I'm asking for specifics here. You've made an allegation. Who is targeting you?

TROY WILKIE: Politicians. Media. Members of the community.

The Hon. WES FANG: Name them. Who? Who is targeting you?

TROY WILKIE: I'll take that on notice.

The Hon. WES FANG: Thank you. Mr Wilkie, I note that in your opening statement you spoke about government funding, and it was also spoken about in the previous PC4 inquiry into the POCTAA charitable organisations enforcement inquiry. Why is there such a focus on RSPCA funding at the moment from the RSPCA?

TROY WILKIE: As I outlined, there's currently not an allocation of resources that will continue the operations we've had across the last 12 months. I want to have, if anything, more resources allocated than there was in the last 12 months. I want to have better outcomes than the last 12 months. I want continuous improvement for animal welfare in this State and for the enforcement of the laws that ensure that. The more resources that you allocate, the more outcomes can be delivered. That's been proven by the last financial year, and I hope will be considered by this Committee and those in government.

The Hon. WES FANG: I'm going to take you now to a transcript of the inquiry that I spoke about previously: the charitable organisations enforcing POCTAA inquiry that's being held by PC4. These are answers that you gave in that hearing. Do you recall giving these answers?

TROY WILKIE: Yes.

The Hon. WES FANG: You'll see over the page, I asked a gain—and specifically what I was asking you was whether you had sent any disappearing WhatsApp messages to anybody on the Committee for this inquiry or the POCTAA inquiry. You said, "No", in effect. You said you hadn't sent questions to people on the Committee. Is that a fair precis of your evidence? Would you agree?

TROY WILKIE: There is a transcript which gives my answers to each of the questions outlined.

The Hon. WES FANG: Okay. People can make their own judgement. I'll now table this document, if I could. You'll recall, Mr Wilkie, I think in this term of Parliament, your first appearance before any of the Legislative Council inquiry committees was the first—sorry, the RSPCA's first appearance was the brumbies inquiry. Is that correct—in this term of Parliament?

TROY WILKIE: I don't believe it—no.

The Hon. WES FANG: Certainly, in my time, on the inquiries that I've been on, it was the first time that the RSPCA had appeared before me in this term of Parliament. It was the first of the brumby inquiries where we had—has the witness been given this document? Thank you. It's hard to pad time when they haven't got the document in front of them. Now—

The Hon. PETER PRIMROSE: Maybe you should allow the witness to read the document.

KATHRYN JURD: I'm sorry, Mr Fang, are you asking about the date of 18 December 2023?

The Hon. WES FANG: I was coming to that.

KATHRYN JURD: That's the first transcript we have for evidence taken on this inquiry.

The Hon. WES FANG: Yes. The first hearing for the inquiry into the proposed aerial culling of brumbies was held on 18 December. You'll see on the first page, in the red box, at 12.42 p.m., my colleague sent me a screenshot. That screenshot is next to that message with the arrow, which indicates that a disappearing WhatsApp message was sent to Ms MacDonald asking her to pass to me questions that I might ask the Committee.

The Hon. BOB NANVA: Point of order: Firstly, I'm not sure that this is entirely relevant to the terms of reference of this inquiry. Above and beyond that, I do think members should consider whether or not it's conducive to the orderly and fair conduct of an inquiry to ask a witness about any personal contact or correspondence they may have had with a Committee member.

The Hon. WES FANG: To the point of order, Chair: The reason that I'm raising this now is that you'll see, at 12.38 p.m., Mr Wilkie indicates that he'd like me to ask about cameras on the helicopters, which is clearly part of the scope of this inquiry. It is why I'm raising it now, because this matter—the RSPCA, their senior government relations person, indicated they would like me to ask them about it because they're supportive of it. I'm going to be asking questions about that, but this also raises a concern because, quite clearly, under the transcript that I just tabled previously, Mr Wilkie indicated that he had not been doing this, even though I had the screenshot to indicate that he was.

Ms ABIGAIL BOYD: Just as a point of clarification, is that 18 December one a brumbies inquiry?

The Hon. WES FANG: Yes.

Ms ABIGAIL BOYD: It's a completely different committee. Do you want to reconsider your allegations, given what you have just said?

The Hon. WES FANG: No. You'll see that on the second page I said "in either of the committees".

Ms ABIGAIL BOYD: "I ask you one last time ... have you sent disappearing WhatsApp messages to anybody on this Committee during the Committee's hearings ..." That would imply PC4, not the brumbies inquiry.

The Hon. WES FANG: No, I did actually say—

The Hon. PETER PRIMROSE: May I request that if we're going to go down this road we at least consider having a short deliberative meeting so that we can have this laid out and seek advice from the Clerk?

The CHAIR: I agree.

The Hon. PETER PRIMROSE: Otherwise, we are going to be going backwards and forwards. It's like a game of Tetris here at the moment.

The CHAIR: Are you seeking to move into a deliberative now?

The Hon. PETER PRIMROSE: I move that we have a short deliberative meeting to allow us to consider this line of questioning.

The CHAIR: Based on the Hon. Peter Primrose's request, I am sorry but I am going to have to ask everyone to leave the room. We will call you back in soon.

(Short adjournment)

The CHAIR: Thank you for your patience and apologies for that. We are back on. I will throw a gain to the Hon. Wes Fang.

The Hon. WES FANG: Mr Wilkie, the message that's on the right-hand side of that paper, did you send that?

TROY WILKIE: Yes.

The Hon. WES FANG: The message that you sent at 12.38 p.m., can you read that out, please?

TROY WILKIE: "Just in case you talk to Wes during the break, we are very happy to be asked about cameras on operations as we are all for it."

The Hon. WES FANG: What did you mean by that?

TROY WILKIE: I think it's pretty clear. There was discussion about that during the hearing and I said, "If you're talking to your colleague, you can mention that that was to be something which we can talk about in our session as well."

The Hon. WES FANG: What do you mean by you're "all for it"?

TROY WILKIE: It's a matter of testimony that the RSPCA would support having cameras on the operations that are being undertaken during Kosciuszko National Park.

The Hon. WES FANG: When did you come to that determination? Obviously, that was during the first day of the hearing. In fact, witnesses from the RSPCA hadn't even appeared at that stage. When did you form the view that cameras on operations were something that would be supported by the RSPCA?

The Hon. WES FANG: I'd have to take it on notice. I don't think it has been a new concept or a new thing of support to have cameras when there are operations of managing animals in general.

The Hon. WES FANG: Was it before you reviewed the SOPs from the National Parks and Wildlife Service?

TROY WILKIE: Like I said, I'll take it on notice for the exact timing of that being a position.

The Hon. WES FANG: What evidence did you have to form the view that the RSPCA was supportive of cameras on the operations?

TROY WILKIE: It was just something that I knew. It was a position that was known to me.

The Hon. WES FANG: Obviously you said in your opening statement that you've reviewed scientific evidence in order to shift a position that you previously were opposed to aerial culling and that you have brought charges against a former government for animal cruelty in relation to aerial culling of brumbies to now not being opposed to it. When that evidence was reviewed, was that also when the position on cameras was adopted by the RSPCA?

TROY WILKIE: I have taken that on notice already. You have asked it previously, and I'll do the same.

The Hon. WES FANG: Given that there has been a shift in the position and that you have reviewed SOPs and provided a letter to the RSPCA saying that you have reviewed the SOPs and you've also indicated to me here, before you've even appeared at the inquiry, that there was support for cameras on operations, why wasn't there an insistence that cameras on operations be stipulated before the RSPCA endorsed or didn't oppose the SOPs from the National Parks and Wildlife Service?

TROY WILKIE: It wasn't for us to—we didn't endorse or not oppose or take a position. We were asked to provide advice that would improve the animal welfare outcomes for the operations. The SOPs were reviewed, advice was given, and then the operation has been undertaken.

The Hon. WES FANG: Did that advice include the use of cameras on the operations?

TROY WILKIE: I'll take it on notice.

The Hon. WES FANG: If it didn't, why not?

TROY WILKIE: Filming the operation wouldn't change the welfare for an animal, so it wouldn't actually affect the animal welfare operations. It's more about for the community sentiment. If the community can have peace knowing that these are being filmed, and that way it can be accessed or made public or in some way reviewed properly, they're going to have a lot more confidence in what's being undertaken in Kosciuszko National Park. It's the same reason why people want to have CCTV in abattoirs or in all sorts of other animal facilities. It just gives a level of confidence that you know what's going on there, because animals can't speak very well for themselves.

The Hon. ROBERT BORSAK: So not having cameras, Mr Wilkie, does that—I would say to you that it does exactly the opposite.

TROY WILKIE: Sorry? So by not having cameras, it gives the community more confidence?

The Hon. ROBERT BORSAK: It's the sort of answer I would expect from a government relations person. Having cameras on the helicopters during Guy Fawkes made sure that the inhumane treatment of those horses was revealed not just to yourselves but to the public. Not having them in this case makes sure that no-one sees them, and I think the question that Mr Fang is asking is what caused the change? I think the answer you're giving is "It's okay to hide it."

KATHRYN JURD: No—

TROY WILKIE: Perhaps I have miscommunicated. To be very, very clear, we are supportive of cameras in the operations. I'm just saying that cameras being in the operations would be a good thing—

The Hon. ROBERT BORSAK: Why didn't you criticise the Government for not adopting your recommendation?

TROY WILKIE: We've told National Parks and Wildlife that we would support them, that they should have them, and we've discussed different ways of trying to have them in the operation. Just because we didn't put a media release out saying that we've done that doesn't mean that we did or didn't discuss it. We discussed it with them—

The Hon. ROBERT BORSAK: Don't be trite with me, Mr Wilkie. Don't be trite. I haven't seen anywhere in your submissions in the previous inquiry—in the previous hearings where you actually stalwartly talked about this. I actually had to extract it from Mr Coleman that he actually did support a position where cameras should have been made available on the firearms, on the skids of the helicopters and anywhere else they were needed. Now you're offering an explanation: "The reason why we didn't do it is because we were hiding things."

The CHAIR: Order! Can we please allow the witness time to answer the question and not badger the witness. Thank you.

The Hon. ROBERT BORSAK: Every time he opens his mouth, he sticks his foot further in it.

The CHAIR: Order! Sorry, Mr Wilkie. Did you have a response? Or Ms Jurd?

KATHRYN JURD: I was just going to comment that it appeared there was a miscommunication in respect of the stance that Mr Wilkie had presented. The advice that was sought from RSPCA experts was in relation to animal welfare implications. Compliance monitoring is a part of that, and certainly, had we been asked, I think my position is that cameras would always be a strong mechanism.

The Hon. ROBERT BORSAK: That question was asked at a previous hearing.

KATHRYN JURD: And I'm endorsing what Mr Coleman said: that in terms of compliance monitoring, cameras are a good idea. But the RSPCA doesn't have the capacity and didn't at the time—

The Hon. ROBERT BORSAK: Do you want to push on?

The Hon. WES FANG: You can. I've got a few more, but—

The CHAIR: That's okay. You can continue your answer, Ms Jurd.

Ms SUE HIGGINSON: Just because they're not listening, it doesn't mean we're not.

KATHRYN JURD: —and, at the time we provided the comments, did not have the capacity to insist that National Parks and Wildlife do or not do anything. We can only provide advice. I think the marked-up SOPs have been provided previously.

Ms ABIGAIL BOYD: Thank you for coming along this afternoon. I want to talk about some of your responses just then, Mr Wilkie: the idea of having a camera or not having a camera. As you say, once aerial culling has been decided to be carried out, the end result will be a number of horses being slaughtered. However, the way in which that is done is still very relevant as to how humane the actual kill ends up being. I think we have heard a lot of evidence about whether it's the range or the different types of guns used or whatever, how many shots have gone into the animal before it's killed. Is there also that role, then, for cameras to play in ensuring that training is up to date and that these things are being done in the best possible way? I feel like we've lost that nuance in this conversation about the way in which aerial culling is executed.

TROY WILKIE: Yes.

KATHRYN JURD: There is one certainly to take whatever lessons might be learnt by the people responsible for carrying it out, of course, and reviewing footage is something that RSPCA inspectors regularly do, and management do on a fairly regular basis. I, myself, rely on that footage in court, I would say, every time I appear in court, and so the capture of the evidence at first instance is always very important.

Ms ABIGAIL BOYD: In terms of an ongoing program of aerial culling, ideally it would seem someone would be reviewing that footage—

KATHRYN JURD: Yes.

Ms ABIGAIL BOYD: —to then give indications for the next time the culling is to occur: "You should be using this gun or doing this type of flight path," or whatever. I'm not a shooter; I don't understand, but presumably there are ways in which we can maximise the animal welfare outcomes by improving the program over time. What is the role of RSPCA in continuing to gradually improve that program over time?

KATHRYN JURD: I think we've been participating via the audits that have been conducted, but certainly if there were footage available, of course it wouldn't require someone to go in a helicopter. That could be monitored in real time—I'm not entirely certain; I suppose you can ask what National Parks' position is next—particularly in circumstances where our position is the reduction in horse populations within the national park is only justified up to the point that it achieves or looks, to within a reasonable degree of scientific certainty, to achieve the reduction in biodiversity loss that is attendant upon the wild horse population in the national park. If that's at 3,000 horses, excellent. The estimate that's been provided, hopefully, will work before 2027, but if it's some time prior to then, then we should know that in advance. The RSPCA has always promoted longitudinal research. The best mechanism for dealing with criticisms about your methodology is showing your working. If there are methodological problems with the October audits, showing people how they're calculated—additional transparency, not less. I don't think there's anything controversial about that.

TROY WILKIE: The RSPCA position identifies the very thing that you're talking about—that it's going to be a humane method when it's done by very skilled people and done with very particular conditions and rules and parameters and things around it. We've done the proactive visits on the basis of checking that the SOPs can be followed, that the people who are there are capable of doing so and that it's being implemented in the way that you would imagine from the document. Reading an SOP and doing it on a mountain, on pretty different terrain and in all different conditions are quite different things, so being able to actually observe it in play is a very different thing. You assume that people who are able to do it on one day will continue to do it. They don't have any motive to not do it the best way possible, or how they are able to do it or how they've been able to trained to do it on other days that we aren't there, for example, so that gives us a level of confidence that those who are there are capable of doing it and will continue doing it, and have been trained appropriately to do it.

Ms ABIGAIL BOYD: I guess that's the point: Not all aerial culling exercises will be equal. There will be different levels of quality of the execution that then has a direct impact on exactly the welfare outcomes and how humane it is. I worry sometimes that that's been lost in this debate—that improvement around making sure that the way it's executed is the best it possibly can be on an ongoing basis.

KATHRYN JURD: In response, first, to your comment, the RSPCA is not the possessor or the arbiter of all of this expertise. We possess expertise in certain confined aspects and I'm always very careful, when I appear, to confine my evidence to that which I have, I think, decent expertise in relation to. There are others, and there are other jurisdictions, that we can learn from. There are other Australian-based jurisdictions that—there's reference in the submissions to Western Australia, Victoria, the ACT. People are doing it in Australia. National Parks, I assume, can access the expertise from their counterparts in other States also.

The Hon. ROBERT BORSAK: Can I turn to your current submission? It talks extensively about justification for why the brumbies need culling and you've just talked about that a little bit, and I think Mr Wilkie did, too. It goes for pages and pages about how that all should be done in protecting endangered species and all that sort of stuff. We all agree with that. But when it actually comes to addressing the issue of humaneness, you really only in there address one issue and that is in (d). It talks about "pursuit time" as if this is a major consideration. It is a consideration, but it doesn't talk about the lack of cameras, it doesn't talk about the lack of adequate calibres and it doesn't talk about the number of times brumbies are being shot to be killed, does it? Why would this submission omit that?

KATHRYN JURD: It refers to available documents that have been reviewed. It attends itself to the terms of reference. It's six pages. I don't think it purports to be the fulsome overview of every issue that might relate to wild horse management in Kosciuszko National Park.

The Hon. ROBERT BORSAK: Then why put a submission in at all, if it's not going to be adequate to what your evidence is going to deal with?

KATHRYN JURD: Our evidence in person responds to questions asked us by the members of this Committee and our submissions—and I will say the RSPCA files submissions many times a year in respect of significant aspects of animal welfare all over the State, frankly, and we do the very best we can. We do not have a team of policy officers. We have, essentially, the people that you see regularly before you at this table who are responsible for the production of those documents, and we do it to the best of our ability at the time we do it. If something is omitted or needs to be clarified, then we take the opportunities available to us when we get asked questions by this Committee and other committees of this type.

TROY WILKIE: The submission speaks to the eight points that were asked that have been spoken to by the Committee and outlines points on those. It also has at least 11 citations to research other documents which, obviously, if you wanted to have a more fulsome understanding of the point being made, you could go to the different citations and read that, and then you'd be looking at volumes and volumes of work.

The Hon. ROBERT BORSAK: I understand the point. I am just going to put something to you in relation to humaneness, which again I'm saying is not being dealt with in your paper. Based on the following information, it appears that the accuracy and penetration of shots taken in most cases were acceptable. The equipment is certainly lacking in sufficient power. This raises the question: Are the shooters acting in a sufficiently ethical manner or following instructions and ignoring animal welfare? I will give you an extract from the animal welfare assessment for feral horse shooting:

The extensive use of repeat shooting likely made an important contribution to the observed animal welfare outcomes. Repeat shooting was performed for all animals, with a mean of 7.5 shots fired at each horse, and was done so relatively accurately, with 98% of these bullet wounds found in the thorax.

Then it goes on to talk about the use of monolithic copper bullets. I'm not going to go into that with you because you're not across that, but my question is: The animal welfare report states that no animals were wounded, with an average of seven shots required. Surely shots numbering one to six must be considered wounding shots. Do you agree?

TROY WILKIE: No, because that didn't outline that the seventh shot was the one that was fatal, nor did it outline any other things you could observe. If you've got a horse which is struggling on the ground and it's paddling or it's kicking and that sort of stuff, you go, well, it hasn't been killed yet.

The Hon. ROBERT BORSAK: This is contrary to what—

TROY WILKIE: But that hasn't been observed anywhere. It's just saying that there was a horse that was killed humanely and also had seven bullets used.

The Hon. ROBERT BORSAK: Shots one to six are not wounding shots. That's what you're telling me?

TROY WILKIE: As I just said, it didn't say that only shot seven was the one that caused fatality to the horse. It's saying that the horse was killed humanely and that seven shots were used.

The Hon. ROBERT BORSAK: You don't agree that one to six caused suffering and therefore it was a bad humaneness outcome?

TROY WILKIE: If it outlined that one to six had not caused any fatality, then you might better draw a conclusion like that but it's not what it outlines, from what you've read.

The Hon. ROBERT BORSAK: What does it outline, then?

TROY WILKIE: That a horse was killed.

The Hon. ROBERT BORSAK: What about one to 14, and the fifteenth shot is the killing shot? Is that what you're saying?

TROY WILKIE: If it outlined the fifteenth shot as being the killing shot, that would be something worth taking into consideration, but it doesn't say that. For all it outlines, the first shot was the fatal shot and there were six more there as insurance or to be completely sure about it, or something like that.

The Hon. ROBERT BORSAK: That's not the way it works in the real world. If the animal is dead with the first shot, why do you need to shoot it six more times? You only keep shooting it because it's not dead.

KATHRYN JURD: Compliance with SOP is to do repeated passes over the animal to ensure that the animal is dead.

The Hon. ROBERT BORSAK: What's the difference between shooting it seven times and 15 times?

TROY WILKIE: I don't think they're pausing to gauge a reaction or see how it has gone after the very first bullet and doing one more—I hope that they're not being cautious with the bullets. That's not going to be the

main expense of the operation and is not really the point of it. When they're taking the shot, in very quick succession, putting in multiple bullets will make sure that the horse is going to die as quickly as possible and therefore have the least cruelty impact possible.

The Hon. WES FANG: Can I just jump in there? You've just said you "think" that that's the case. Isn't it the RSPCA's job to know what the case is, because, in effect, how can you review the SOP and provide comment on it if you think that that's what the National Parks and Wildlife Service is doing? You should know and you should know with complete certainty what's happening. To say that you think that that's what's happening in relation to the additional shots indicates that the rigour in providing feedback on the SOPs is clearly not there.

TROY WILKIE: I reject the assertion entirely.

KATHRYN JURD: The SOPs were provided in advance of the commencement of the program. So they had to be, on the face of the document, knowing what we know and comparing it against historical versions of the same or similar documents and given the advancements in animal welfare science in the 20 years between the two aerial culling programs. That's how SOPs get reviewed. They are reviewed in advance of the commencement of the program.

The Hon. WES FANG: But you've also provided feedback and attended culls during the trial. And I believe that there's an open invitation for the RSPCA to join in at any time that they choose.

KATHRYN JURD: That's right.

The Hon. WES FANG: You should have certainty now in relation to what's occurring here.

TROY WILKIE: And we do. The part that I said "I think" about is I don't think that they're worried about how many bullets are used, because they're not really worried about it for an expense. They're not taking these shots for accuracy practice or for any purpose along those lines. They are implementing a big program and they're putting in a lot of shots, in quick succession, to make sure that it is the least cruel possible for that particular animal.

The Hon. ROBERT BORSAK: How do you assess the cruelty if you don't have a video camera to see what's going on?

TROY WILKIE: We've had our chief inspector in helicopters, on the ground, on multiple occasions and there have been dozens of post-mortems conducted.

The Hon. ROBERT BORSAK: A post-mortem doesn't tell you what's happening while the animal is being shot. That's after the event.

The Hon. WES FANG: It tells you if it's dead.

The Hon. ROBERT BORSAK: It tells you if it's dead.

TROY WILKIE: If you go to a post-mortem and there are no signs of struggling, paddling or any struggle around the animal, and then you inspect that there is an entry wound and an exit wound at the top and bottom of the chest, and you see that the bullet has gone directly through the heart, you can be pretty sure about what has happened and what has been cruel or inhumane, or not, in that particular circumstance, which has been observed on dozens of post-mortems.

The Hon. WES FANG: What about if a horse's lungs—

The CHAIR: Order! In the interests of time, because I know that our session has been somewhat shortened and I know that the Government members do have some questions, I'll throw to the Hon. Bob Nanva.

The Hon. BOB NANVA: Thank you, Chair. I want to come to this issue of multiple shots. There seems to be some confusion about the role of multiple shots and the SOP. Is it your understanding that under the SOP, the initial shots are designed to cause either immediate death or loss of consciousness?

KATHRYN JURD: Yes.

The Hon. BOB NANVA: And then the following shots are either insurance shots or shots designed to ensure that the horse doesn't regain consciousness? Is that an accurate reflection of the SOP as you understand it?

KATHRYN JURD: Yes.

TROY WILKIE: Absolutely. Or might not be even be necessary at all, for any purpose but—

KATHRYN JURD: It's our role to undertake cruelty investigations and provide expert advice as best we can. It's not our job to supervise the killing of every animal that's conducted by various government departments

every day in New South Wales. We simply couldn't be there for the number of deaths that are occasioned in that way.

The Hon. BOB NANVA: When you were consulted by the Government with respect to the development of the current SOP, what informed the RSPCA's views with respect to supporting, making recommendations to it or not supporting the SOP when it was presented? Was there research, international research or other evidence that was relied on to make that judgement?

KATHRYN JURD: Yes, and if you see the comments in the tracked changes, you can see the comments that are entered by the RSPCA chief veterinarian. She has referred to, for example, suggestions for changing and enhancing the phrasing of certain provisions. So there were shoulds instead of musts. There was ambiguity around the phrasing, and has provided back up, I suppose, or support for the opinion, for example, that the use of a certain term in animal welfare science is acceptable or not acceptable. That's based on—I don't want to date her—20-odd years of animal welfare experience and a significant background of peer-reviewed literature.

I think Mr Wilkie referred to our submission which has eight, I think, documents referred to in its terms as well, and there have been more since then, I notice, in some of the submissions I read last night. We didn't provide comments to support particular provisions. We provided advice that certain phrasing may be used or not used and referenced. For example, older standards that might have been weakened or improvements in animal welfare science that should be achieved, it's available. You can see it in the comments that are in the document.

The Hon. BOB NANVA: So it didn't just rely on internal expertise but you looked at peer-reviewed literature both nationally and internationally in forming a view?

TROY WILKIE: That's right.

KATHRYN JURD: And there are references contained—they're in round brackets—within the comments that were provided at the time.

TROY WILKIE: As there are for our federated policy as well. If you go online, you can see our policy there and it has a number of citations and references made as well to international research.

The Hon. BOB NANVA: There does seem to be some concern around even the role of the RSPCA in providing advice and recommendations to the Government with respect to the SOP. Do you see it as inconsistent with the RSPCA's objects to play an advisory role, to help stakeholders, including governments, in relation to these matters?

KATHRYN JURD: Our objects are to promote animal welfare, to promote good animal welfare, improvements in animal welfare in New South Wales. We give advice in many contexts. For example, I have reviewed draft animal welfare bills. I have filed submissions in respect of those bills. I have given evidence about that here. It is entirely within my role to give advice to the department about our experiences of enforcing POCTAA over 90 years. If we were to say essentially this is not our gig, there is a chance that there would be either insufficient legislative and regulatory attention paid to issues of animal welfare or that there might be unintended consequences, and if we can foresee that coming, isn't it our obligation to provide that advice?

The Hon. BOB NANVA: I know the answer to that.

KATHRYN JURD: Sorry, hypothetical. I say it is too.

TROY WILKIE: If I could add on that, it would have been really easy to let this whole thing pass and say, "We can't give advice because of whatever reason." It would have saved a lot of headache, a lot of time and trouble. Inspectors out in the field have all sorts of issues with being doxxed online, and being threatened and all sorts of things because of this particular issue. As I mentioned in my opening statement, there have been people who don't like our view and have made us a target for different reasons in different ways. It would have been super easy to just let the whole thing pass, but that wouldn't have helped the horses, it wouldn't have helped the brumbies. If just one comment in the SOP can slightly improve the welfare outcome for that horse, that's our job, that's our motive.

KATHRYN JURD: And I should have said that sometimes it's a statutorily mandated role that we play. In the Greyhound Racing Act we're obligated to perform an advisory position on the animal welfare committee—Exhibited Animals Protection Act, animals in research. So there are very obvious examples where Parliament has seen fit to require our participation in that way.

The CHAIR: There are quite a few people with questions, but we only have a few minutes left. I want to talk about the review of brumby rehoming that was commissioned by the New South Wales Government. That review essentially found that NPWS has no statutory authority to oversee the welfare of brumbies once they are

rehomed, so anything that happens to those horses after they are rehomed is a matter for the RSPCA, the Animal Welfare League or the police, is what is stated in that report.

KATHRYN JURD: Yes.

The CHAIR: Does the RSPCA have the power under POCTAA to proactively inspect the properties of brumby rehomed?

KATHRYN JURD: The RSPCA has proactive powers in accordance with 24G of POCTAA. I don't believe—I'll give you an answer and then I might seek to take it on notice. I don't believe that the regs would have rehoming organisations caught up within an animal trade, and so I think it's unlikely that, absent a complaint, the RSPCA would have authority to enter land, examine animals, potentially seize those animals.

TROY WILKIE: Sorry, was it for rehoming organisations or for rehomed brumbies? If they're in a private citizen's home or if they're in a rehoming organisation I think it might be a bit of a different answer from Ms Jurd.

KATHRYN JURD: If they're private citizens and there is no doubt that they are not an animal trade, then we would not have the power under 24G.

The CHAIR: Just to clarify, Ms Jurd, if they're a rehoming organisation, you're going to take that on notice, because there is a whole list of regs which I am assuming is very difficult to memorise.

KATHRYN JURD: And I have so many tabs open I can't do that right now.

The CHAIR: That's fine. Would you even have the details of where these brumbies are being rehomed unless a complaint came through?

KATHRYN JURD: No, and I don't understand that there is a—sorry, I withdraw that. There is a requirement, I understand, for the authorised rehomer to tell National Parks if they have transferred a brumby. But I am aware of brumbies that have ended up places that I don't believe were the subject of an appropriate notification. I know that because I had to file an application in Port Macquarie Local Court to have them produced. You can imagine, the local magistrate wasn't entirely keen on 25 brumbies presenting to Port Macquarie Local Court. Happily, a disclosure was made to permit the stock welfare panel—these were in the context of an ongoing stock panel process. A disclosure was made, so I could withdraw that application.

The CHAIR: There are cracks.

KATHRYN JURD: But there are examples that I am aware of that resulted in poor animal welfare outcomes, and horses that I don't believe have adequate oversight even right now.

The CHAIR: Does the RSPCA have the funding and the resources to monitor the wellbeing of these horses once they've been rehomed?

TROY WILKIE: Not at present, no.

KATHRYN JURD: No.

The CHAIR: I know that's a pretty silly question.

KATHRYN JURD: We're four weeks into the financial year, so we're already kind of pushing things. I know for a fact that the Local Land Services district veterinarian and at least three inspectors I am aware of travelled significant distances to try to find those horses, particularly a mare and foal that were in a very bad way, actually. So, not for want of trying, we are attempting to maintain coverage over animals that we don't even—we're not even told when they come off-park. I believe that there is a quite stringent process for what happens from park to the rehomer and of course there has been, I understand, an audit done. But, yes, there have been some gaps there, I suspect.

TROY WILKIE: With an amount of money produced in one financial year, there has been huge, tremendous uplift—more than double the number of animals rescued from cruelty and neglect. I think we're very, very far from the point of diminishing returns for investment in POCTAA enforcement and animal welfare assistance for the communities across the State. I do think it's pretty clear that there should be more allocation of resources. With more resourcing you will get better outcomes, up to a point, and we're very far from that point. Secondly, we're often talking about things like registers of horses or other animals as well. When you have got registers, it makes the enforcement much easier because you can at least locate the animals, know where they are, see patterns and ideas of what is going on. If there are lots of horses passing through one particular property, it's worth going around there and having a look, and that might give us basis for doing so.

The CHAIR: With all of that in mind, is it fair that the report has put this to the RSPCA, where we've got situations like what happened at Wagga? This report has basically concluded that there is no statutory authority

within National Parks, there is no desire to change that statutory authority so that they can oversee it themselves, and therefore it falls on the RSPCA.

KATHRYN JURD: I wonder if they need to. I have wondered this for a little while. The RSPCA seized two macaws—a breeding pair of macaws—in a cruelty investigation. I really struggled to know—and I am the lawyer, right? I probably don't have to worry about these things, but I really struggled to know what to do with them because these are animals that will outlive us and they'd had a horrible life up to the point that we seized them. Obviously, our inspectors wanted to seize them for a better life. I required the party who took them—a not-for-profit party who took them from us under a deed of transfer—to promise the RSPCA that they wouldn't onsell them for profit and that if they were going to transfer them, they would tell us about it.

I don't even have to enforce that deed because they send photos. They update regularly. I appreciate, though, that I was talking about two macaws and we are talking about thousands of horses. Don't get me wrong; I am not saying that it couldn't be done. But you could, I think, contractually bind people who take horses from you to make them tell you—and then, if they're not telling you, stop giving them horses. That is, I think, where you close the loop on the data collection.

Ms SUE HIGGINSON: Is that the case for any other horse in New South Wales?

KATHRYN JURD: So, if it comes out of any type of industry—

Ms SUE HIGGINSON: Yes. Like, if I just breed my horse and I sell it to somebody, should I be—

KATHRYN JURD: No-one tells anyone anything.

Ms SUE HIGGINSON: That's right.

KATHRYN JURD: There is no reporting or tracking.

The CHAIR: That's the problem.

KATHRYN JURD: Yes.

TROY WILKIE: That is why I say it is an issue across all species, and all animals should be registered and tracked in some way.

The Hon. ROBERT BORSAK: Ms Jurd, if I was observed by the RSPCA shooting a horse 17 times with a .308 using 180-grain monolithic bullets, would the RSPCA prosecute me?

KATHRYN JURD: I don't know what ballistics consequences that might mean.

The Hon. ROBERT BORSAK: Forget about the ballistics—the fact that I shot it 15 times?

KATHRYN JURD: If there is evidence capable of proving the elements of an offence beyond reasonable doubt, the RSPCA would prosecute you.

The Hon. WES FANG: Are you in a helicopter, Robert?

The Hon. ROBERT BORSAK: No, I am just talking about being on the ground.

The Hon. WES FANG: If you do it from a helicopter, it is okay.

The Hon. ROBERT BORSAK: Maybe I should get a helicopter.

The CHAIR: Order! Ms Boyd has one more question.

KATHRYN JURD: I can't adopt that comment.

The CHAIR: We will finish with the last question.

The Hon. ROBERT BORSAK: With due respect, I don't think I've had an answer to that question.

The CHAIR: I think Ms Jurd did answer your question.

The Hon. ROBERT BORSAK: Mr Wilkie, would you answer that question?

TROY WILKIE: I think Ms Jurd answered the question.

The CHAIR: Order! I think Ms Jurd did provide—

TROY WILKIE: Ms Jurd answered the question.

The CHAIR: Order! Thank you, Mr Wilkie.

The Hon. ROBERT BORSAK: You've got an answer?

TROY WILKIE: Ms Jurd answered the question.

Ms SUE HIGGINSON: He said she answered.

The Hon. ROBERT BORSAK: Oh, did he? Okay. I didn't hear it.

The CHAIR: Order! Ms Jurd provided an answer.

The Hon. ROBERT BORSAK: I'm an old shooter. I'm pretty deaf.

The CHAIR: Well, I heard the answer.

Ms SUE HIGGINSON: I did.

The Hon. ROBERT BORSAK: What was the answer?

KATHRYN JURD: I can give it again.

The CHAIR: Thank you, Ms Jurd.

KATHRYN JURD: If there is proof beyond reasonable doubt capable to substantiate that the elements of an offence contrary to POCTAA, it is likely a conviction would be recorded and there are no discretionary reasons—

The Hon. ROBERT BORSAK: No, I talked about a prosecution.

KATHRYN JURD: —not to prosecute you, then the RSPCA would initiate charges. That would comply with the New South Wales DPP guidelines and our own prosecutorial policy.

The Hon. ROBERT BORSAK: So you don't know, actually, whether it is cruel or not?

KATHRYN JURD: I need a brief of evidence to work out whether or not—

The Hon. ROBERT BORSAK: Okay, thank you.

Ms ABIGAIL BOYD: Have you still not been told what your funding allocation is from the Government for this financial year?

KATHRYN JURD: No.

Ms ABIGAIL BOYD: Right. Four weeks in.

The CHAIR: Thank you to both of our witnesses for attending today. I think there were a few questions taken on notice, so the Committee secretariat will be in contact with you about those and any other further questions.

(The witnesses withdrew.)

(Short adjournment)

The Hon. PENNY SHARPE, Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage, before the Committee

The CHAIR: Thank you and welcome back to the inquiry hearing into the proposed aerial shooting of brumbies at Kosciuszko National Park. I now welcome our next witness, Minister Sharpe. Thank you for making the time to give evidence today. Minister, I remind you that you do not need to be sworn in as you have already sworn an oath to your office as a member of Parliament. Would you like to start with a short opening statement?

The Hon. PENNY SHARPE: I would if the Committee would let me. I'm keen to update you on the state of play in terms of where we're up to with all of this, and I've got numbers and everything. I can advise the Committee that, since the plan has started, which was from November 2021—just so people know—until 26 July 2024, there have been 8,944 horses removed from the park, and 5,963 of them have been as a result of aerial shooting; 1,067 have been as a result of ground shooting; and 1,008 have been as a result of rehoming. Transport to a knackery has been 672. Shooting in yards was 109. Tranquilised followed by bolt gun in yards was 70. Euthanised is 39 and there are 16 other deaths.

Currently there is no aerial control being undertaken because of the winter weather. People will be aware it is snowing in the Kosciuszko, which is good, but it means that there is not any current work being undertaken at this point. It is possible that some operations may occur again before October in terms of the opening of the park. I'd also just like the Committee to be reminded that the park is normally closed at this time of year. I know that this Committee has paid a lot of attention to the animal welfare concerns and whether there have been any incidents that have occurred. There have been some things that have been floated in the media that have been incorrect and have been corrected over that time. But the point that I'd make is that, to date, there have been no incidents of animal welfare concern or, importantly, any issues with the safety of staff or the contractors.

We will be doing the aerial count again in late October, which is the time that we do it every year. The design is being finalised and it will involve the aerial transects by helicopter with trained observers. The good news—and I know that this Committee has paid a lot of attention to this—is that we're looking at how we can improve the count all the time and for the first time we will be using mark-recapture distance sampling, which I know the Hon. Emma Hurst has been very interested in. We'll be doing that and that will be used to analyse some of the data and estimate the population. We're also looking at the use of thermal cameras as well. That will be important going forward, given that the numbers are smaller and it is more challenging in terms of accuracy.

The passive trapping and rehoming operations have recommenced this week, which is good news. But I do want to just let the Committee know that this is not going to be huge numbers and this is sort of the time when we wouldn't normally do it. We don't believe that the horses will necessarily be available for rehoming for around eight to 10 weeks. The reason for that is—weather is the first place. There is obviously snow everywhere. No further horses will be removed from the retention areas before October. That is where most of the existing trap sites previously were located. So it means that new trap sites will need to be established. I know that you visited. I don't know whether you met with any of the staff that do the trapping, but the trapping is quite a lengthy process. They basically slowly but surely build the traps to attract the horses and they sort of build them out over a period of time. So I just wanted to flag the good news is that rehoming is beginning again. But, in terms of when horses will be available for rehoming, my advice is it will be around eight to 10 weeks.

What else did I need to tell you? I've written to the Committee but I thought I'd put on record—I know that there has been interest from Committee members about what happens once we reach the 3,000 number and how we're going to manage that. Essentially there will be ongoing operations over a period of time that will basically maintain the horses at that number. We expect that we will still have to use control measures; trapping, as well; rehoming, of course; and also going to a knackery, where horses are trapped but not accepted by rehoming. We will still be doing ground and aerial shooting as required. Some of that is because in some of the parts of the park you can't do trapping anywhere else, but also it is just about keeping the numbers there. Of course—and I know the Hon. Emma Hurst is interested in this—we want to get to the reproductive controls, trialling that and trying to implement that long-term once we can try to make that work. I am happy to take questions from there, but that is the most recent update.

The Hon. EMMA HURST: Can I start by clarifying something? In your opening statement, you talked about a number of horses that were euthanised or classified as "other deaths".

The Hon. PENNY SHARPE: Yes.

The Hon. EMMA HURST: Do you know what that actually refers to?

The Hon. PENNY SHARPE: I don't know. I will take it on notice. I don't know, but it is things like horses getting hit by cars in the park. I know that one of the recent media inquiries we had was this allegation that

a horse had been shot in the leg and not dealt with. That wasn't the case. The advice I have is that the horse was hit by a car and had wandered off. When officers found it, they euthanised it. I'm happy to get a breakdown of what the other deaths are. Sometimes they break their legs in the waterways and that kind of thing. But if you want a full breakdown, as much as I can give it to you, I will get it, but I don't have it today.

The Hon. EMMA HURST: I want to ask a few questions about the investigation report that you provided yesterday. The redacted version of the report we received is titled "A Rapid Initial Assessment".

The Hon. PENNY SHARPE: This is the Centium one.

The Hon. EMMA HURST: Yes. It says it completes phase one and it talks about the terms of reference. I don't believe we have a copy of the terms of reference. Is that something that can be provided to the Committee?

The Hon. PENNY SHARPE: I don't see why not. If you don't have it, I don't see why that would be a problem, and I will be happy to provide it.

The Hon. EMMA HURST: Also, the fact that it says "phase one" suggests there is more work to be done.

The Hon. PENNY SHARPE: No, as I understand it—and you can clarify this with the National Parks team, who I believe are appearing this afternoon—phase one is an investigation about whether there has been misconduct and, given that no misconduct was found, phase two doesn't continue.

The Hon. EMMA HURST: And also, the report concludes that "there are no allegations of wrongdoing that should be put to"—and it is redacted. I assume that is the subject of the investigation.

The Hon. PENNY SHARPE: Yes, correct.

The Hon. EMMA HURST: Does this say that the allegations of wrongdoing were never actually put to the staff member involved?

The Hon. PENNY SHARPE: I would have to take that on notice. I believe that they were interviewed, but I am not going to guess. My view about this—just to be clear, and this is why it will be provided—is that there was a thorough investigation into the allegations that were put forward. I take all of those allegations seriously, and I was the one who initiated and asked for this to occur. I believe that all of the evidence has been tested and there has been absolutely no evidence found against this staff member. It is appropriate that we do robust investigation. This staff member has been cleared, which is important, but any of that other information—if you just want those details, we can follow it up.

The Hon. EMMA HURST: Yes. I suppose we are just trying to put this together based on the small amounts that we do have, and the sentence that there are no allegations of wrongdoing that should be put to this person suggests that maybe they were never actually asked about those allegations.

The Hon. PENNY SHARPE: I don't believe that is right, but let's not guess. Let me just say that there was an investigation of phone records and an investigation of emails. My reading of the report—sorry, let me just go back.

The Hon. EMMA HURST: At the moment I am just trying to piece bits together from the bits that we have been provided. Normally there is a redacted version for the public, which makes a lot of sense for privacy reasons, but usually there is a full copy of the report provided to the Committee under confidence and made confidential. Is there a reason why the Committee hasn't been provided a confidential copy to help us understand?

The Hon. PENNY SHARPE: I think the point here is, first, this staff member has been cleared in relation to the allegations that are made against them. Secondly, there are some details in the full report that go to some of the investigation—the way in which the investigations occurred that we did not want to share.

The CHAIR: With members of the Committee?

The Hon. PENNY SHARPE: Yes, that we want to keep confidential—correct.

The CHAIR: I'm just talking about the members of this Committee. What is the concern that members of this specific Committee would have that information confidentially?

The Hon. PENNY SHARPE: I'm happy to revisit it. I said previously to the Committee that I would provide as much information that I thought was appropriate and that should give you the confidence that this has been done properly, and that's what we have provided.

The CHAIR: My questions are based on confusion because it is very difficult to piece it together with the amount that is redacted. I appreciate that you wouldn't want to make the entire report public, and I appreciate what you are saying in regard to the staff member who has been cleared—

The Hon. PENNY SHARPE: Correct.

The CHAIR: —and, therefore, it would be problematic to make it public. But I would encourage you to provide a confidential copy to just the members of this Committee so that we can better understand it.

The Hon. WES FANG: Minister, just in relation to that, obviously the Committee is reviewing and looking at the issues related to aerial culling. We're the house of review. You would be well aware; you have been a member of that House for a long time. Do you think it is concerning that a member of the Executive Government has decided to redact information to provide to the Committee, and not provided it in whole—even under confidence—in order for the Committee to be able to do its job and form an opinion?

The Hon. PENNY SHARPE: No.

The Hon. WES FANG: How would you have reacted when in opposition had you been—

The Hon. PENNY SHARPE: That is a hypothetical. No, I would like to think that, whenever we come to these meetings—and we are all doing the important job that we all have to do—the information that is provided is as open as possible. I have been extraordinarily open over every single detail of what has gone on here. I am very concerned about staff being dragged into issues where they have been cleared. I have endeavoured to provide the Committee with as much information as I think that covers those issues. If you have further questions, we can keep talking about that. But the point here is that we have been very open.

It is not normal that we would provide this level of information, and if you want to go back to previous governments, we definitely didn't in relation to investigations of staff. That was even when staff had done the wrong thing, as opposed to this, where this staff member has been, in my view, accused of something. We took that accusation seriously. We have had it properly investigated; we have provided information in relation to it. If it is a matter about whether we agree or disagree or about whether that is sufficient, that is a matter for the Committee and yourselves.

The CHAIR: Minister, can I just clarify, are you happy to reconsider providing a confidential copy just to the members of this Committee?

The Hon. PENNY SHARPE: I am happy to reconsider it, but I am not committing to doing it.

Ms SUE HIGGINSON: Minister, are we talking about the report?

The Hon. PENNY SHARPE: Yes, the rapid initial assessment.

Ms SUE HIGGINSON: The material that has been redacted is the name of the person.

The Hon. PENNY SHARPE: Correct.

Ms SUE HIGGINSON: And, essentially, other than one small sentence—it looks like to my eyes—the rest is purely the name of the person concerned.

The Hon. PENNY SHARPE: That's right. My understanding around the redaction is about the location of where some of these things occurred. We need to understand that there have been very serious threats to staff in relation to this whole operation. I am very protective of making sure that part of that is not identified. As I said, I provided as much information—and I think it is significant information. But I am happy to re-look at it if people want to know more. It would be good to know specifically what people want to understand. Again, my general view is that we should disclose as much as we can. This is a really sensitive matter to deal with a staff member who has been cleared. I just want to make sure that we do that. To go back to the Chair's question, I am happy to reconsider it. If people really want to tell me too, though, about what it is you feel that you are missing or what you think that you need—I take the point about whether he was ever actually interviewed. We're happy to deal with that. But the point that I would make is that I believe—

The CHAIR: Can I just clarify, my understanding, from what I looked at, was that we only actually received the executive summary.

The Hon. PENNY SHARPE: Yes, correct.

The CHAIR: And so it is not just names that were redacted. We actually haven't received a copy of the details of the entire investigation.

The Hon. PENNY SHARPE: I hear what you are saying. I'll think about it.

The CHAIR: I just wanted to clarify, because it sounded like from Ms Higginson's question that it was just the name that was redacted. We actually haven't received the full report. I'm happy for the name to remain redacted.

The Hon. PENNY SHARPE: There is complications around some of that, as I said. But I'm happy to look at it.

The CHAIR: Okay. Thank you. I wanted to ask you a few questions about the investigation report into the rehoming program as well. The report effectively found that National Parks has no statutory authority to ensure the wellbeing and welfare of brumbies. Given this, is the New South Wales Government looking to amend the relevant legislation, or looking into other options to make sure that the situation we saw at Wagga won't happen again? Or are we just sitting with the conclusion of the report, which is that this could potentially happen again?

The Hon. PENNY SHARPE: A couple of things first. Obviously there were recommendations coming out of that report, and we have accepted all of those and we are moving through those in terms of improvement. The issue of what happens once the horses leave the national park is not unlike what happens to animals once they leave a pet shop or a breeder. I think there is a bigger question here that you are asking. The answer for me is that no, we are not looking at requiring additional sort of investigative powers or pre-emptive powers in relation to that. But we are—and I expect National Parks and Wildlife Service to obviously do what they are required to, which is check in with the rehoming around what is going on with the horses that are there. But, no, we are not looking at investigative powers or anything. I think the issue that you identify is one that exists across the way in which animals are managed in the State.

The CHAIR: It certainly does. But I guess I'm confused as to why there was an investigation and the rehoming was stopped if the conclusion is "Oh well, here's the problem." We've identified the problem, but then essentially the conclusion is to take no action to try to resolve that. The RSPCA were here a moment ago talking about whole-of-life tracking systems for horses and being able to do that within horseracing and with brumbies and that would actually solve a lot of these problems. Rather than having a report that identifies the problem and then continue on and allow the problem to happen again, is the Government looking into any solutions?

The Hon. PENNY SHARPE: With respect, I disagree with your analysis of what we are doing. We've accepted the recommendations around the operating procedures. There will be, on the way in, in terms of rehoming, better checking, and on the way out. That is the way we will deal with that. The broader issue around tracking is, I think, a bigger issue that's beyond this particular program. The reason for the investigation was because I was unhappy. It came to our attention—I mean, it's a fairly unusual situation, this one person seems to have found a way to get themselves free horses, which they then used to produce pet food and a range of other things. I don't think anyone thinks that's right. We've had a whole-of-government response in relation to that.

How we manage that into the future is to—you're not expecting when you're doing rehoming that necessarily people are setting up an illegal knackery. I don't believe that is something that sits with National Parks in terms of fixing. But I do think it is a part of how the rehoming program works. The reason we paused the rehoming program is because I wanted to be satisfied—and it was only paused for about three months, and it was also over that winter period. There is no intention to stop rehoming.

Rehoming is an incredibly important part of the way in which we manage horses in and out of the park. It's something I want to see continue, and it will continue into the future, because there are people who want to take horses, which is really good. We want to make sure that those horses are going to good places. That is obviously not the case in terms of this particular case, which is what flushed it out. It was paused to make sure there were no others who were in that situation. We've now cleared that away, and we are now working through the issue of how we manage rehoming on the way in as well as rehoming on the way out, and the horses that are going there, and I'm satisfied with that response.

The CHAIR: Minister, you've said that you don't see it as the responsibility of National Parks. But surely you see there is a responsibility of government to look into options to make sure that this doesn't happen again and that the report itself actually recognises that the recommendations, if implemented, won't stop another Wagga incident.

The Hon. PENNY SHARPE: I think there's a bigger issue around whole-of-life tracking, which I think you've identified. I think that the Government will talk about that. From my point of view, I believe we've dealt with the issues in relation to horses in Kosciuszko National Park and our rehoming program. We're committed to the rehoming program and will continue to be so. We're always looking for improvements, and I think that this has been a wake-up call in relation to how we need to make sure that people are doing the right thing when they want to be rehoming.

The CHAIR: The report essentially says that any welfare issues concerning the rehomed horses is a matter for the authorities such as the RSPCA and the Animal Welfare League. Are you aware that these agencies don't even have any indication in regard to how much funding that they have going forward in this financial year? They just mentioned—was it four weeks—after the budget they're still unaware of how much funding they will receive.

The Hon. PENNY SHARPE: You'd be aware that the funding of the RSPCA doesn't sit with me.

The CHAIR: I understand that.

The Hon. PENNY SHARPE: My understanding is they're working through those issues with the Minister responsible and they'll continue to do so. There's no doubt everyone is under pressure in terms of our current financial situation, but I'd expect those to get worked through with the relevant Minister.

The CHAIR: In answer to questions on notice you advised that, between 4 April and 3 July this year, 4,604 brumbies were killed in Kosciuszko and the vast majority of them—3,878—were killed in retention areas. I'm just confused as to why there has been such a focus on the retention areas. Why were so many of those horses that have been killed within the retention areas?

The Hon. PENNY SHARPE: The short answer is that's actually where the highest number of horses are, I'm advised. We're obviously working through carefully in relation to the 3,000 number and that continues. Whether it's in a retention area, whether it's in a prevention area or whether it's in a no-go area—we started in the no-go areas and the staff have moved through. I'm very confident that there are way more than 3,000 horses that are still in the park. We'll continue to work through until we get that number. I'm really pleased that we're updating and trying to improve the count all the time.

The CHAIR: Minister, are you saying that you're focused on the retention areas because, in the prevention areas—where the argument is that the horses are most at risk—the shooters simply aren't finding enough horses in those areas?

The Hon. PENNY SHARPE: No, that's not what I'm saying.

The CHAIR: Then why have they gone to the retention areas if you're saying that's where the horses are?

The Hon. PENNY SHARPE: We're working through all the park because there are up to 20,000 horses and we need to get them down to 3,000. We're working through that area. Obviously the retention areas are going to be where the 3,000 will be retained into the future. Again, you can ask National Parks in terms of how they decide it, but my understanding is that there's a range of different reasons. I'm not quite sure what you're trying to ask about—whether there's a risk here?

The CHAIR: It's just bizarre that the huge majority of horses that were killed were killed in the retention areas and there's a very, very small number of horses that have been killed in the prevention areas. I don't understand it.

The Hon. PENNY SHARPE: The first thing I'd say is that the concentration is more there. We're still very confident that there are up to 20,000 horses there. We're only dealing with the work up to around—at the minimum level. We're taking a very conservative approach, which is expecting that there are around 12,000 horses. We need to move through that. I would just make the point that various people have made allegations that there are less than 3,000 horses in the park. Clearly, given we've removed almost 9,000, that shows that's incorrect. The point, or what we're trying to do, is to get the horses down as quickly as possible so that in the future we actually have to cull fewer horses. This is why we're doing this, and dealing with the damage to the park as well. Again, rather than me guessing, I think ask National Parks the details of what and when.

But there are issues about the conditions on the day. It's a very big park. In some of the more wilderness areas, there are fewer horses. Part of the thing we are trying to do is to move them out of those very sensitive areas because they have started to move into that part because the numbers have been so high. That is not normally where the horses exist. The horses prefer to be on the plains and that is where the vast majority of them are. I am not going to guess around the whole distribution, other than to say that we are carefully doing what we need to do, which is to reduce the horses down to 3,000. We are doing that in all areas of the park when we can.

The Hon. WES FANG: Minister, I am going to ask if I can have these documents circulated.

The Hon. PENNY SHARPE: Have you numbered them?

The Hon. WES FANG: There are only two pages.

The Hon. PENNY SHARPE: I hope you've numbered the pages.

The Hon. WES FANG: They are not numbered pages. However—

The Hon. PENNY SHARPE: You haven't numbered the pages. Have I taught you nothing?

The Hon. WES FANG: They are in sequence, Minister, and I have stapled them by hand myself for you.

The Hon. PENNY SHARPE: Let's see how we go.

The Hon. WES FANG: I am going to ask if I can have these circulated. The page numbers are on there. As I said, they are only transcripts. I am fairly sure you know your way around a transcript of a Legislative Council inquiry.

The Hon. PENNY SHARPE: I do.

The Hon. PETER PRIMROSE: But not this inquiry.

The Hon. WES FANG: I think the Minister has done pretty well.

The Hon. PETER PRIMROSE: My stress is that this evidence is not based on evidence given to this inquiry.

The Hon. WES FANG: This is actually this inquiry. Minister, this is the transcript of your earlier appearance. It was the previous hearing to this one, where we discussed the Wagga issues, I will call it. You will see that I have highlighted some comments. They are predominantly the answers you gave around the ceasing of rehoming.

The Hon. PENNY SHARPE: I stand by all of them.

The Hon. WES FANG: I appreciate that. You have said that part of the reason why we stopped rehoming was because of the Wagga knackery issue. I think it was shocking for people. You said that obviously you were very concerned about the rehoming aspect of it, that you were extremely concerned when you heard about it and you took action straight away when you were alerted to it.

The Hon. PENNY SHARPE: I did.

The Hon. WES FANG: You indicated:

Because I don't consider rehoming of 260 horses that are then illegally—are then disposed of a good rehoming program.

You said:

I do not think an outcome where 260 horses were rehomed and didn't survive to be a good one.

The Hon. PENNY SHARPE: Correct.

The Hon. WES FANG: We can all be in agreement that these were your answers and that—

The Hon. PENNY SHARPE: And I stand by them.

The Hon. WES FANG: —there were, I would say, inadequate outcomes for those horses. Because you were obviously concerned—

The Hon. PENNY SHARPE: As to the other horses that had come from other places as well that ended up at that knackery.

The Hon. WES FANG: I don't disagree with you there, Minister.

The Hon. PENNY SHARPE: Peace in our time.

The Hon. WES FANG: For the moment. I will table this second one, which are extracts of the report. I have highlighted certain sections of it. It really does lead on from what the Chair was discussing with you around the inadequate, I'd say, outcomes of this inquiry—failing to understand what created your concern or your reason for ceasing the rehoming program. It hasn't addressed any of those issue, really, has it?

The Hon. PENNY SHARPE: Are you asking me about the things that you have highlighted? The use of the highlighter is very helpful. I appreciate that.

The Hon. WES FANG: I do try, Minister, you see. I am an evolving person.

The Hon. PENNY SHARPE: Mr Fang is improving in his use of documents. Very good. Tell me, what is the question?

The Hon. WES FANG: I had questions in my head that I would ask while the documents were being circulated so that we weren't sitting here looking at each other whilst the documents were being circulated. The first question that I had was that, in effect, the report doesn't address any of the concerns that you told the Committee about previously. You were concerned about the shocking nature of it and you said people were rightly shocked. You said that you didn't think it was a good rehoming program when 260 were slaughtered like that. This report addresses none of those issues.

The Hon. PENNY SHARPE: I disagree about that. The two things I would say about that is this was—my concern about this is making sure that National Parks and Wildlife Service is doing the right thing in terms of rehoming. I stand by everything that I have said. The fact that horses went to a place and basically were just used in an illegal knackery as free horses for pet food is not a good outcome. That's why we looked at what is the process for rehoming in relation to the bit that National Parks and Wildlife Service deals with. We've got recommendations from that, and we're applying that. I would not want to see the same outcome that we've seen there. The second thing that I would say to you is that there was also a whole-of-government process around what happened with that knackery. It brought in a whole lot of things. There were roles for local council. What does it mean for the racing industry in terms of why horses ended up there? What was the role of the food authority—because there was illegal pet food. There have been charges laid against that individual in relation to ammunition.

I think it's a bigger question around how that could occur that I indicated to the Chair, which is also about whole-of-life tracking for horses or, indeed, any other animals. I think there are lessons to be learnt from that. Coming back to your question, I believe that the investigation was adequate. In fact, I think it was thorough, and I welcome the fact that it was as quick as it was. It has pointed to how we need to improve the rehoming program, and I believe it will be as a result of this investigation.

The Hon. WES FANG: Obviously in your last appearance you spoke about how there were less than desirable outcomes.

The Hon. PENNY SHARPE: Yes.

The Hon. WES FANG: What are you implementing this time around that's going to stop this happening again?

The Hon. PENNY SHARPE: As I said to the Chair, there are recommendations that have come out. I don't know whether all the recommendations—are they in here? Are they in this document?

The Hon. WES FANG: Some of them.

The Hon. PENNY SHARPE: Here are the recommendations. Reconfirm the program intent and adjust the standard operating procedures to reflect the role of National Parks and Wildlife Services—yes, we're doing that. Clarifying the role of National Parks and their relationship with other government agencies—yes, we're doing that. Improve the application process—and I think this is where some of this gets really important. When people want to be rehomed, ask them, "What are you intending to do as a rehomer? What is your plan?" That sort of work will be undertaken. Formalising and improving the end-to-end processes supporting the program, which is, again, checking in and making sure that we know what's going on and asking questions. I believe it's going to be better as a result of that, and that's why we've accepted the recommendations.

The Hon. WES FANG: If you were operating an illegal knackery, would you likely say, "I am going to take these horses for pet food and use them in my illegal knackery"?

The Hon. PENNY SHARPE: I don't know.

The Hon. WES FANG: Do you think you might need something that's slightly more rigorous than a better application process?

The Hon. PENNY SHARPE: I suppose what I would say to you is that—this Committee has been meeting for a long time. You've been looking at those issues. When you do your report, I anticipate that you'll make some recommendations about areas where you believe we need to make improvements, and the Government will look at that.

The Hon. WES FANG: How much did this report cost, Minister?

The Hon. PENNY SHARPE: I don't know. I'd have to take it on notice.

The Hon. WES FANG: Thank you.

The Hon. PENNY SHARPE: Just to be clear, though, this investigation happened because of important information that came to light from Ray Hadley, where he raised these allegations. I was immediately concerned and immediately said that we need to have an independent inquiry into the allegations of the individual member of staff—who has been cleared—and that we need to work through the issues that this has raised for the rehoming program. I'm happy to give you the figure, but these two were very important investigations that have been done very quickly and have been done very thoroughly.

The Hon. WES FANG: I was going to come to this, but something that you just said then is that the allegations came about because of Ray Hadley. What this report shows—and it isn't in the pages that I've given you—is that it wasn't the first complaint. In fact, National Parks and Wildlife Service had complaints previously

about the person of interest. The report also shows that it was actually the person of interest that removed themselves from the rehoming program—

The Hon. PENNY SHARPE: Yes, because they had—

The Hon. WES FANG: —not National Parks and Wildlife Service.

The Hon. PENNY SHARPE: Well, I think what this whole issue has—

The Hon. WES FANG: But there were three complaints, Minister.

The Hon. PENNY SHARPE: Yes. I'd like to know everything that's happening at all times. That's not actually possible. I can only be in control of the things that I know when I find them, and I took immediate action. I think the point, though, in terms of this whole illegal knackery case is that there were issues in terms of shared data across government, which is being addressed through our response, and that's what we're trying to tighten up. This is a very unfortunate case, but it actually brought to the front a lot of the questions that you're all asking that we all agree on are unacceptable, and the Government is responding to those. We don't want it to happen again, and we're working to do as much as we can to ensure that it doesn't.

The Hon. WES FANG: I'll take you back to your transcript to the first answer on page 32, the front page. You said that it was because of the Wagga Wagga knackery issue and it was shocking for people, that's why you've instigated the report.

The Hon. PENNY SHARPE: Yes.

The Hon. WES FANG: In that case, Minister, why in the scoping exclusions does it state that the investigation focused only on the program and the supply of wild horses to the person of interest and did not consider the person of interest, the conduct and actions of the person of interest or their suitability to be a rehomer?

The Hon. PENNY SHARPE: There are two parts to that. One is because there was a whole-of-government response in relation to how we dealt with the issues that arose from this case and the person of interest. The second part, say again?

The Hon. WES FANG: I just don't understand, given that it was the—

The Hon. PENNY SHARPE: What's the second part of your question?

The Hon. WES FANG: There was only one part, really.

The Hon. PENNY SHARPE: There were two parts. I've answered the first bit. Do you want me to answer the second?

The Hon. WES FANG: The question was in relation to your statement saying it was because of the Wagga knackery issue that you've had the investigation. Why did you exclude the person of interest and their conduct in the rehoming program from the investigation?

The Hon. PENNY SHARPE: Because that's not what the investigation was about. As I said, there were two things happening. There was the whole-of-government trying to get to the bottom—you need to realise that all of this was happening at the same time, as quickly as possible, because we wanted to get to the bottom of how this could occur. So there's a whole-of-government process where all of the various agencies are pulled together by the Premier's Department and they're working through a range of those issues. The issue that I have direct oversight over is the National Parks and Wildlife Service and the rehoming program. In relation to the actions of the person of interest and their suitability to be a rehomer, it goes to the outcomes of this review, which is that we need to do more work on the way in, we need to share data better and we need to check in, and that's exactly what we're doing.

The Hon. WES FANG: Minister, you do understand the issue here that—

The Hon. PENNY SHARPE: Yes, I do understand. I understand what you're saying to me.

The Hon. WES FANG: Yes, so why would you exclude the very—

The Hon. PENNY SHARPE: Sorry, just to be clear, it's an independent investigation that I did not interfere with.

The Hon. WES FANG: No, I appreciate that. So who commissioned the inquiry? Who set the terms of the reference?

The Hon. PENNY SHARPE: The secretary.

The Hon. WES FANG: Why did the secretary exclude the person of interest and their conduct in relation to the rehoming from this inquiry when their conduct is the very reason why you had the inquiry?

The Hon. PENNY SHARPE: No, the reason why we had the inquiry is that 260 horses that were rehomed ended—

The Hon. WES FANG: By the person of interest.

The Hon. PENNY SHARPE: Are you going to let me finish?

The Hon. WES FANG: Yes.

The Hon. PENNY SHARPE: I'm not quite sure the point that you're making here. Again I'd say two things. One, I believe that this was a thorough investigation that dealt with the rehoming. Two, what this case uncovered were holes in the way in which this operated, and we've now moved to close those. Thirdly, if you've got issues around the investigation, around that particular person of interest, there were a range of different investigations going on through the whole-of-government process. The only charges that were laid were, I understand, ammunition charges, and that is what this program showed up.

I don't believe that there is any inadequacy in relation to the way in which this investigation was held. But, again, this is exactly what this Committee is doing. It's why you're here. If you want to make recommendations around the way in which these investigations can be made, you can. If you're suggesting that there was any way for me to interfere in relation to this, that's wrong. If you suggest that there was any attempt to try to water down what was going down in here or to try and cover over this, I utterly reject that. The point here is that this was an investigation that we did very quickly. It's about making sure that our rehoming program works and is functional, and that people can have trust—both those that want to rehome and those that care about what's happening with those horses that are rehomed and that we will be able to deal with that. I believe that we're achieving that.

The Hon. WES FANG: You've mentioned a number of times that there was a whole-of-government response being handled by the Premier's Department.

The Hon. PENNY SHARPE: Yes.

The Hon. WES FANG: Have they generated a report?

The Hon. PENNY SHARPE: Good question. I don't know. I'd have to take it on notice. What they did is they pulled everything together and we all dealt—because, as I said, there was the food safety authority, there was Racing, there was National Parks and Wildlife, there was the RSPCA and there was also local council. So I can't answer whether there was a report or whatever. I can take it on notice and let you know.

The Hon. WES FANG: There are a number of exclusions outlined on this page, but I'm really concerned about the fact that we've excluded the actions and the engagement of the person of interest. Who is—

The Hon. PENNY SHARPE: Why are you concerned about that? What is your concern?

The Hon. WES FANG: I don't understand why we've excluded that, given that that is the issue that is of most concern to people and you've indicated that it was very shocking for people. Particularly, being from Wagga, I understand the concern of people around Wagga. I think that understanding how it occurred is crucial to understanding how we fix it in the future. To exclude all these aspects of it and only look at the rehoming process seems to me—

The Hon. PENNY SHARPE: That's the bit that's in my purview in relation to that.

The Hon. WES FANG: I understand that but, however—

The Hon. PENNY SHARPE: It's not our job to investigate the motivations of an individual who is clearly doing the wrong thing. There were the right investigations with the right agencies in terms of, you know—

The Hon. WES FANG: But, Minister—

The Hon. PENNY SHARPE: No, let me finish.

The Hon. WES FANG: Yes.

The Hon. PENNY SHARPE: Whether it was a matter for police, whether it was a matter for the Food Authority, whether it was a matter for what local council actually regulates, this was a complicated case. I just don't understand what you think this investigation should have done in relation to this person.

The Hon. WES FANG: "The conduct and actions of the POI"—

The Hon. PENNY SHARPE: Yes, I can read it. You've now read it four times.

The Hon. WES FANG: —"or their suitability to be a rehomer".

The Hon. PENNY SHARPE: Yes.

The Hon. WES FANG: Now, I would have thought that the first point of call when looking at the rehoming program was understanding how this person was deemed suitable for rehoming, was considered suitable after any number of complaints—and there's a timeline in the report that outlines that—and that, ultimately, it wasn't National Parks and Wildlife Service that removed their approval.

The Hon. PENNY SHARPE: No. He got busted elsewhere and then he pulled himself off. I do understand what happened here, yes.

The Hon. WES FANG: Yes. To exclude all of that and to not look at how this person was considered and maintained their suitability for rehoming completely misses the whole point of doing a report.

The Hon. PENNY SHARPE: Well, I look forward to your recommendations coming out of the Committee's deliberations in relation to this, and I would simply make the point that the whole reason we ended up having this report was because of the actions of this individual, which clearly were not acceptable to anyone. The recommendations that come out of this report say we need to do better in terms of the application process. In my view—you asked me for an opinion and I probably shouldn't give it, but I'm going to—the key thing is that this person applied and there was no reason to suggest that anyone knew that this is what was going to happen to those horses.

What we've realised through this investigation, and the recommendations that we have accepted and are implementing, is that we need to check on the way through who this person is. The actions of one individual, who clearly was aberrant in terms of the way he was interacting with all of the different agencies, is the case. I just don't accept your basic argument that somehow there's something wrong with this report. There's not, because the actions and the recommendations that come out of it mean that someone like that person is not in a position—wouldn't be able to be doing the rehoming in the future. That's the entire point.

The Hon. WES FANG: If you turn to the next page, Minister, you'll see that the next thing I've highlighted—

The Hon. PENNY SHARPE: Is this page 5?

The Hon. WES FANG: Page 5.

The Hon. PENNY SHARPE: Yes.

The Hon. WES FANG: I've highlighted "The collection of data on the fate of the horses is only used to support the improvement of the program."

The Hon. PENNY SHARPE: Yes. What's wrong with that?

The Hon. WES FANG: It was quite clear from the timeline that the person of interest failed on multiple occasions to provide that data that guides the program. That should have been a warning sign to the National Parks and Wildlife Service.

The Hon. PENNY SHARPE: Agreed. That's why we're fixing it. Yes, totally agree.

The Hon. WES FANG: But when you say that the data is only used for the improvement of the program, how is that the case when multiple failures to provide that data didn't give any trigger?

The Hon. PENNY SHARPE: That's what the review uncovered. That's what we've said is not good. That's what we're fixing. I can't go back and—

The Hon. WES FANG: But you agreed that the report says that there's no requirement on the National Parks and Wildlife Service to insist on this data being given back.

The Hon. PENNY SHARPE: No, there wasn't. And that's why there's now the check in the recommendations that are in the report.

The Hon. WES FANG: I'll now move to the next thing that I have highlighted, which is that the National Parks and Wildlife Service did not receive information or guidance from other government agencies regarding the person of interest that would have required the National Parks and Wildlife Service to remove the POI from the program.

The Hon. PENNY SHARPE: Yes. What's your problem with that?

The Hon. WES FANG: Well, given that you've excluded their interactions and the—

The Hon. PENNY SHARPE: With respect, I think you're misreading that. What this says is that they did not receive the information. This is what everyone accepts. The whole point of what, again, this important investigation has uncovered is there was not data sharing and that there were red flags from other agencies that were not passed on to National Parks, and they should have been. Again, you have zero disagreement from me. It was totally unacceptable. But this is why.

The Hon. WES FANG: But, Minister, the timeline indicates that there were complaints and concerns raised with the National Parks and Wildlife Service, and that they did nothing about it, from 2021 onwards.

The Hon. PENNY SHARPE: You haven't provided me with that information in terms of that time frame.

The Hon. WES FANG: It's in the report.

The Hon. PENNY SHARPE: I don't have all of it in front of me. I'm pretty good with remembering what's in the report, but you like to give me documents. If you had the timeline and you could point that out, I could probably give you a bit more information. But the point that I would make is that this is exactly why we did the review. The review is pointed to the inadequacies and we've fronted those. We accept that things needed to change and we're doing that. Without the stuff in front of me, I would simply say where did that information come in? How is it integrated?

You were previously in government. Sometimes it depends on where that information comes in to and whether it comes to the right person who would flag it. If it comes in to someone who has nothing to do with it, how do they pass it on? I would encourage all of my agencies, all the time—and I do this in government all the time—to share the data, share the information and make sure it's getting to the right person so that if there are red flags, they are picked up and they're not left.

The Hon. WES FANG: I'm going to take you to the last page that I've highlighted. It talks about the scope limitations. I've highlighted the whole of section 1.6. In effect, it basically says that they've relied on interviews. The bit that really concerns me is this:

We have not sought to verify the accuracy or completeness of the information made available to us, nor have we conducted any procedures in the nature of an audit of the information or assumptions therein in any way, other than has been specifically stated in this report.

Minister, we've got a report here that has excluded the actions of the person of interest—

The Hon. PENNY SHARPE: For good reason that I've explained.

The Hon. WES FANG: —that hasn't sought to verify the information that it contains. It hasn't indicated that there are requirements for improvements in relation to the tracking and affirmation of animal welfare outcomes during rehoming. What tangible improvements do you think the report is going to provide to the rehoming program to ensure that the National Parks and Wildlife Service aren't handing out horses and brumbies to somebody to turn into pet food?

The Hon. PENNY SHARPE: Under recommendation 1, we are confirming that we're committed to rehoming. People who want to rehome horses should be able to, and we'll have a system and standing operating procedures that will work to maintain the welfare and care for those animals. As for clarifying the role for National Parks and Wildlife and their relationship with other government agencies, again, we have talked about this a lot. This is about improving data and dealing with all of those matters. For improving the application process, we need to make sure that we understand what people's intent is in relation to the rehoming of horses and then check in at the end. That is a significant and absolutely important thing. The whole point of this was to get to the bottom of it.

I'm not sure whether you're in favour of or against rehoming. I'm not quite sure what you want. I know that the Chair is very keen on rehoming because she knows there are people who actually save those animals and that they can go to good and loving homes. They can be used in a whole range of ways, and that's fine. That's what we want to continue. The role that I have got is to make sure that that is done in a way that puts animal welfare at the front and that it works through. I believe this investigation was thorough. I believe this investigation has given us the direction that we need, but again I would welcome the Committee's recommendations as a result of this report and this inquiry, and obviously the Government will give them due consideration once they are finalised.

The Hon. WES FANG: The last thing I want to say on this is that—

The Hon. PENNY SHARPE: Is it a question or is it a comment?

The Hon. WES FANG: It's a question but I'm framing it in a way.

The Hon. PENNY SHARPE: Are you sure?

The Hon. WES FANG: I am sure, Minister.

The Hon. PENNY SHARPE: Can I take it as a comment?

The Hon. WES FANG: I am framing it in a way.

The Hon. PENNY SHARPE: You try to verbal it but, sure, you go there. That's fine. I might take it as a comment but let's see how you go.

The Hon. WES FANG: If this was a report on how to improve the loss of lives on the roads and it says "improve the roads"—

The Hon. PENNY SHARPE: Yes, that's kind of what the roads Minister does.

The Hon. WES FANG: —that is an obvious answer.

The Hon. PENNY SHARPE: Yes, funnily enough.

The Hon. WES FANG: The question is how. Nothing in this report indicates how you are going to do it.

The Hon. PENNY SHARPE: I just disagree with you on that. We can take this up. If you want me to provide to the Committee some more specific work that is being undertaken in relation to those recommendations, I can assure you—

The Hon. WES FANG: Yes, Minister.

The Hon. PENNY SHARPE: I'm happy to do that.

The Hon. WES FANG: That's exactly what this Committee wants.

The Hon. PENNY SHARPE: Great!

The Hon. WES FANG: We want the details, which is why the Chair is upset that you have redacted half the report.

The Hon. PENNY SHARPE: Don't verbal the Chair.

The Hon. WES FANG: I'm not verballing the Chair.

The Hon. BOB NANVA: I don't think she was upset.

The Hon. WES FANG: She's devastated that the report was—

The Hon. PENNY SHARPE: Just keep doing it then. Thank you for telling us what we feel, Mr Fang. We're all really happy to hear it because you obviously know better.

The CHAIR: Order!

The Hon. PENNY SHARPE: It's really good when you speak on behalf of us; we love it.

The Hon. WES FANG: Now you're verballing me, Minister.

The CHAIR: Order! The Hon. Wes Fang, do you have a question?

The Hon. PENNY SHARPE: Yes, where is the question?

The Hon. WES FANG: The question was: How are you going to improve it? It says to improve it, and you keep pointing to these recommendations saying, "Improve, improve."

The Hon. PENNY SHARPE: And our acceptance of the recommendations—and if you would like some dot points on how those are rolling out, I'm happy to provide them to the Committee and in fact would welcome that.

The Hon. WES FANG: As an addendum to the question—

The Hon. PENNY SHARPE: Are we having another hearing? I'm happy to come back.

The Hon. WES FANG: I reckon we should.

The Hon. PENNY SHARPE: We've got estimates. You can spend all your time with me at estimates.

The Hon. WES FANG: I won't spend all my time.

The Hon. PENNY SHARPE: Sorry, I don't want to be rude about it. These are serious questions. I don't think anyone has thought that what happened here was a good thing; no-one has. I have sought to get the

investigations done, to get the improvement processes underway and to make sure that rehoming is rigorous, robust, caring and a very important part of the future of managing horses in Kosciuszko National Park, and that is what we are doing.

The CHAIR: I just have a couple of last questions. I think this is one that you might need to take on notice. But, if you can, are you able to provide the total cost of the aerial killing program to date?

The Hon. PENNY SHARPE: I can give you up to date—Mr Borsak actually asked me this recently.

The Hon. ROBERT BORSAK: Yes.

The Hon. PENNY SHARPE: I gave it to him on notice. I actually brought that in because I thought I might get asked this today. Let me just check. I do actually have this. This is up until 1 July. Why don't I provide the following information: From November 2021 to June 2022, there were 339 horses removed and it cost around \$780,000—I am just rounding. Between the years 2022-23, the financial year, there were 1,274 horses removed and that was around \$1.2 million. From 1 July 2023 until 18 June, which is the latest figures that we had, at that point there were around 7,247 horses removed. The cost was around \$6.3 million. The information that I have is that between November 2021 and 18 June 2024, the cost was \$8.2 million, 8,860 horses removed.

The CHAIR: Do you have an anticipated date that shooting would recommence?

The Hon. PENNY SHARPE: Obviously it's paused now. We're doing the count in October—that's late October—so it's quite possible that shooting will recommence probably in October. But that is again subject to all of the usual caveats—weather, availability, what else is happening at the time and those kinds of things. It is quite likely that we expect to recommence in October.

The CHAIR: And that is after the count?

The Hon. PENNY SHARPE: No, there might be some before the count as well. But obviously while the count is being undertaken there won't be anything happening then, because we need to do that properly.

The CHAIR: And the next population count itself, you are still planning to use the same counting methodology?

The Hon. PENNY SHARPE: This is just at the beginning, so, yes. The point with the count, too, is to make sure we are doing it the same way, so that it's replicable. There is one we are definitely doing, which is that we'll be using the mark-recapture distance sampling in this count, which will be used to analyse the data and help with the population estimate. We're also considering the use of thermal cameras to support the analysis. That would obviously be a big step forward if we can actually get down to exactly how many there are. There is some pretty good technology coming onboard. We're looking at doing that. My advice is this will help us get a population across the park, but it will become more important in terms of the retention areas over time because we have fewer horses.

The CHAIR: Going back to the part of the rehoming report about any welfare issues concerning the horses once rehomed being a matter for the authorities, I also asked the RSPCA in this morning's session—

The Hon. PENNY SHARPE: Yes, I saw the tail end of that.

The CHAIR: They said that they don't think that they have the power to investigate if it is an individual rehomer; they are unclear if they have the power to investigate rehoming organisations unless there is a specific complaint. There is obviously still a big gap here. Is this something that you are going to be working with the agriculture Minister on, in any capacity, to try to make sure there is some sort of change?

The Hon. PENNY SHARPE: I thought it was an interesting discussion. I'm happy to take on notice that sort of specific, but my understanding of the way that the legislation operates is this is not dissimilar to how it all operates. RSPCA acts on the basis of complaints. They don't necessarily just do proactive walking in. There is a whole range of issues around whether they have got the powers to just walk onto someone's private property and under what circumstances. My understanding is that is the same as everywhere else. There is nothing particularly different about that.

But I'm not a lawyer and this is not my legislation, so I would put the caveat on that that I'll come back to the Committee to clarify what our understanding is in relation to that, just to make sure that I haven't said the wrong thing. But that's how I understand it. The broader issue that this has thrown up is, again, when do we intervene in relation to animal welfare, under what circumstances, what powers do people have? I think that's part of the broader conversation around POCTAA and the way in which the animal welfare organisations legislation is established. The horses and rehoming is a very small part of the whole kind of way in which we manage the

care and protection of animals. But I'll come back, if there is sort of—based on those questions, just to clarify any of that.

The CHAIR: I think what I'm trying to say is that this is just another example of where the current animal protection legislation falls through. You're right that it isn't just this one area, but I think that here is a really good example of how the entire legislative structure is still failing and it falls into this area—

The Hon. PENNY SHARPE: I will defer to your understanding of the legislation on animals. That's fine, but I do think, again, it's not special. It is part of the whole way, and it is really part of a conversation that we're all having around what we're doing in terms of animal welfare legislation. Obviously the Government welcomes that conversation because we're doing a lot of work in this area as well.

The Hon. WES FANG: How do you confirm the number of horses that are killed, particularly shot from the air? Does the shooter, or the pilot, keep count?

The Hon. PENNY SHARPE: I think you're getting to have that conversation with people who have much more expertise than I. I suggest that you ask them that question. But I am very confident that we know exactly what the count is, on every horse.

The CHAIR: Thank you, Minister, for your time giving evidence today. There were several questions taken on notice. The secretariat will be in contact with you about those questions and if the Committee has further questions for you as well.

(The Minister withdrew.)

(Short adjournment)

Mr ATTICUS FLEMING, Deputy Secretary, NSW National Parks and Wildlife Service, on former affirmation
Mr ROBERT SMITH, Executive Director, Park Operations Inland, NSW National Parks and Wildlife Service, on former affirmation

The Hon. BOB NANVA: Mr Fleming and Mr Smith, thank you for making the time to give evidence this afternoon. I remind you that you don't need to be sworn as you've previously been sworn at an earlier hearing before this Committee. Would you like to start by making a brief statement?

ATTICUS FLEMING: I was going to provide some additional information. The Chair, in particular, I think asked a question about the number of horses removed from retention areas compared to removal areas. I was just going to really confirm what the Minister had said and elaborate a little to say that the reason why the number of horses removed from retention areas is higher is because those areas are larger but, more importantly, those areas contain the densest population of horses. There are far more horses in retention areas to begin with. That explains why there are more horses that have come out of retention areas than removal areas to date. But based on our numbers and the original population estimate, and using that science, we can be 97.5 per cent confident that the population in those retention areas currently is at least—with 97.5 per cent confidence—3,712. We've managed the process conservatively to ensure that we stay well above the 3,000 population target for retention areas.

The Hon. WES FANG: Mr Fleming, I asked this question of the Minister and she suggested that I could ask the following witnesses, which would be you. You can thank the Minister for this one. How is it that you keep a track of the number of horses that are killed? Is it the observer that literally just scratches down on their—

ATTICUS FLEMING: The navigator, yes, keeps a record of all the horses that are shot. We are very conscious of the level of public interest in the program, obviously. So we have, after every operation, someone talking to the pilot, to the navigator, to the shooter, to confirm things like not just the numbers but that there have been no adverse welfare incidents or anything else that we should be thinking about.

The Hon. WES FANG: Given that about 5,000-odd horses have been culled by aerial means and, obviously, the program has ceased now because of the weather and the snow, what's happened in relation to carcass management?

ATTICUS FLEMING: We have been implementing the carcass management plan. I think Mr Smith will have the exact numbers that have been moved. Initially, we try to avoid shooting the horses if they are obviously in or close to waterways. But if, having shot horses, they are within the distances that we designated in the carcass management plan, then they're moved either via vehicle or by helicopter.

ROBERT SMITH: I can add to that and say that there have been 328 removed under the carcass management plan. I can't give you what proportion of horses that is, but the number is 328, up to date.

The Hon. WES FANG: So it would be around 6 or 7 per cent if we're talking about 5,000 or somewhere in that region?

ATTICUS FLEMING: Yes. I think the total number of horses aerial-shot is 5,963.

The Hon. WES FANG: Close enough to 6,000, then. So there has been 5 per cent, or thereabouts, moved. When you say that they're moved or removed, what happens? Do you move the carcass out of the waterway but leave it within—

ATTICUS FLEMING: Within the park, yes.

The Hon. WES FANG: So it would be fair to say that come opening time, when the thaw has set in and people are traipsing through the park, there is going to be about 6,000 dead horses sitting around Kosciuszko?

The Hon. ROBERT BORSAK: Laying around.

Ms SUE HIGGINSON: Dead horses don't sit.

The Hon. WES FANG: True. There is not a lot of sitting happening.

ATTICUS FLEMING: There will be carcasses in the park. That is correct. I should add, we do extensive aerial shooting in Kosciuszko National Park every year and shoot thousands of deer, for example. There are always carcasses in the park. This year there will be deer, pigs and horses. Obviously, we have tried to manage the program to avoid some of the busiest times of the year across the park, and we've also tried to implement that carcass management plan. It's not just about waterways; it is also about set distances from some of the visitor infrastructure.

The Hon. WES FANG: It would be fair to say, though, that 6,000-odd horse carcasses plus the deer, pigs and whatever other feral animals have been culled at the time creates quite a food source, doesn't it?

ATTICUS FLEMING: I'll make two comments. One, this is what happens across the State on private and public land. I think LLS are shooting—I think, certainly, it's in excess of 50,000 pigs, mostly on private land, over the past 12 months. It'll be more than that. And it's the same; the standard practice, private or public land, is for those carcasses to decompose in situ. So it's not unusual in that sense. If you are moving to a related point, which is "Is there any risk of an increase in pig numbers?", for example—no, because we are shooting pigs at the same time. Is there any risk in relation to wild dogs? No, because we're delivering, in fact across the State, the largest wild dog control program that the park service has implemented, as well.

The Hon. WES FANG: But they do, you would agree, add additional food sources that wouldn't have necessarily been there and that will attract additional feral animals? Is that not the circumstance?

ATTICUS FLEMING: What I'm saying to you is that we are investing in significant feral pig controls as well and significant wild dog controls. I do not expect an increase in other feral animal numbers. In fact, I hope—and we'll be tracking this over the next couple of years, but I'm hoping it results in a decrease in other feral animal numbers, because the team, as they're implementing the horse program, are removing sambar, pigs, other ferals as well.

The Hon. WES FANG: Is it possible at all that it's not just the horses that are creating a risk for endangered species like the broad-toothed rat; it's actually other feral animals such as those wild dogs, the pigs, the deer that are trampling through those grassy lands as well?

ATTICUS FLEMING: Whether you take the broad-toothed rat or any other threatened species, yes, there are a range of threats operating at a landscape scale—a number of feral herbivore species, feral predators, other threats. That's why we are aiming to address all of those in an integrated way. Up until now the problem has been we have not been addressing it in an integrated way because one of the key feral animals in the park has not been controlled. Now we get to do it in an integrated way.

But I will say, in relation to the broad-toothed rat, the scientific committee, when they looked at that—and this is an independent scientific committee—acknowledged that there were several threats. They say feral herbivores are a key threat and the feral herbivore that has the biggest impact—I'm paraphrasing, but that's what they've said—is the horse. I'm not sure exactly what you're getting at with your question, but I acknowledge there are a range of threats to native species. Wild horses, feral horses, are one of the key threats. They have a disproportionate impact on some species. Unless the wild horse population is reduced, we're going to see severe impacts on species like the broad-toothed rat and on the integrity of the park overall.

The Hon. WES FANG: Do you conduct culling operations at night?

ATTICUS FLEMING: We obviously don't conduct aerial shooting at night.

The Hon. WES FANG: Where you've got an increased food source, you've got obviously other feral animal issues in the park. Many of those feral animals feed at night. Would you not admit that it's creating potentially a riskier circumstance for some of those endangered species by leaving all those food sources around the park?

ATTICUS FLEMING: No. For a start I'm not accepting your assumption that there is an increased food source there because there are a whole lot of factors you need to take into account to determine relatively what that position is. But, secondly, as I've said to you, we're removing more pigs because we're doing more aerial shooting and we're implementing the biggest wild dog control program in the State. The risk that you're talking about, either an increase in pigs or dogs, I do not expect to eventuate. That threat I do not expect to increase. Secondly, removing horses means that we will see restoration of the vegetation, which means there will be more cover and more food. So, no, I'd be really clear about this: Reducing the horse population is significantly decreasing the threat to our native species.

The Hon. WES FANG: When we went to the park and we met with some of the brumby advocates and spoke about rehoming, they indicated that there was a much larger appetite for rehoming horses than was available from the numbers that were provided. It would seem that there was potentially some that were being mistreated and that's obviously been the discussion earlier in the day. I know the Chair and I had a quite detailed discussion with some of them, saying, "Well, okay, what if we had the circumstance where you were allowed to come in and take as many horses as you think you can rehome. Would that be possible?" It was a universal yes that they could take a lot more than were currently being provided to them in the rehoming program.

Given that when they are being rehomed, even if they are sent to an illegal knackery, you're not leaving a carcass in the park creating a greater food source which potentially creates more ecological problems for you,

wouldn't it be better to spend some of that \$8.2 million in funding rehoming, providing them with an adequate number of horses and then not having to shoot horses and leaving those carcasses in the park?

ATTICUS FLEMING: I don't mean to argue with you, but I will just repeat for the record that the horse carcasses we do not believe represent a threat to other native species. But in relation to the rehoming, if there are rehomingers who are able to accept more horses, then I think that's great. We welcome that. If I look back at the number removed under the plan—and I will correct this later if I get it wrong—I think of the 8,944 horses that have been removed since the plan commenced, it's 1,008 rehoming and 672 to the knackery. One of the challenges is that not all of the horses that we trap can find a home with rehomingers, either because they are the wrong colour or the wrong sex or the wrong age or something like that. To the extent that rehomingers would like to accept more, there's obviously capacity there to provide more horses.

The Hon. WES FANG: It wasn't always the case that they used to trap the horses, was it? They used to go in there. You used to have brumby advocates on horseback, they would go in, they would, for want of a better term, corral and herd the horses out of the park into areas. Then they would, from there, rehome them. Given that it used to work so successfully a couple of decades ago, why has a program like that stopped? Given that there is such an appetite for them, given that they've said they're willing to do it and it's actually a better welfare outcome all round, why aren't we doing that? At worst, they're going to end up in an illegal knackery and shot and, apparently, that's not so much of a problem?

ATTICUS FLEMING: I won't aim to comment on the detail, Mr Fang, other than to say the advice that I've seen is that it does not deliver a better welfare outcome.

The Hon. WES FANG: How is that the case?

ATTICUS FLEMING: Because of the stress involved in that operation. Let me try and come back to you on notice around your question generally. The other part of the answer, or response, is to note that it is not one of the approved methods in the plan. Obviously, from the National Parks and Wildlife Service perspective, our job is to implement the plan.

The Hon. WES FANG: Could I facetiously suggest to you that what we could do is the Minister could call for expressions of interest to change the plan, and then we could get some form letters and we could send in 8,000-odd form letters, and then we could change the plan, and then we could actually do that. Because I know that some of those people would welcome that. Given that we can do that to reinstate aerial culling, I'm sure we could do it to do this.

ATTICUS FLEMING: I won't comment on that. I'm happy to take on notice the initial question and come back to you on why the process you've described is no longer considered an appropriate method of control.

The Hon. WES FANG: I'd appreciate that. I know that the brumby advocates would appreciate that as well, because I think they are very keen to do that.

ATTICUS FLEMING: Happy to do that.

The Hon. WES FANG: If we can provide some assistance to do that, I think that would be a good outcome for everybody.

ATTICUS FLEMING: We're happy to provide a response as to why it's not regarded as an appropriate form of control. If there is more capacity for horses to be rehomed, then I think that's great.

The CHAIR: I might jump in with a few questions myself. I asked the Minister this earlier. In answers to questions on notice I was advised that between 4 April and 3 July this year, 4,604 brumbies were killed in Kosciuszko National Park. The vast majority of them, 3,878, were actually killed in the retention areas. I'm just trying to work out why there has been so much focus on killing in the actual retention areas rather than the sensitive areas?

ATTICUS FLEMING: The main reason is that the largest horse populations are in the retention areas. There are many, many more horses in the retention areas than in the removal areas—or there were at the beginning of the program. That meant that, in order to meet the target of 3,000 in retention areas, more horses had to be removed from those areas. We have been taking a conservative approach, so I understand the concern and the question. What we've aimed to do is, using the analysis that underpins the previous population estimate in 2023, we work off the bottom of that 95 per cent confidence interval. For each of those retention areas, we work off the bottom of that interval and we leave a bit of a buffer.

The short version of this is that we can be 97.5 per cent confident that there are at least 3,712 horses in the retention areas now. We're aiming to be conservative this year and ensure that there are well over 3,000 left in retention areas, then, as the Minister also said, move to a population survey at the end of this year that is focused

on not just the population across the park as a whole but also specific population estimates for each retention area, utilising the distance sampling method that we've used in the past plus the mark-recapture distance sampling method.

The CHAIR: Just to clarify, the sensitive areas of the park have very low numbers of brumbies in them. Is that what you're saying?

ATTICUS FLEMING: No, I'm saying that the retention areas have the highest populations.

The CHAIR: Why wouldn't the priority be to protect the sensitive areas of the park? If there are brumbies in the sensitive areas, why are you focusing on the retention areas? I understand there might be more animals there.

ATTICUS FLEMING: What I was trying to say is our statutory or legal obligation is to reduce the population in retention areas to 3,000. I can't remember the exact population estimate. It was around 11,000, I think, in those retention areas, which meant, in theory, we needed to take about 8,000 off to get to 3,000. Those retention areas are a mix of the most sensitive areas and some other areas that you might not put in that category. Your question really goes to the original plan and how the lines on the map were drawn. I'd have to probably take that on notice to give you a detailed response, but it took into account a range of factors.

One was where the horses were and, in a sense, how we captured a cross-section of the horse population and its association with some of the heritage values in the park, as well as the sensitive areas. We were required by law to try to get a balance between drawing the lines on the map not just around the most sensitive areas but around taking into account what the most sensitive areas are, where the horses are and where horse populations should be retained. That's been one of the great challenges, because there's some conflict there. There are big populations of horses in some of the more sensitive areas. Some of those areas are in retention zones, so we will be retaining horses in areas that include some sensitive sites.

The CHAIR: I suppose one of the reasons—and this is part of where this whole inquiry comes from—is whether there is adequate justification for a program. I think we all agree, and we've always agreed, that aerial shooting is not something that anybody wants to do. We're all on the same page on that. Then the position of some is that it's justified in these circumstances because the horses are causing X amount of damage in certain areas of the park, in sensitive areas and in prevention areas, where we don't want the horses. I'm wondering then, if we're focusing on the areas which are not prevention areas, we are focusing instead on the retention areas.

ATTICUS FLEMING: We have three core obligations allied to those three areas. Prevention areas are where—when the plan was drafted, there were no horses. So the obligation there is: If any horses turn up in the prevention area, we are to remove them. Those horses might come from immigration—from outside the park, for example. Then there are the removal areas. They are areas where we are to remove all of the horses—reduce that population there to zero.

The CHAIR: Sorry to interrupt. What indicates an area as a removal area? Are they the most sensitive areas of the park?

ATTICUS FLEMING: All of it was a compromise, in a sense. It wasn't a case of, "Draw a line around the most sensitive areas and remove horses from those areas." That could have been an approach, but it wasn't the approach, because the formula in the Act—and, please, I'm paraphrasing, so I apologise if I don't get it quite right—essentially said, "Try to find a balance." So there might be an area where there are horses and there are some historic associations with huts or a particular colour of horse, for example, that had some recognised value within the community. It might coincide with a sensitive area. So a decision there—you couldn't achieve both. There were some areas that are sensitive areas that are still within retention areas because there is a compromise with the retention of horse values.

Where that leaves us is that removal areas and retention areas both include sensitive environmental areas. The balance was that some of those very sensitive areas will now be horse free. Some of them are still going to have horses, but the population of horses in those areas will be lower. In a sense, both should benefit: some sensitive areas are now going to be free of horses, some sensitive areas will have a lower population of horses. But the other point I want to make is the impact. We are talking about sensitive areas, but it's difficult. This is a national park so, really, every part of the park has significant ecological value. I'm happy to talk about sensitive areas for the purpose of this discussion as being some of the areas that are the most sensitive, but it is a national park that is globally significant because of the ecosystems, particularly the alpine ecosystems, that are so rare in this part of the world.

The CHAIR: What I still don't quite understand is that you have these removal areas and yet the focus is still on the retention areas.

ATTICUS FLEMING: I would say that we have focused on both equally. But one had a starting population—and, again, I'm going to try to find where I think the starting population was. The best estimate for the retention areas was in the order of a bit over 14,000, whereas the best estimate for the removal areas was a bit less than 3,000. So using your best estimate—whatever that ratio is; it's about 25 per cent—roughly one-quarter or a bit less than one-quarter of the horses were in removal areas. So if we are applying both equally, you would expect us to be removing three times as many horses from retention as we are from removal.

The CHAIR: Has the focus been on the obligations under the Act being prioritised? Are those numbers being prioritised over focusing on the most sensitive areas in the park? Maybe not over, but is that the focus?

ATTICUS FLEMING: I don't think that's a choice that we're making. In a sense, the decision around where to draw the lines on the map happened when the plan was made. Our obligation now is to implement the plan. We need to reduce the population in retention areas to 3,000. Within that, we can focus on some of the operations on the more sensitive areas—that is true. But we have to work within that framework.

The CHAIR: I've got a couple of quick questions about the rehoming report as well. It did show quite significant failures in the way the rehoming program had been managed, including a lack of formal documentation, gaps in operational procedures, a lack of follow-up on the fate returns and other concerns. Were you concerned about the findings in this report?

ATTICUS FLEMING: Like everyone, I was concerned about the discovery at Wagga, and I'm concerned if we're ever implementing a program to less than the standard that we should be doing it. So I welcome it in the sense that it's always good to have someone methodically look at how the program is operating and make some suggestions as to how it can be done better. We welcome that. We've accepted the recommendations, and we're working through how to best give them effect.

The CHAIR: Can you inform the Committee on what steps have been taken so far to address the issues?

ATTICUS FLEMING: I might ask Mr Smith. I'm expecting basically a proposal to give effect to implementing the recommendations. Mr Smith can speak a little bit to the sorts of things that we're looking at. But bear in mind, please, we're still in the process of finalising the best response, because we want to get it right.

ROBERT SMITH: As you know, there were four recommendations, and we're looking at what we need to do actually to implement those. There are a range of things, which I know the Minister covered a little bit in her session just before. But some of the specifics—it did highlight that we do need to more clearly identify and reconfirm the program intent, so we're documenting that in quite a clear way that outlines what our responsibilities are and what a rehomer's responsibilities are. That obviously needs to take into account the statutory authority and who has got that authority.

There are a range of improvements that the report does identify around the application process, you're right, in terms of the documentation and the way that that's recorded so that it's clear, because that hasn't been documented in the way that certainly the report has identified that it needs to be. I know there was a bit of discussion before about—and it calls out forming an MOU or something with particularly the RSPCA and Racing NSW to ensure there's better exchange of information. We're in the process of putting all of that together. That includes also updating the guidelines that do apply to the rehoming element as well, and there are some things in there which we're particularly looking at to improve. One of those is the fate returns, or the program returns.

There are a number of other elements in terms of the frequency of the application process, the need to ensure that—we're looking at people needing to be able to supply some sort of reference so that we've got better ability to actually check a rehomer when they come onto the system. Of course, one of the things that's identified in the report, particularly around the person of interest, was the fact that they were on the Racing NSW excluded list—so including that as something that would make somebody, obviously, ineligible. There are a range of improvements which will flow right through the system, from the time somebody puts an application in to better documentation and better governance of the program.

The CHAIR: One thing that has come up a lot—and you mentioned it in regard to making it clear that Parks doesn't actually have any statutory authority. Are you concerned that we're going to see this happen again, given the report recognises that it's very possible it could happen again and the Government has indicated that they have no plans to actually change that statutory authority to stop it from happening?

ATTICUS FLEMING: I think it's important to recognise—I think there are roughly 3,000 horses in total that have been rehomed over the years. By and large, as you know, the rehomers do a great job, generally speaking. I guess what we're trying to do is put together a package that minimises the risk. We possibly can't eliminate it but—

The CHAIR: Sorry, the recommendations tinker around the edges in regard to leading up to rehoming, and I recognise those things could potentially help. But the most significant thing that was brought up in this report was that National Parks doesn't have the statutory authority to ensure the welfare of those horses once they're rehomed. We heard from the RSPCA today that they also don't have the powers to do that. So there's this massive gaping hole. When I asked the Minister if she's looking at giving statutory authority to Parks to fix that big gaping hole, she said she wasn't. So we're left with this big gaping hole. I'm trying to understand, rather than tinkering around the edges before the animal is rehomed, which is still important to do, this massive problem that we've got is that there is nobody with any authority or oversight in that after section. It's still this big problem.

ATTICUS FLEMING: It's true, I don't think that it's a National Parks and Wildlife responsibility. We're talking about domestic animals on private land. As you say, there's the RSPCA, there's LLS, there's DPI, there's local council, there's police.

The CHAIR: What I'm saying is that those authorities don't have the power. You don't have the power and they don't have the power, so we've got this big hole.

ATTICUS FLEMING: Everyone has bits of the puzzle, I guess, is the way I was going to put it.

The CHAIR: Bits of the puzzle, except for this big hole. Once an animal is rehomed, RSPCA doesn't have the power to oversight, National Parks doesn't have the statutory authority to oversight, so we're left with this hole.

ATTICUS FLEMING: We'll work obviously very constructively and support anything that's across government in trying to make sure those bits of the puzzle fit together better and work more effectively.

The CHAIR: I guess what I'm trying to say is that hole still exists. The bits of the puzzle are those prior sections where there could be a memorandum of understanding—for example, more communication. But these aren't bits of the puzzle falling through. This is: nobody has the power to oversight this. There isn't any system set up for tracking, for example. RSPCA talked about whole-of-life tracking for both race horses and brumbies. I know that this isn't just an issue with the rehoming of brumbies; it is much broader. But it has created this example of where there is this gaping hole in the system, where everybody says, "I'm not responsible and I have no powers."

ATTICUS FLEMING: I guess you're asking me really for a whole-of-government view, which I can't appropriately give you. I certainly can't add to what the Minister said in terms of that. All I can say is, from the National Parks perspective, we'll do everything we can to minimise the risk and to play our role within that bigger picture.

The CHAIR: I've got another question before I throw to anyone else. It was again in reference to an answer to a question on notice. It was from the Minister rather than from you. She included a table of the number of horses that were killed, either by ground or aerial shooting, between 4 April and 4 July. It lists the management area, retention, removal. It also includes the shooting method, whether it was ground or aerial. To give you an example, on 16 April there were 368 horses aerial shot and six ground shot. Are they separate programs, or is that a helicopter potentially landing and shooting further horses?

ATTICUS FLEMING: No, they're separate programs.

The Hon. ROBERT BORSAK: In relation to publishing submissions that were put in relation to the program for brumby culling that came in from the public, why doesn't National Parks and Wildlife Service actually publish those submissions and make them available to the public?

ATTICUS FLEMING: To be honest, I can't remember what we have done, so I'd have to take that on notice. But I can give you a response.

The Hon. ROBERT BORSAK: In the past, for example, when National Parks have been reviewing the licensing programs for keeping native animals or taxidermy on native animals and birds, there have been a lot of submissions put in for those program reviews as well, but, equally, National Parks hasn't seen fit to publish them.

ATTICUS FLEMING: I'm happy to take it on notice. Off the top of my head, I don't know what the specific requirements around—

The Hon. ROBERT BORSAK: Could you also take it on notice to explain why they wouldn't be published?

ATTICUS FLEMING: Yes.

The Hon. ROBERT BORSAK: Other departments and other parts of government regularly publish opinions and people's submissions. I think it'd be good, from a PR point of view, if the National Parks and Wildlife Service did that as well.

The CHAIR: The Hon. Wes Fang, did you have a follow-up?

The Hon. WES FANG: No, I'm pretty full bottle. Thank you very much for coming in and providing some answers.

Ms SUE HIGGINSON: I will just clear one thing up. Mr Fleming, I think you said that all of Kosciuszko is a sensitive place. Was that your evidence? I was a bit perplexed that we were—

ATTICUS FLEMING: Yes. There is a lot of focus, for example, on threatened species habitat. If you look at threatened species habitat, that's right across the park. And then, of course, you need to look at the other values. There's Aboriginal cultural values right across the park. There are threatened habitats, ecosystems and endemic plants. If you map all of those values, you see that the park comes up as globally incredibly significant. It's hard to find a part of the park that's not really important. My point is that the benefits of reducing feral animal numbers—whether that's horses, deer or pigs—is partly about protecting those very sensitive areas, or the areas that we readily identify as sensitive, but it's partly about reducing the pressure on the park as a whole and delivering an uplift in the ecological health of the entire park.

Ms SUE HIGGINSON: Is it the case that this is the only national park in the whole State that has some kind of law that provides some kind of protection for a feral species?

ATTICUS FLEMING: To the best of my knowledge, I think that's probably accurate, yes. Let me phrase it this way: It's the only park where we've got dedicated legislation for a particular introduced, non-native species.

Ms SUE HIGGINSON: For the record, what's your current assessment of how much country within New South Wales is protected in a national park—the percentage of New South Wales?

The Hon. ROBERT BORSAK: Too much.

ATTICUS FLEMING: It's approximately 10 per cent of New South Wales that is either in gazetted national park or being managed by the National Parks and Wildlife Service.

The Hon. WES FANG: Ten per cent? What a waste.

The Hon. ROBERT BORSAK: As I said, too much.

ATTICUS FLEMING: I think it's 10.4 per cent.

Ms SUE HIGGINSON: What does the High Ambition Coalition say about what is a good representation area of a protected area network now?

ATTICUS FLEMING: Perhaps I should answer that by referencing the fact that the Australian Government has a commitment to 30 per cent of Australia being managed for conservation, but each State's contribution will be different and depend on its particular circumstances.

Ms SUE HIGGINSON: I have one final thing for clarification. I think you identified or were intimating that it is not the role of the National Parks and Wildlife Service to be managing the welfare outcomes of horses once they are taken and placed in a domestic environment.

ATTICUS FLEMING: Yes. I think that was recognised in the report. Our legislation doesn't give us that capacity. I don't think private landholders want the National Parks and Wildlife Service to have power to enter their land to look at domestic animals, effectively. What we do need to do, and what we are doing, is take very seriously these recommendations, because we need to improve some of our processes to make sure we're reducing the risk when we make decisions about who can be a rehomer and how many horses they can take. If we do that and if we improve our engagement with other parts of government, then the welfare risk generally is reduced.

The Hon. WES FANG: I'll resist the urge to use the words "iconic brumbies" instead of "feral horses", in response to Ms Higginson.

Ms SUE HIGGINSON: I've got brumbies. They're horses—lovely horses.

The CHAIR: Can I just clarify that last one? The report does indicate that it very well could happen again.

ATTICUS FLEMING: Yes.

The CHAIR: Can I just clarify that you recognise as well that, given that there isn't really any mechanism for following up after the animals have been rehomed, that the Wagga Wagga situation could happen again?

ATTICUS FLEMING: All I think it's reasonable for me to do is to acknowledge what's in the report, which is the concern that the risk can't be completely eliminated or that management of the risk involves a number of government agencies, one of which is National Parks, so we'll obviously do everything we can.

The CHAIR: I don't think the report says it can't be risked out. I think what the report is saying is that, because there is no mechanism once the animals are rehomed to oversight that, there's no way of ensuring that this won't happen again.

ATTICUS FLEMING: I'll let the report speak for itself then. All I can say is that the National Parks and Wildlife Service will do everything that we can to manage the risk and seek to ensure it doesn't happen again.

The CHAIR: Would that include advocating to the Minister that you're given the statutory authority to oversight this, once the animals are rehomed, because obviously that would close the gap?

ATTICUS FLEMING: No, but as I said earlier, it would include us playing a really constructive role within the whole-of-government approach.

The CHAIR: But you wouldn't advocate that Parks are given the authority to close that gap?

ATTICUS FLEMING: I don't think that's the best way to solve the problem.

The CHAIR: What do you think is the best way to solve it?

ATTICUS FLEMING: For us to play a constructive role within a whole-of-government approach.

The CHAIR: For the Government to give that authority to somebody else?

ATTICUS FLEMING: You're asking me to speak outside of—I can tell you what National Parks and Wildlife Service can do. I can't really go beyond that. I'm trying to reassure you.

The CHAIR: My original question was that you said you would do whatever you could possibly do and I asked if you were going to advocate to the Government for that statutory authority, and the answer is no.

ATTICUS FLEMING: My answer is no.

The CHAIR: So you wouldn't be. Thank you for your evidence today. There were some questions taken on notice, which The secretariat will be in contact with you about. There may be further questions on notice as well. Thank you for your time today and for giving your evidence.

(The witnesses withdrew.)

The Committee adjourned at 17:35.