
In the spotlight – The welfare of introduced wild animals in Australia

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This article examines the current policy and legislative framework which regulates the welfare of introduced animals in various Australian jurisdictions. It considers how inadequate legislation, unenforceable codes of practice and negative community attitudes contribute to legalised acts of cruelty against unpopular animals. Building on nascent community and government concerns, the author proposes reform to achieve a more humane and effective system.

INTRODUCTION

The recent announcements of renewed efforts to control introduced vertebrate species by the Commonwealth¹ and some State² governments are providing opportunities to put in the spotlight the legislative and policy framework under which these animals are killed. Introduced vertebrate species commonly targeted by control programs in Australia include mammals such as buffaloes, camels, cats, deer, dogs, donkeys, foxes, goats, hares, horses, pigs, rabbits and rodents; birds such as mynahs, pigeons, sparrows and starlings; as well as a number of fish such as carp, gambusia and tilapia. It is difficult to estimate the number of animals killed yearly in government and private control programs, but it is likely to amount to many millions if the following are any indication: over 198 000 foxes were shot in Victoria alone within a 12 month period;³ approximately one million goats are mustered or shot each year;⁴ over 81,000 donkeys were eradicated in Western Australia in 11 years;⁵ about 100 000 horses and donkeys were culled in the Northern Territory's Victoria River district between 1999 and 2003;⁶ nearly 50,000 cane toads were trapped by volunteers over five weeks in one Northern

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¹ Senator The Hon Peter McGauran, Minister for Agriculture, Fisheries and Forestry, *New Push to Tackle Australia's Animal Invaders* (Media Release, 22 June 2006); and Senator The Hon Eric Abetz, Minister for Fisheries, Forestry and Conservation, *New National Pest Animal Strategy* (Media Release, 24 May 2007).

² See for instance, NSW Department of Environment and Conservation, *National Parks and RLPBS in Pest Blitz* (Media Release, 19 April 2006); The Hon Desley Boyle, Minister for Environment, Local Government, Planning and Women (Queensland), *\$10 Million to Fight against Park Pests and Control Park Fires* (Media Release, 8 June 2006); and Minister for Environment and Minister for Agriculture *\$30M Boost to Protect Victoria Against Pests And Weeds* (Media Release, 1 May 2007).

³ House of Representatives Standing Committee on Agriculture, Fisheries and Forestry *Taking Control: A National Approach to Pest Animals*, Report on the Inquiry into the Impact on Agriculture of Pest Animals (28 November 2005), p 110.

⁴ House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, n 3, p 22.

⁵ House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, n 3, p 25.

⁶ ABC Alice Springs, *Call for Feral Animal Control to be Nationwide* (18 July 2003) <http://www.abc.net.au/central/news/200307/s904839.htm> (viewed 7 June 2007).

Territory locality;⁷ and registered shooters kill hundreds of pigs each year in the Katherine area alone.⁸ A survey of control programs focusing on six species of animals alone recorded over 2 500 separate programs.⁹

The justification for control programs is based on economic and environmental grounds. Introduced animals are alleged to cause damage to agricultural interests through damage to crops, competition for pasture with, and predation on, farm animals, as well as potential introduction and/or spread of diseases. They are also blamed for environmental damage such as soil erosion, stream turbidity, competition for habitat and shelter with, and predation on, native animals.¹⁰ In addition, they are believed to have social impact, including social and psychological effects on primary producers and their families.¹¹ It is alleged that the damage caused by the 11 major introduced species totals \$720 million annually.¹² Ironically, millions of introduced wild animals are eradicated each year so as to allow other introduced animals such as cattle and sheep the opportunity to graze unimpeded the fragile Australian soils, or to protect introduced crops. Yet grazing and cropping are well-recognised causes of serious environmental damage.¹³ This paper does not intend to consider the alleged environmental or economic damage caused by introduced animals or the alleged conservation benefits of “pest” control programs - suffice to say that serious doubts exist about both.¹⁴ Instead, this paper will consider the animal welfare dimension of the control programs.

Despite the large numbers of animals targeted by control programs each year, little consideration has traditionally been given to the welfare of the animals involved. This stems from limited public awareness of the suffering inherent in the programs, lack of empathy for unpopular species, and a general view that the welfare of the controlled animals is subservient to the state of the environment and the economy. Yet higher animal welfare outcomes (whether these are achieved through stricter legislation, compliance or enforcement) are not only best for the animals. They are also beneficial to enhance Australia’s image as an ethical trading partner¹⁵ as well as to reduce incidences of violent and antisocial behaviour in society.¹⁶ Besides, it is in the best interest of control agencies to conduct programs in a humane manner to avoid the risk of disruptions by public protests or legal actions.¹⁷ This paper therefore proposes to examine the current Australian legislative and policy framework for animal welfare of control programs, the public attitudes this framework purports to reflect, the attempts made to date to improve standards, as well as avenues for improvements.

⁷The 7.30 Report, *Darwin Residents Keep Toads at Bay* (08 January 2007) <http://www.abc.net.au/7.30/content/2007/s1829658.htm> (viewed 6 June 2007).

⁸ABC Rural News, *Low Demand Reduces NT Pig Market* (28 June 2006) <http://www.abc.net.au/rural/news/content/2006/s1673829.htm> (viewed 7 June 2007).

⁹Reddiex B, Forsyth DM, McDonald-Madden E, Einoder LD, Griffioen PA, Chick RR, and Robley AJ, *Review of Existing Red Fox, Wild Dog, Feral Cat, Feral Rabbit, Feral Pig, and Feral Goat Control in Australia*. I. Audit, Department of the Environment and Heritage (2004).

¹⁰Natural Resources Ministerial Council, *Australian Pest Animal Strategy – A National Strategy for the Management of Vertebrate Pest Animals in Australia* (2007) p 3.

¹¹Natural Resources Ministerial Council, n 10, p 3.

¹²McLeod R, *Counting the Cost: Impact of Invasive Animals* (CRC for Pest Animal Control, 2004), p 60.

¹³See for instance Hobbs RJ and Hopkins AJM, “From Frontier to Fragments – European Impact on Australian Vegetation” (1990) 16 *Proceedings of the Ecological Society* 93; Morton SR, “The Impact of European Settlement on the Vertebrate Animals of Arid Australia – A Conceptual Model” (1990) 16 *Proceedings of the Ecological Society* 201.

¹⁴Reddiex et al, n 9.

¹⁵Olsen P, *Australia’s Pest Animals: New Solutions to Old Problems* (Bureau of Rural Sciences, 1998) p 22.

¹⁶Arluke A, Levin J, Luke C and Ascione F, “The Relationship of Animal Abuse to Violence and Other Forms of Antisocial Behaviour” (1999) 14(9) *Journal of Interpersonal Violence* 963.

¹⁷In *Animal Liberation Ltd v National Parks & Wildlife Service* [2003] NSWSC 457 at [10] the Supreme Court of NSW stopped a culling program because of a risk that it may not be carried out in a humane way.

TERMINOLOGY

Control programs generally refer to animals as “pest”, “feral”, “vermin”, “noxious” and/or “invasive” animals. The use of these terms is a key problem for improving humane control because of their ability to conjure negative images in the public’s mind.¹⁸ If the welfare of animals is to be taken seriously, more neutral terms are preferable. Apart from their negative stereotyping, these commonly used terms are subjective. Some species may be regarded as pests by some, but for others they may constitute a national icon (eg brumbies), a tourism asset (eg camels), a food source (rabbits), an economic resource (eg goats) or simply a victimised group. The words further hold inconsistent legislative meaning. For instance, the term “feral” refers exclusively to non-native animals in every jurisdiction except the Northern Territory, where native animals found outside their range can be declared feral.¹⁹ Similarly, some may consider native animal species as pests,²⁰ but others do not.²¹ The term “introduced” will be used here instead to cull the stereotype, and to stress that the responsibility for the presence of these animals in Australia, and any damage they cause to the environment and the economy, is not theirs but ours.²²

The Animal Protection Provisions

All States and Territories have animal welfare legislation.²³ These legislative arrangements, however, are inadequate to protect the welfare of introduced animals on four separate grounds. Firstly, the application of a provision may be weakened by the use of phrases such as *without causing excess suffering*,²⁴ *inflicting no unnecessary pain*,²⁵ *killing done in a usual and reasonable manner*,²⁶ or even *killing done in a way that is generally accepted as usual and reasonable*.²⁷ The use of these phrases is common in animal protection legislation and has been criticised for weakening the scope of the protection afforded to animals generally because they are vague and difficult to interpret.²⁸

Secondly, the inadequacy of protection may arise when a statute expressly or impliedly excludes the application of some provisions to introduced animals. For instance, in the Australian Capital Territory (ACT), it is an offence to administer a poison to domestic or native animals;²⁹ it can be inferred therefore that it is not an offence to do so to introduced animals.³⁰ In Queensland (Qld), it is not an offence to kill a “feral animal or pest animal” provided the act is done in a way that causes the animal as little pain as is reasonable and if that act complies with conditions prescribed in regulations.³¹ It is not uncommon for provisions to prohibit certain activities but only as long as these activities are not allowed under the regulations³² or under another act. For instance, poisoning and trapping animals is normally prohibited but these activities are allowed, and even mandatory, under

¹⁸ Seymour F, “Introduced Wild Animals – Invasive Pests or Abandoned Victims” (2000) 8(1) *Animals Today* 12.

¹⁹ *Territory Parks and Wildlife Conservation Act 1980* (NT), s 47(1).

²⁰ House of Representatives Standing Committee, n 3, p 20.

²¹ See for instance *Animal Care and Protection Act 2001* (Qld), s 42(3); and *Animal Welfare Act 1992* (ACT), Dictionary.

²² Seymour, n 18.

²³ *Animal Care and Protection Act 2001* (Qld); *Animal Welfare Act 1992* (ACT); *Animal Welfare Act 1999* (NT); *Animal Welfare Act 1993* (Tas); *Animal Welfare Act 2002* (WA); *Prevention of Cruelty to Animals Act 1979* (NSW); *Prevention of Cruelty to Animals Act 1985* (SA); *Prevention of Cruelty to Animals Act 1986* (Vic).

²⁴ *Animal Welfare Act 1993* (Tas), s 4.

²⁵ *Prevention of Cruelty to Animals Act 1979* (NSW), s 24.

²⁶ *Animal Welfare Act 1993* (Tas), s 4.

²⁷ *Animal Welfare Act 2002* (WA), s 24.

²⁸ Jamieson P, “Duty and the Beast: The Movement in Reform of Animal Welfare Law” (1991) 16(2) *University of Queensland Law Journal* 238; Steven White, “Legislating for Animal Welfare” (2003) 28(3) *Alternative Law Journal* 277.

²⁹ *Animal Welfare Act 1992* (ACT), s 12.

³⁰ Applying the rule of statutory interpretation *expressio unius, exclusio alterius*.

³¹ *Animal Care and Protection Act 2001* (Qld), s 42(2).

³² See eg *Animal Welfare Act 1993* (Tas), s 50.

legislation specifically enacted to control introduced animals.³³ In such cases, animal protection legislation is overridden by “pest” control statutes.

Thirdly, defences might be available for an act of cruelty if the act is targeting an introduced animal. A defence from a charge of cruelty is available in New South Wales (NSW) when the act is conducted in the course of, and for the purpose of hunting, shooting, snaring, trapping, catching or capturing the animal, in a manner that inflicted no unnecessary pain upon the animal.³⁴ Similarly, in Western Australia (WA), it is a defence to a charge of cruelty when the act was done while attempting to kill a pest in a manner generally accepted as usual and reasonable for the relevant kind of pest.³⁵ As discussed above, the use of the phrases *unnecessary pain* and *generally accepted as usual and reasonable* in the NSW and WA provisions respectively would make the successful prosecution for cruelty to an introduced animal unlikely. Finally, and most significantly, codes of practice are the most successful means of putting introduced animals beyond the protection of the legislation.

Codes of Practice and Standard Operating Procedures

A number of codes of practice and standard operating procedures relevant to the control of introduced animals have been developed by State and Commonwealth agencies.³⁶ Whilst one could legitimately expect that these codes and standards will increase the protection of animals against suffering, this is not the case. Firstly, the codes and standards are incomplete. Some species and procedures are not covered, and issues of humaneness are not adequately addressed.³⁷ They are considered to be inadequate.³⁸ Secondly, many of the provisions of the codes are couched in advisory (“should”) rather than mandatory (“must”) terms. They contain minimal standards often designed to satisfy economic and convenience considerations rather than animal welfare. For instance, the *Model Code of Practice for the Humane Control of Foxes*, whilst acknowledging that 1080 poisoning can cause target animals to “experience pain and suffering, sometimes for an extended period”, still advocates this technique because it is cost-effective.³⁹

Thirdly, the codes provide a barrier against possible prosecution for cruelty. Even where the general clauses of the relevant animal protection legislation are wide enough to protect introduced animals, the protection may become irrelevant when the control activity (such as baiting, trapping, shooting, etc) has been conducted in accordance with a code of practice. In such circumstances, the empowering act may provide an *exemption to an offence*. Consider for instance the South Australian legislation which provides that anything done in accordance with a prescribed code of practice is not unlawful.⁴⁰ Alternatively, acting in accordance with the code may provide a *defence* against a charge. For instance, in the Northern Territory, it is a defence to a prosecution for a cruelty offence if the defendant establishes that the act or omission constituting the offence, or an element of the offence, was conducted in accordance with an adopted code.⁴¹ The same occurs under the Western Australian⁴²

³³ See eg *Land Protection (Pest & Stock Route Management) Act 2002* (Qld).

³⁴ *Prevention of Cruelty to Animals Act 1979* (NSW), s 24(1)(i) – given that hunting of native animals is rarely allowed, this provision will mostly apply to introduced animals.

³⁵ *Animal Welfare Act 2002* (WA), s 24.

³⁶ See Sharp T and Saunders G, *Development of a Model Code of Practice and Standard Operating Procedures for the Humane Capture, Handling or Destruction of Feral Animals in Australia* (Final Report for the Australian Government Department of the Environment and Heritage, 2004) p 7, for a list of State Codes; and NSW Department of Primary Industries, *Humane Pest Animal Control: Codes of Practice and Standard Operating Procedure (2005)* for new proposed codes and standard operating procedures.

³⁷ Sharp and Saunders, n 36, p 8.

³⁸ National Consultative Committee on Animal Welfare, *Codes of Practice & Animal Welfare Legislation: Position Statement* (1991). Unfortunately, little has changed since this statement.

³⁹ Sharp T and Saunders G, *Model Code of Practice for the Humane Control of Foxes* (NSW Department of Primary Industries), 7 and 10.

⁴⁰ *Prevention of Cruelty to Animals Act 1985* (SA), s 43.

⁴¹ *Animal Welfare Act 1999* (NT), s 79(1)(a).

and Victorian⁴³ provisions. The exclusion can go further. Under the New South Wales *Prevention of Cruelty to Animals Act 1979* codes apply only to farm and companion animals.⁴⁴ In the ACT, the *Pest Plants and Animals Act 2005* stipulates that management plans developed under this Act must be consistent with any code of practice under the *Animal Welfare Act 1992*.⁴⁵ To date, the ACT has approved a limited number of codes thus this requirement will afford little protection to most introduced animals.

Further, and perhaps more importantly, few codes of practice are enforceable and fewer still are so in the case of introduced animals. The NSW *Code of Practice for Licensed Game Hunters* is unique in that a part of it has been incorporated in the *Game and Feral Animal Control Regulation 2004*.⁴⁶ This mandatory part provides for an obligation to avoid suffering of animals:

5 Obligation to avoid suffering

An animal being hunted must not be inflicted with *unnecessary* pain. To achieve the aim of delivering a humane death to the hunted animal:

- (a) it must be targeted so that a *humane kill is likely*, and
- (b) it must be shot within the *reasonably accepted* killing range of the firearm and ammunition or bow being used, and
- (c) the firearm and ammunition, bow and arrow, or other thing used must be such as can *reasonably be expected* to humanely kill an animal of the target species.

6 Lactating females with dependent young

If a lactating female is killed, *every reasonable effort* must be made to locate and humanely kill any dependent young.

7 Wounded animals

If an animal is wounded, the hunter must take *all reasonable steps* to locate it, so that it can be killed quickly and humanely.

(emphasis added).

It remains to be seen whether a breach of the obligation to avoid suffering of animals contained in these provisions could be established given, again, the use of vague terminology.

LEGAL ACTS OF CRUELTY

The combination of inadequate legislative provisions and unenforceable, weak codes and standards of practice is permitting the use of an impressive range of cruel practices in the name of “pest control”. Cats, dogs, foxes, pigs and rabbits are poisoned with 1080 baits, a substance that causes animals to suffer severe central nervous system disturbance, convulsions and ultimately respiratory failure, and to display distress symptoms lasting from several hours to several days.⁴⁷ Yellow phosphorus (CSSP) is used for pigs. It essentially “burns the gastrointestinal tract of the animals”⁴⁸, with death following after two to four days of conscious pain.⁴⁹ Warfarin is used for pigs and rodents and the latter are poisoned also with brodifacoum. These anti-coagulants cause internal haemorrhaging leading to “a slow and painful death”.⁵⁰ Rabbits are fumigated in their warrens with chloropicrin or phosphine,

⁴² *Animal Welfare Act 2002* (WA), s 25.

⁴³ *Prevention of Cruelty to Animals Act 1986* (Vic), s 6.

⁴⁴ *Prevention of Cruelty to Animals Act 1979* (NSW), s 34A.

⁴⁵ *Pest Plants and Animals Act 2005* (ACT), s 17.

⁴⁶ *Game and Feral Animal Control Regulation 2004* (NSW), Schedule 2.

⁴⁷ Marks C, Hackman C, Busana F and Gigliotti F, “Assuring that 1080 Toxicosis in the Red Fox (*Vulpes vulpes*) is Humane: Fluoroacetic Acid (1080) and Drug Combinations” (2000) 27 *Wildlife Research* 483, 483-484.

⁴⁸ Australian Pesticides & Veterinary Medicines Authority *The Reconsideration of Registrations of Products Containing Carbon Disulfide and their Associated Labels – Review Findings* (2005) p 9.

⁴⁹ RSPCA, *A National Approach Towards Humane Vertebrate Pest Control* (Discussion Paper Arising from the Proceedings of a RSPCA/AWC/VPC Joint Workshop, 2003, Melbourne, 2004) p 16.

⁵⁰ RSPCA, n 49, p 17.

highly toxic gases which cause “intense irritation of the respiratory tract” and are “known to cause severe suffering”.⁵¹ Fumigation may be used in combination with ripping of the warrens with machinery, an activity that can result in physical wounding.⁵²

Rabbits, wild dogs and foxes are trapped in steel-jawed⁵³ and snare traps. These cause serious physical injury – limbs may be broken, torn or gnawed at in order to escape – and may result in the animals dying of dehydration, starvation or predation if not checked regularly.⁵⁴ If found alive, it is recommended that dogs and foxes be shot and rabbits have their neck broken.⁵⁵ Rodents are trapped with snap, live and glue traps, the latter causing severe injuries when the animals try to free themselves.⁵⁶

Shooting has long been a widespread method of controlling animals. It is conducted by operators on the ground for the control of cats, deer, dogs, foxes and pigs, and/or from helicopters in the case of large herd animals. Whilst shooting can cause instant death, there is no guarantee that this will occur each time. Wounding can occur where shooting is performed by inexperienced individuals, or simply if weather or terrain conditions are difficult. Animals that have been injured may escape, preventing the delivery of a fatal shot. Shooting with bow and arrows is allowed in New South Wales⁵⁷ and Victoria⁵⁸ and the hunting with dogs of wild pigs, foxes and deer is allowed in some jurisdictions.⁵⁹ This results in stress and injuries for the hunted animal, not to mention the risk of injury to the dogs.⁶⁰

Horses, camels and goats may also be mustered, corralled and transported for slaughter and/or live export. Mustering and long distance transport causes stress to wild animals unused to handling.⁶¹ Finally, control has been attempted by infecting animals, notably rabbits, with highly contagious viruses such as myxomatosis and rabbit calicivirus (also called Rabbit Haemorrhagic Disease). The former produces an infection leading to “considerable suffering”,⁶² while the latter causes blood clots which result in lethal heart and respiratory failure.⁶³

All the above activities are authorised under current codes and/or standard operating procedures. Further, it is important to note that the implementation of the control programs may well fall short of the modest standards set, with further cruelty caused as a result. In 1999, the Lord Howe Island Board conducted an aerial shooting of goats which resulted in animals suffering severe injuries and a slow death. This example was used by the Supreme Court of NSW to warn that relying on “broad, although no doubt well intentioned” statements by agencies that an activity will be conducted according to proper practice and standards will not guarantee high animal welfare standards, particularly when similar assurances have been given in the past and not followed.⁶⁴

If large-scale control programs conducted by experienced government agency operators and subject to certain levels of monitoring and accountability cannot guarantee humane practices, much

⁵¹ RSPCA, n 49, p 13.

⁵² RSPCA, n 49, pp 13-14.

⁵³ Steel-jaw traps are banned under the animal welfare legislation of the ACT, New South Wales and Tasmania.

⁵⁴ RSPCA, n 49, p 17.

⁵⁵ Victorian Bureau of Animal Welfare, *Code of Practice for the Use of Small Steel-jawed Traps*, s 4.

⁵⁶ A proposal to ban glue traps in Victoria has not been approved to date.

⁵⁷ *Game and Feral Animal Control Regulation 2004* (NSW), s 5.

⁵⁸ *Wildlife (Game) Regulations 2001* (Vic), s 28(1).

⁵⁹ *Game and Feral Animal Control Regulation 2004* (NSW), Pt 3; *Animal Care and Protection Act 2001* (Qld), ss 37 and 42.

⁶⁰ Choquenot D, McIlroy J and Korn T, *Managing Vertebrate Pests: Feral Pigs* (Bureau of Resource Sciences, 1996).

⁶¹ Sharp T and Saunders G, *Model Code of Practice for the Humane Control of Feral Horses* (NSW Department of Primary Industries), 7.

⁶² RSPCA, n 49, p 14.

⁶³ CSIRO – Australia and New Zealand Rabbit Calicivirus Disease Program, *Animal welfare and Rabbit Calicivirus: Reducing Suffering Through Effective Rabbit Control*, <http://www.csiro.au/communication/rabbits/qa9.htm> (viewed 15 June 2007).

⁶⁴ *Animal Liberation Ltd v National Parks & Wildlife Service* [2003] NSWSC 457, at [7]-[8].

worse can be expected from small-scale programs conducted by private landholders. As these programs occur on private premises and/or rural or remote lands, cruel acts are less likely to be detected and acted upon. In addition, they are more likely to involve individuals who are unaccountable, inexperienced and/or unskilled in the delivery of poisons, setting of traps, and/or shooting. They may involve grudging individuals, conducting eradication programs only because of their legislative obligation to do so,⁶⁵ and thus less likely to act humanely. The increasing bands of volunteers, particularly children, involved in toad eradication programs are likely to act inhumanely, through a combination of inexperience, over-enthusiasm, peer-pressure and lack of supervision.

IMPACT ON NON-TARGET SPECIES

Beyond the suffering control practices inflict on target animals, such practices also risk causing suffering to some non-target native animals. This can occur despite best efforts to use target-specific methods. Numerous studies conducted on the impact of non-target animals have shown that native animals may die from ingesting poisoned baits;⁶⁶ native carnivorous mammals and raptors may suffer from secondary poisoning through feeding on poisoned animals;⁶⁷ native raptors may starve once animals (eg rabbits) on which they normally rely have been eradicated;⁶⁸ native animals may be trapped;⁶⁹ and others may be killed accidentally or through ignorance.⁷⁰ In urban and semi-rural areas, domestic animals may also be the accidental victims of control programs.⁷¹ There may be further and yet unknown impact on native and domestic animals, particularly if they affect small and secretive animals. It has been suggested that the ingestion of 1080 baits by Tasmanian Devils may be linked to the dramatic incidence of Devil Facial Tumour Disease.⁷² Interestingly, the justification for many control programs is that they are safe for non-target native species.⁷³ Even if this is so, the differentiation between native animals, whose suffering matters, and introduced animals whose welfare does not, is puzzling and inextricably linked to common attitudes prevalent in the community.

COMMUNITY ATTITUDES

Community attitudes towards introduced animals vary considerably according to the species concerned. At one end of the spectrum, some animals such as wild horses (brumbies) benefit from a “cultural icon” status based on their place in Australian pioneering history.⁷⁴ The public’s empathy for these animals has been influential in stopping government agencies’ culling exercises and/or in

⁶⁵ For example, *Catchment and Land Protection Act 1994* (Vic), s 20(1)(f); *Territory Parks and Wildlife Conservation Act* (NT), s 50; *Rural Lands Protection Act 1989* (NSW), s 155; *Land Protection (Pest and Stock Route Management) Act 2002* (Qld), s 77.

⁶⁶ McIlroy JC, “The Sensitivity of Australian Animals to 1080 Poison. VII. Native and Introduced Birds” (1984) 11(2) *Australian Wildlife Research* 373; Hawkins CE, Baars C, Hesterman H, Hocking GJ, Jones ME, Lazenby B, Mann D, Mooney N, Pemberton D, Pyecroft S, Restani M and Wiersma J, “Emerging Disease and Population Decline of an Island Endemic, the Tasmanian Devil *Sarcophilus harrisi*” (2006) 131(2) *Biological Conservation* 307, 309.

⁶⁷ McIlroy JC, “The Sensitivity of Australian Animals to 1080 Poison II. Marsupial and Eutherian Carnivores” (1981) 8 *Australian Wildlife Research* 385.

⁶⁸ Nowak R “Starvation Diet: Raptors are Paying the Price as Australia Wins the War against Rabbits” (31 October 1998) 190 *New Scientist* 18.

⁶⁹ Sharp T and Saunders G, *Model Code of Practice for the Humane Control of Wild Dogs* (NSW Department of Primary Industries) p 10.

⁷⁰ NSW Department of Environment and Climate Change, *NPWS Warning - Do Not Confuse “Hitch Hiking” Cane Toads with Local Frogs* (Media Release, 15 January 2004).

⁷¹ Sharp and Saunders, n 69, pp 9-11.

⁷² McGlashan ND, Obendorf DL and Harington JS, “Aspects of the Fatal Malignant Disease Among the Tasmanian Devil Population (*Sarcophilus laniarius*)”, (2006) 11(2) *European Journal of Oncology* 95.

⁷³ Williamson R and Bloomfield T, *1080 Poison Baits for Pest Animal Control*, DPI Landcare Note (July 2003).

⁷⁴ English A, *A Report on the Management of Feral Horses in National Parks in New South Wales* (Report to the NSW Minister for the Environment, 2006).

ensuring a stronger focus on animal welfare when culls are conducted.⁷⁵ Stray cats and dogs also benefit from some public support in urban areas. They are more likely to be treated humanely in urban local government control programs⁷⁶ in order to avoid criticism from the public, many of whom may share their lives with a feline or canine companion.

At the other end of the spectrum, the public cares little for the way in which unpopular species are controlled. Purchasers of warfarin or brodifacoum rodenticide baits, readily available in supermarkets, are unlikely to consider the severe suffering these baits will inflict on the mice and rats they want to exterminate, especially as the animals will generally die out of sight.⁷⁷ The numerous individuals who engage in cane toad control by deliberately running them over on the road, dousing them with petrol or hitting them with golf clubs, cricket bats or mallets go further: not only do they disregard the animals' capacity to suffer, they view their activities as a popular form of sport and nocturnal recreation.⁷⁸ This attitude has been condoned if not encouraged by the media⁷⁹ and politicians.⁸⁰ Warnings by the Queensland and Northern Territory RSPCA that cruel acts against cane toads constitute an offence against animal welfare legislation and their suggestions for humane methods of killing these animals have been met with a flurry of responses ridiculing the Societies and encouraging further acts of cruelty.⁸¹ In these circumstances, enforcement of anti-cruelty laws appears difficult, if not impossible.

The community's lack of compassion has been exacerbated by control agencies' use of demonising language as discussed above. In addition, introduced animals are frequently portrayed through negative emotive stereotypes: the hissing cat;⁸² or with a native bird in its mouth;⁸³ the pig disembowelling a lamb;⁸⁴ or the sleazy-looking fox caught out in a spotlight.⁸⁵ These do nothing to promote a sensible public debate and compassionate attitude; instead they help desensitise the public to introduced animals' sentience.

Given that the majority of control programs for most introduced animals are conducted away from the public eye, few in the general community are cognisant of the inhumane methods used. When awareness is raised, so is the opposition, even when the animals concerned are not particularly popular or charismatic. The abovementioned aerial shooting of goats on Lord Howe Island created outrage in the community. Similar concerns for animal welfare were expressed in relation to the

⁷⁵ English, n 74. See also Miller C, "First the Cattle, Now for the Brumbies" *The Age* (Melbourne, 19 June 2005), p 6.

⁷⁶ *Domestic (Feral and Nuisance) Animals Act 1994* (Vic), s 83.

⁷⁷ RSPCA, n 49, p 17.

⁷⁸ Ashleigh Wilson, "Attack of the Toads", *The Australian* (Sydney) *Weekend Australian Magazine*, (22-23 July 2006), p 30.

⁷⁹ Arvier T, *Beer Scheme Rubs out Top End Toads* (National Nine News, 4 April 2006) <http://news.ninemsn.com.au/article.aspx?id=94327> (viewed 10 June 2007).

⁸⁰ See Mercer P, *Australians Hunt Down Toxic Toads* (BBC News, 18 March 2006) <http://news.bbc.co.uk/2/hi/asia-pacific/4819344.stm> (viewed 10 June 2007), for Federal MP David Tollner's comments; and *Outrage Over Cane Toad Golf* (The Courier Mail, 7 June 2007) <http://www.news.com.au/couriermail/story/0,23739,21865506-952,00.html> (viewed 10 June 2007) for comments by Townsville Mayor Toney Mooney.

⁸¹ Arvier, n 79. See also blogs commenting on *Outrage over Cane Toad Golf* article at <http://www.news.com.au/couriermail/story/0,23739,21865506-952,00.html> (viewed 15 June 2007). Out of 87 postings received in four days, 79 enthusiastically supported the practice of "toad golf" and/or ridiculed the RSPCA for opposing it.

⁸² Pest Animal Control CRC/University of Canberra/Bureau of Rural Resources' website photo, <http://www.feral.org.au:80/content/species/cat.cfm> (viewed 11 June 2007).

⁸³ Department of Environment and Water, *That Feral Cat* poster; Tropical Savannas CRC website photo, <http://savanna.org.au/all/ferals.html> (viewed 11 June 2007).

⁸⁴ Braysher M, *Managing Vertebrate Pests – Principles and Strategies* (Bureau of Rural Sciences, 1993) – cover photo.

⁸⁵ Pest Animal Control CRC/University of Canberra/Bureau of Rural Resources' website photo, <http://www.feral.org.au> (viewed 12 June 2007).

introduction of calicivirus to control rabbits.⁸⁶ It is clear that community attitudes are slowly changing, a fact increasingly recognised by many agencies.⁸⁷

PROGRESS TOWARDS A MORE HUMANE SYSTEM

The recognition that common control methods are inherently cruel and increasingly unacceptable to the public has resulted in calls for the banning of painful substances and methods. Made not merely by animal welfare groups but also by government research bodies⁸⁸ and ministerial advisory bodies,⁸⁹ these calls have unfortunately remained unheeded to date. In 2005 the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry acknowledged that “humane vertebrate pest control is an ideal that should be pursued”,⁹⁰ yet recommended against a phase out of 1080 despite a large number of public submissions in support of this recommendation.⁹¹ There have been increasing efforts by agencies to promote humane methods of control.⁹² More recently, the federal government has developed the Australian Animal Welfare Strategy which provides a national framework aiming at achieving sustainable improvements in animal welfare for all sentient species of animals in Australia, including “introduced wildlife and feral animals”.⁹³ However, if the Strategy is to be more than political rhetoric, sustainable improvements to the welfare of introduced animals will require a strong commitment by all relevant jurisdictions. An important step in this direction has occurred with the agreement of all States and Territories to adopt consistent codes of practice.⁹⁴ Such agreement will make little difference however unless and until the Codes are mandatory and enforceable. The States and Territories have also agreed to phase out control methods identified as non-acceptable.⁹⁵ This could be done promptly given the work already done by relevant agencies to identify non-acceptable methods and more humane alternatives.⁹⁶

Sufficient resources will be necessary to ensure compliance with, and effective enforcement of, the new legislative arrangements, particularly on private property and in remote areas away from the public eye. A substantial shift in attitude will be required for the general public and landholders responsible for small-scale control to take introduced animals’ welfare seriously. A move away from the use of emotive language and illustrations by control agencies, as well as a comprehensive public education campaign will be required.

Perhaps the best way to protect the welfare of introduced animals will occur when the implementation of control programs is subject to three precedent conditions: that the targeted animals are independently proven to cause damage and need to be controlled; that the proposed control program is independently proven to be effective and species specific; and that alternative non-lethal methods have been tried and failed. An enforceable provision to this effect exists in the case of damage mitigation permits for native wildlife.⁹⁷ Alternative methods include exclusion fencing,

⁸⁶ Williams K, Parer I, Coman B, Burley J and Braysher M, *Managing Vertebrate Pests: Rabbits* (Bureau of Resource Sciences and CSIRO Division of Wildlife and Ecology, 1995), p 92.

⁸⁷ Olsen P, n 15, p 22.

⁸⁸ Williams et al, n 86, recommended a ban on chloropicrin; Choquenot et al, n 60, recommended a ban on CSSP.

⁸⁹ See National Consultative Committee on Animal Welfare (NCCAW), *Vertebrate Pest Control and Animal Welfare* (1992) which recommended a ban on strychnine and CSSP.

⁹⁰ House of Representatives Standing Committee, n 3, p 107.

⁹¹ House of Representatives Standing Committee, n 3, Recommendation 22.

⁹² See for instance Department of Primary Industries (Fisheries), *Control of Exotic Pest Fishes – An Operational Strategy for Queensland Freshwaters 2000 – 2005*, p 22 which advocates control techniques based upon the most humane methods possible.

⁹³ Department of Agriculture, Fisheries and Forestry, *The Australian Animal Welfare Strategy*, p 7.

⁹⁴ Invasive Animals Cooperative Research Centre, *Codes of Practice for Humane Vertebrate Pest Control Finalisation for National Adoption by Australian States and Territories – Final Report to the Vertebrate Pest Committee* (2007).

⁹⁵ Invasive Animals Cooperative Research Centre, n 94.

⁹⁶ RSPCA, n 49.

⁹⁷ See for instance *Nature Conservation Regulation 1994* (Qld), s 281(b), although this provision is poorly enforced.

chemical repellents, protection of livestock against predators, reduction of water points which sustain introduced animals in arid lands, cleaning up of food scraps which attract various species, as well as fertility control. Finally, the protection of introduced animals will be significantly enhanced when it is accepted that if humane control is not practically possible or economically feasible, control should not be pursued at all. Such a strong stance would ensure the swift development and adoption of alternative environmentally sustainable and humane land and animal management practices, for which there are currently insufficient incentives. The weak commitment to animal welfare featuring in the Australian Pest Animal Strategy recently approved by the Natural Resources Management Ministerial Council⁹⁸ suggests that the humane control of introduced animals in Australia is far from being achieved.

⁹⁸ Natural Resources Management Ministerial Council, n 10. A commitment to “develop[ing] more effective and humane pest animal management techniques” contained in the 2006 Draft Strategy has been removed.