

From: Environment

Subject: FW: Voiceless Submission on Eastern Grey Kangaroo Draft Management Plan

Date: Tuesday, 28 March 2017 8:50:51 AM

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[Voiceless - Eastern Grey Kangaroo Draft Management Plan Submission.pdf](#)

Sent: Friday, 24 March 2017 7:20 PM

To: Environment

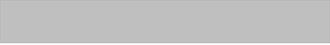
Subject: Voiceless Submission on Eastern Grey Kangaroo Draft Management Plan

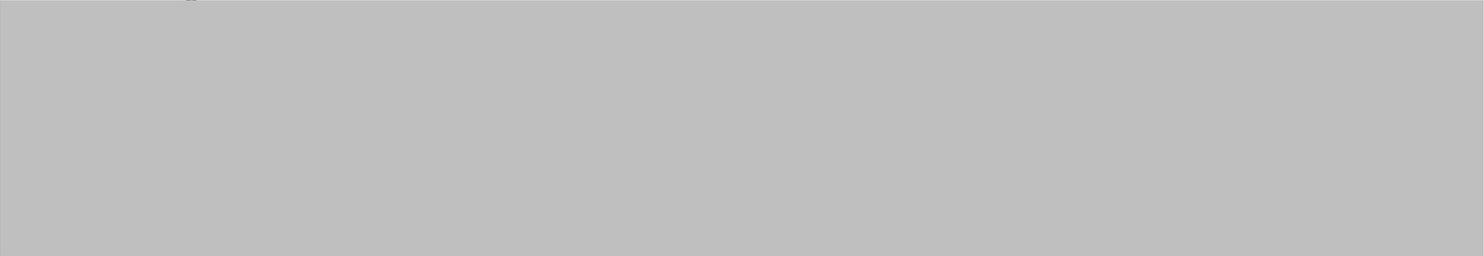
To the Manager, Conservation Research, Environment, Planning and Sustainable Development Directorate,

Please see attached a submission on behalf of Voiceless, the animal protection institute,

Thank you for this opportunity to comment on the Draft Management Plan for Eastern Grey Kangaroos in the ACT.

Kind regards,


Legal Counsel



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**SUBMISSION TO THE ACT GOVERNMENT, ENVIRONMENT DIVISION:
Conservation Research, Environment, Planning and Sustainable
Development Directorate**

***EASTERN GREY KANGAROO: DRAFT CONTROLLED
NATIVE SPECIES MANAGEMENT PLAN***

24 March 2017

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Voiceless, the animal protection institute (**Voiceless**) is a not for profit think tank, focused on raising awareness and alleviating the suffering of animals in factory farms and the commercial kangaroo industry in Australia.

We appreciate the opportunity to comment on the *Eastern Grey Kangaroo: Draft Controlled Native Species Management Plan (the Draft Plan)*. Voiceless acknowledges the importance of this public consultation process, but notes the lack of opportunity for public comment surrounding the initial declaration for Eastern Grey Kangaroos (**EGKs**) to become a Controlled Native Species. Accordingly, the comments in this submission briefly address our main concerns with the Draft Plan, but are not exhaustive in regard to Voiceless' position on the non-commercial kangaroo industry.

1. LEGAL IMPLICATIONS

- 1.1. By designating EGKS as a Controlled Native Species, the ACT has effectively obstructed the public's ability to bring legal challenges against the annual cull. This has been expressly noted in commentary surrounding the Draft Plan, with the Conservator for Flora and Fauna even stating that the amended *Nature Conservation Act* allows the appeals process to be bypassed, thus avoiding legal fees.¹
- 1.2. A number of legal proceedings have been lodged in the ACT Civil and Administrative Tribunal over recent years, to raise issues with non-commercial killing of kangaroos. Although these cases have not been entirely successful in court, the ongoing effort to lodge formal opposition indicates that the annual cull is undoubtedly a significant matter of public interest.
- 1.3. As the requirement for culling licences has been removed, there is no longer an avenue for the public to seek review of Government decisions to grant licences or to discuss the implications of these licences in court. In Voiceless' view, it is unacceptable to remove the public's avenue to hold the Government to account, especially in a matter of demonstrated public interest. This sentiment is shared by the Animal Defender's Office, which identified that the designation effectively compromises fundamental civil and human rights.²
- 1.4. Furthermore, not only has this designation removed an accountability mechanism, but the Draft Plan fails to address the very reasons for why the annual cull has been repeatedly challenged. These deficiencies are briefly outlined below, in the discussion of animal welfare.
- 1.5. Instead of removing the avenue for public criticism and evading legal interference, the ACT Government should extend an opportunity for widespread and ongoing public stakeholder input on the question of how non-commercial kangaroo management could be improved.

¹ 'Kangaroo cull changes in Canberra cut-off animal activists' legal avenue for appeal' (8 February 2017) *ABC News Online* <www.abc.net.au/news/2017-02-08/change-to-canberra-roo-cull-cuts-legal-options-for-activists/8249600>.

² See, Animal Defenders Office, 'Animal Defenders Office condemns ACT Government's anti-democratic changes to legal status of kangaroos' (Media Release, 14 February 2017).

2. SCIENTIFIC UNCERTAINTY

- 2.1. Voiceless is concerned that the Draft Plan has failed to critically evaluate the available scientific literature, relying instead on selectively advantageous evidence in support of continued non-commercial kangaroo culling.
- 2.2. For example, the Draft Plan heavily draws on eight studies that have been produced since 2010, claiming they provide “strong evidence that high densities of Eastern Grey Kangaroos can negatively impact a range of species in the ACT.”³ Voiceless notes that there are multiple factors which can influence species and environmental degradation, with studies identifying land clearing as the most significant threat to species and ecosystems in Eastern Australia.⁴ Additionally, ACAT has recognised the significant role played by drought in environmental degradation.⁵ It is of concern that the Draft Plan seemingly has not taken these factors into account, which implies a level of scientific uncertainty in the field, highlighting the need for further independent research to correctly attribute environmental damage in the ACT.
- 2.3. Another example can be extracted from the Explanatory Statement, which outlines the decision for the declaration of EGKs as a Controlled Native Species and constitutes the enabling legislation for the Draft Plan. The Explanatory Statement states that EGKs cause unacceptable environmental and economic impacts, relying on data from 1988 that estimated economic damage at \$200 million. The evidence relied upon in coming to this conclusion is questionable because conflicting data exists for these claims, as highlighted by the independent think-tank THINKK. In particular, scientific studies have shown that competition with livestock typically occurs only during times of drought, with more recent research indicating the economic damage caused by kangaroos may be closer to \$44 million.⁶ This is just one example of how the ACT Government has failed to acknowledge conflicting research, instead relying only on selectively chosen evidence.
- 2.4. To begin to address these discrepancies, it is crucial that all kangaroo culling data is properly reported and recorded. Voiceless notes that the Draft Plan appears to require authorization holders to submit annual returns on the numbers of kangaroos culled only on rural lands (6.1.1 of the Draft Plan). Voiceless agrees that these records must be maintained and aggregated data made publically available, but strongly recommends the need for a similar reporting policy for kangaroos shot on non-rural lands. Reporting should also include records of:
 - 2.4.1. The number of kangaroos killed by a head-shot at first instance;

³ ACT Government, Environment Division, ‘Eastern Grey Kangaroo: Controlled Native Species Management Plan – Questions and answers’ (2017) <www.environment.act.gov.au/__data/assets/pdf_file/0016/1031632/Questions-and-Answers.pdf>.

⁴ Natural Heritage Trust, *Australian Terrestrial Biodiversity Assessment 2002* (April 2003) vii, cited in Boom K and Ben-Ami D, ‘Shooting our wildlife: An analysis of the law and policy governing the killing of kangaroos’ (THINKK, the Kangaroo Think Tank, University of Technology, Sydney, 2010) 13.

⁵ *Animal Liberation v Conservator of Flora and Fauna* (Administrative Review) [2009] ACAT 17, [53].

⁶ Ben-Ami, D, Boom, K, Boronyak, L, Croft, D, Ramp, D, and Townend, C, ‘The ends and means of the commercial kangaroo industry: an ecological, legal and comparative analysis’ (THINKK, the Think Tank for Kangaroos, University of Technology, Sydney, 2011) 12.

- 2.4.2. The number of kangaroos mis-shot;
 - 2.4.3. The number of female kangaroos killed with dependent joeys; and,
 - 2.4.4. The number of dependent young killed and the method used to kill them.
- 2.5. Further, Voiceless strongly recommends that the Draft Plan incorporate a provision to prioritise research into non-lethal alternatives for kangaroo management.

3. POLICY AND ADMINISTRATIVE PROCEDURES

3.1. Voiceless notes that the ACT adopted the *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-commercial Purposes (2008) (the Code)* as of 19 March 2014. This Code, however, raises a number of serious issues, particularly in regard to deficiencies in animal welfare and enforcement.

3.2. *Animal Welfare*

3.2.1. The Draft Plan states that “kangaroo management in the ACT must be undertaken in accordance with the provisions of the *Animal Welfare Act 1992*.” Voiceless argues that some of the practices permitted under the Code, such as blunt force trauma as a prescribed method for killing joeys, could be considered inconsistent with the objects of this Act.

3.2.2. Although the Code requires an ‘instantaneous death’ for animal welfare purposes, in reality, the nature of kangaroo shooting does not enable this. Kangaroos are shot at night, when they are most active. These hunting conditions affect the ability of shooters to aim precisely, thus making it difficult to comply with the Code’s requirement for an instantaneous death by shot to the brain. Past studies indicate that non-fatal body shots are a regular trend in kangaroo shooting, potentially causing horrific injuries and painful prolonged deaths to kangaroos.⁷

3.2.3. Further, the Code allows the killing of both male and female kangaroos, resulting in the collateral deaths of their dependent young (both pouch young and young at foot). Under the Code, shooters are instructed to ‘euthanise’ the orphaned dependent young of any slaughtered female in accordance with the Code.⁸ Critically, however, reports have

⁷Note, due to the substantial lack of scientific research in regard to the non-commercial kangaroo industry, inferences have been drawn from research into the commercial industry where appropriate. While this study considered the commercial kangaroo industry, it still provides an indication of shooting accuracy for the non-commercial industry. In 2002, RSPCA Australia conducted an examination of kangaroo carcasses at meat processing plants, and found that around 4% of kangaroos (representing approximately 120,000 kangaroos killed across the industry based on annual commercial kill assumptions during that period) may have been shot in the neck or body and not as required by the Code, but a lack of industry monitoring makes it difficult to establish more accurate figures: Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D and Bekoff M, ‘The welfare ethics of the commercial killing of free-ranging kangaroos: an evaluation of the benefits and costs of the industry’ (2014) 23 *Animal Welfare* 1, 5.

⁸The ‘single forceful blow to the base of the skull’ can be achieved with a blunt object such as a metal pipe or a car’s tow bar: *National Code of Practice for the Humane Shooting of Kangaroos and Wallabies for Non-Commercial Purposes (2008)* s 5.1.

indicated trends of non-compliance with this aspect of the Code, at least in the commercial kangaroo industry.⁹ A 2014 RIRDC report also found that commercial shooters employ a variety of methods to kill dependent young, which may not always result in a quick or painless death.¹⁰ Orphaned dependent young not killed in accordance with the Code are highly likely to suffer and die as a result of starvation, exposure or predation.

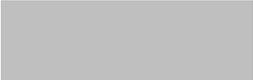
3.3. *Compliance, Monitoring and Enforcement*

3.3.1. Compounding these animal welfare concerns are issues around compliance, monitoring and enforcement. Significantly, the Draft Plan does not address how the ACT Government will monitor compliance. Without regular inspection of carcasses at the point of kill, it is impossible to ensure compliance with the Code (principally, in regard to killing dependent young and injured adult kangaroos in the methods prescribed; and ensuring head-shots).¹¹

3.3.2. Given the inherent difficulties of monitoring the commercial kangaroo industry, compliance with the Code cannot be assumed. Voiceless strongly recommends that the Draft Plan commit additional resources to monitor compliance with the Code.

3.3.3. Compliance should also be a factor in the Conservator's decision to issue an authorization to a shooter. Currently, the Draft Plan does not specify any grounds on which the Conservator can refuse to issue an authorization. Voiceless recommends the Draft Plan outline the grounds on which authorization should be denied, including when an individual has previously demonstrated non-compliance with the Code.

3.4. Animal welfare and compliance with the Code are crucial elements of the Draft Plan, yet remain inadequately addressed. Improvement in these areas is a matter of urgency, as the number of kangaroos being culled increases. For example, it was reported that 1,989 adult kangaroos and 800 pouch young were killed in the ACT in 2016, which totaled 400 more animals than were killed in 2015.¹² Furthermore, it has been estimated that the number of kangaroos culled in the ACT has risen by 30% in the last three years, with the number of pouch young killed having increasing by a shocking 42%.¹³

Respectfully submitted b 

⁹ For example, according to a 2014 journal article, it is unlikely that all shooters kill young-at-foot when their mothers are shot, as required by the Code: Ben-Ami D, Boom K, Boronyak L, Townend C, Ramp D, Croft D and Bekoff M, 'The welfare ethics of the commercial killing of free-ranging kangaroos: an evaluation of the benefits and costs of the industry' (2014) 23 *Animal Welfare* 1, 6.

¹⁰ McLeod S, Sharp T, 'Improving the humaneness of commercial kangaroo harvesting' (Australian Government Rural Industries Research and Development Corporation, June 2014).

¹¹ Boom, K, Ben-Ami, D and Boronyak, L, 'Kangaroo Court: Enforcement of the law governing commercial kangaroo killing' (2012) THINKK, the kangaroo Think Tank, University of Technology, Sydney, 45-47.

¹² 'Kangaroo cull changes in Canberra cut-off animal activists' legal avenue for appeal' (8 February 2017) *ABC News Online* <www.abc.net.au/news/2017-02-08/change-to-canberra-roo-cull-cuts-legal-options-for-activists/8249600>.

¹³ Katie Burgess, "'It's a Massacre': The cruel fate for pouch young in Canberra's kangaroo cull' (13 February 2017) *The Canberra Times Online* <www.canberratimes.com.au/act-news/its-a-massacre-the-cruel-fate-for-pouch-young-in-canberras-kangaroo-cull-20170209-gu8zqi.html>.