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## **Senate Committee**

**New South Wales State Executive  
Australian Deer Association Inc.  
Submission on**

**The Effectiveness of Threatened Species and Ecological  
Communities' Protection in Australia.**

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Committee Secretary  
Senate Standing Committees on Environment and Communications  
P. O. Box 6100  
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Australia

Dear Sir/Madam

**Re: The Effectiveness of Threatened Species and Ecological Communities' Protection in Australia (Inquiry).**

The Australian Deer Association Inc (NSW) (ADA) appreciates and welcomes the opportunity to comment on the management of threatened species and ecological communities' protection in Australia.

The ADA has for many years observed and followed with increasing interest the ongoing decline in the management of threatened species and ecological management of species in Australia. With this submission it is hoped to draw the Committee's attention to specific instances where mismanagement has occurred.

It is not enough to "hope" that these problems will somehow resolve themselves – they won't. What is needed is fundamental change in the management of the species and their ecological community.

This submission is New South Wales based in most of its content. However there can be no doubt that the same issues exist in the other States and Territories.

Finally you are asked to provide colour copies of our submission to the Committee members so that they may clearly see the pest species distribution maps included in this submission.

Yours sincerely

Douglas Young  
NSW State Secretary.

## **(a) Management of key threats to listed species and ecological communities;**

### **The Precautionary Principle**

The 'Precautionary Principle'<sup>1</sup> is often applied when making decisions about managing the environment. However, while the Precautionary Principle is a useful aid to decision making there is a real risk of its misuse.

As University of Melbourne's Professor Mark Burgman points out, decision making authority is often vested in the hands of government appointed advisory committees made up of 'experts' and, while committee members may be highly qualified they are nevertheless subject to expert frailties, bias and over confidence (Burgman 2004).

This can lead to inappropriate application of the Principle and wrong decisions. Indeed, the decision by the NSW Scientific Committee to list deer as a key threatening process in 2004 has been challenged by one of Australia's most experienced and internationally recognised wildlife biologists on the basis that the Precautionary Principle was incorrectly applied (Parker and English 2004). In 2006 Chief Judge of the NSW Land and Environment Court, the Hon. Justice Brian J. Preston specified the conditions for correct application of the Precautionary Principle as follows<sup>2</sup>:

#### ***Precautionary Principle: first condition precedent***

The environmental damage threatened must attain the threshold of being *serious or irreversible*. The threat of serious or irreversible damage must be adequately sustained by scientifically plausible evidence. This condition will be fulfilled when empirical scientific data (as opposed to simple hypothesis, speculation or intuition) make it reasonable to envisage a scenario, even if it does not enjoy unanimous scientific support. If there is no threat of serious or irreversible environmental damage (the first condition precedent is *not* satisfied) there is no basis on which the precautionary principle can operate.

#### ***Precautionary Principle: second condition precedent***

If there is not considerable scientific uncertainty (the second condition is *not* satisfied) but there is a threat of serious or irreversible environmental damage (the first condition precedent *is* satisfied), the precautionary principle will not apply.

Given the potential for incorrect application of the Precautionary Principle any consideration for application of the Principle should include widespread input from relevant government, non-government and community stakeholder groups. Importantly, the Precautionary Principle must never be used as an excuse to ignore evidence contradictory to the 'party line' of any influential minority stakeholder group.

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<sup>1</sup> Managing to the Precautionary Principle.

<http://www.environment.nsw.gov.au/sop10/index.htm>

<sup>2</sup> The Hon. Justice Brian J Preston. Principles of Ecologically Sustainable Development. 23 November 2006.

[http://www.lawlink.nsw.gov.au/lawlink/lec/ll\\_lec.nsf/pages/LEC\\_speeches\\_and\\_papers#preston](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/pages/LEC_speeches_and_papers#preston)

## Recommendations

1. **That all Scientific Committees and all public land managers be required to formally adopt and apply the 'conditions for application' of the Precautionary Principle as specified by Justice Preston.**
2. **That a review be undertaken of all public land management decisions that have relied on application of the Precautionary Principle to ensure that Government policies, strategies and actions are based on *correct* application of the Principle and that monies are not being wasted.**
3. **Any evidence used to determine a key threatening process must use genuine scientific evidence.**

## **(b) Development and implementation of recovery plans;**

### **Stakeholder Participation**

In 2006 the then NSW Department of Environment and Climate Change (DECC) published their *Guide for Managing Community Involvement in Threatened Species Recovery*<sup>3</sup>. The guide acknowledges the community has a crucial role to play in threatened species recovery and should be involved for the following reasons:

- knowledge and expertise
- increased resources
- improved capacity and
- increasing effectiveness, among many others.

The guide also identifies numerous special interest groups and ways in which they could be involved, for example:

<i>Special Interest Groups</i>	<i>Ways of Involvement</i>
Shooters Controlling	Feral animals
Fishers/anglers	Weed and feral animal alerts
4WD/trail bike riders	Scat collection
Horse riders	Nest box monitoring.

Regrettably the Guide has not been fully embraced or utilised by government agencies and as a consequence many special interest groups, especially those listed above, remain a highly committed but under-utilised resource by public land managers.

### **Recommendations.**

1. **If the Government is serious about engaging the skills, expertise and increased resources that special interest community groups can offer, then there needs to be a comprehensive and widespread re-education of managers and staff in the relevant government agencies on the role that community groups can and should play in managing public lands.**
2. **Planning must include all groups interested in that species.**

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<sup>3</sup> <http://www.environment.nsw.gov.au/threatenedspecies/tscominvmanint.htm>

## **(c) Management of critical habitat across all land tenures;**

### **Nil Tenure**

The principle of 'Nil-Tenure' (a.k.a. 'cross-tenure')<sup>4</sup> is increasingly accepted a key principle of best practice pest animal and weed management. It has been defined as the collective identification of a feral animal problem, irrespective of tenure boundaries and legal obligations, and a stakeholder-community commitment to implementing a solution.

The *Draft New South Wales Biodiversity Strategy 2010-2015* affirms OEH/NPWS's commitment to cross-tenure control programs and collaboration and partnership with neighbouring landholders and the community.

Occasionally however Nil-Tenure is only *partially* applied in feral species control programs. As indicated in the excerpt below from a recent article on the Thredbo-Ingebyra Wild Dog Control Plan<sup>5</sup> private landholders found that public land managers applied 'nil tenure' incompletely, with limited or no reciprocal access for the landholder to neighbouring public lands:

“Landholders are also currently expected to give unrealistic consent to accept responsibility for any act or omission by NPWS staff and contractors when undertaking work on their properties, which certainly needs to be changed if the TIWDP is ever to be effective”  
“Similarly, given the limited resources available for pest control work, landholders need to be authorised to undertake control work in the NPWS estate bounding our properties.”

Widespread adoption of the 'Nil Tenure' concept is further impeded by some government agencies excluding certain community groups (e.g. Conservation Hunters) from participating in feral animal control programs on certain public land such as catchment areas and national parks.

### **Recommendation**

**That all public land management agencies and those involved with feral animal and weed control enter into a memorandum of co-operation with Farmers and Graziers Associations and other key stakeholder groups representing private landholders to identify and remove the legislative and other impediments to the widespread adoption of the Nil Tenure principle for pest and weed control programs throughout Australia.**

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<sup>4</sup> PAC-CRC. Review of the management of feral animals and their impact on biodiversity in the Rangelands 2005.

<http://www.environment.gov.au/land/publications/pubs/rangelands-feral-animal.pdf> 11 5

<sup>5</sup> Taking the bait. *Farming Ahead* June 2011.

<http://www.kondinigroup.com.au/storyview.asp?storyid=2393894&sections=s&highlight='taking>

## **(d) Regulatory and funding arrangements at all levels of government;**

### **Sustainable Use**

The OEH and its predecessor agencies have for the past 20 years declined to adopt all 3 tenets of the of the **Convention on Biological Diversity**<sup>5</sup> (CBD) since it was launched at the Rio Earth Summit in 1992 and signed by Australia the same year. In October 2008 the then Department of Climate Change (DECC) released the discussion paper *A New Biodiversity Strategy for New South Wales*, and after receiving public comment, released the *Draft New South Wales Biodiversity Strategy 2010-2015* in November 2010. The Discussion Paper acknowledged that Australia was a signatory to the CBD yet for some unknown reason referred to only one of the three objectives identified in Article 1 of the Convention – *'the conservation of biological diversity'*. The Discussion Paper made no reference to the other two objectives in Article 1 of the Convention, namely *'the sustainable use of its components'* and *'the fair and equitable sharing of benefits arising out of the utilisation of genetic resources'*.

It is important to understand that in Australia, State and Territory governments are required by the Intergovernmental Agreement on the Environment (IGAE)<sup>6</sup> to take a cooperative national approach to environmental matters<sup>6</sup>. As such OEH is obliged to adopt all three objects in Article 1 of the CBD. By not incorporating *'the sustainable use of its components'* and *'the fair and equitable sharing of benefits arising out of the utilisation of genetic resources'* into the biodiversity strategy for NSW the national parks and other reserve areas of this state have been denied the benefit of world's best practice in biodiversity conservation management as articulated in the CBD. This is simply unacceptable.

We believe the ongoing omission of all 3 objects of the CBD into national park management plans since 1992 has contributed to the ongoing deterioration of biodiversity in the reserve system which led the NSW Parliament's Standing Committee on Natural Resource Management (Climate Change) to highlight the need for urgent and radical change to the way DECC manages public land under its control<sup>7</sup>:

*"One of the key messages conveyed to the Committee during this inquiry was that a new approach is needed if we are to conserve biodiversity...and that this new approach is needed urgently."*

"Embracing a new approach to biodiversity management will require government agencies, natural resource managers, community groups and society at large to change and make innovative, challenging and unfamiliar decisions."

<sup>5</sup> The **Convention on Biological Diversity** was inspired by the world community's growing commitment to sustainable development. It represents a dramatic step forward in the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources.  
<http://www.cbd.int/convention/text/>

<sup>6</sup> Intergovernmental Agreement on the Environment.  
<http://www.environment.gov.au/about/esd/publications/igae/index.html>

<sup>7</sup> Return of the ark: The adequacy of management strategies to address the impacts of climate change on biodiversity.

[http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/9DEA10FCCD2704B5CA25768700241496?open&refnavid=CO4\\_2](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/9DEA10FCCD2704B5CA25768700241496?open&refnavid=CO4_2)

## Recommendations

1. As recommended by the NSW Standing Committee on Natural Resource Management, that the Department of Environment, Climate Change and Water (now OEHL) reviews the current goals, objectives and priorities for biodiversity conservation and facilitates the community and scientific debate necessary to identify a new approach to biodiversity management and that this be adopted and implemented as a matter of urgency.
2. That the "new approach" include the adoption of the 3 objects of the CBD i.e. *'the conservation of biological diversity'*, *'the sustainable use of its components'* and *'the fair and equitable sharing of benefits arising out of the utilisation of genetic resources'*

### **(e) Timeliness and risk management within the listing process;**

#### Recommendation

When a new threat emerges the responsible agencies and government must respond immediately. Funding and resources need to be made available. The most effective time to eradicate or control a threat is before it becomes widespread.

### **(f) The historical record of state and territory governments on these matters;**

#### **Adherence to Management Practices by Public Land Managers Feral Animal Control**

Under the *Rural Lands Protection Act 1998* all land managers in NSW, whether on public or private land, have an obligation to control declared pest species on their land. Species currently declared pests in NSW are: wild rabbits, wild dogs, feral pigs and a number of locust species (the Australian Plague, Spur-Throated and Migratory locusts).

In 1994-95 the NSW National Parks and Wildlife Service (NPWS) pest management budget was around \$1 million and in 2006-2007 it was \$18 million<sup>8</sup>. In 2011-12, despite a budget allocation of \$68 million to manage feral animals, weeds and improve fire management in national parks<sup>9</sup> the NPWS destroyed only 24,000 feral animals<sup>10</sup>. This equates to only one feral animal for every 216 ha. of national park or one feral animal for every 294 ha. of all protected terrestrial area under NPWS control.

<sup>8</sup> Protecting our parks from pests and weeds Oct. 2006.

<http://www.environment.nsw.gov.au/pestsweeds/SoPPestManagement.htm>

<sup>9</sup> Budget Papers 2011-2012.

[http://www.treasury.nsw.gov.au/\\_data/assets/pdf\\_file/0005/21983/bp3\\_07prem.pdf](http://www.treasury.nsw.gov.au/_data/assets/pdf_file/0005/21983/bp3_07prem.pdf)

<sup>10</sup> Hansard 30 May 2012.

[http://www.parliament.nsw.gov.au/Prod/parlment/hansart.nsf/V3Key/LA20120530010?open&refNavID=HA8\\_1](http://www.parliament.nsw.gov.au/Prod/parlment/hansart.nsf/V3Key/LA20120530010?open&refNavID=HA8_1)

There is an abundance of media reports showing that feral animals, especially wild dogs, are out of control in NSW and that national parks are a haven for these pests <sup>11</sup>. It is of utmost concern when even the Office of Environment and Heritage (OEH) acknowledges the scale of the task of controlling the impacts of widespread invasive species vastly exceeds the resources available <sup>12</sup>.

### Recommendation

**That the relevant legislation be amended to enable accredited conservation hunters to control feral animals in all national parks, wilderness areas, world heritage areas, conservation areas and other protected areas in Australia.**

### (g) Any other related matter.

#### NPWS Performance Reporting

OEH/NPWS has a history of giving conflicting messages when reporting on the effectiveness of their feral pest management programs and the status of biodiversity in National Parks under its control. For example, Table 7.8 in the *New South Wales State of the Environment 2009* report (SoE 2009) suggests that DECCW is "*effectively managing*" the pest animal threat on 95% of the total area of the NSW park system, and that the impacts on park values are "*negligible, diminishing, or not increasing*":

#### Extent and severity of most commonly reported threats to terrestrial park values

Type of threat	Number of parks identifying this threat (total parks: 759)	Estimated proportion* of parks affected (ha)	Estimated extent of all threats (at any level) (ha)	Estimated extent of severe threat** (ha)	Area of park system effectively managing threat*** (%)
Weeds	580	17.9	1,177,367	110,955	90
Pests	470	35.9	2,356,613	163,674	95
Fire	344	26.6	1,71,297	174,730	94

Source DECC: State of the parks data 2007

- Notes:
- \* Calculated by taking the median point from categorised area data (for example, localised (<596), scattered (5-15%), widespread (15-5096) and throughout park (>5096))
  - \*\* Level of threat includes, moderate, high and severe. Severe threat is as one likely to lead to a loss of reserve values in the foreseeable future if the threat continues at current levels
  - \*\*\* Effective management is defined as meeting the precautionary principle, that is, that impacts on values are negligible, diminishing or not increasing

However, reading beyond the headlines SoE2009 paints an entirely different picture of the effectiveness of OEH/NPWS's pest management:

<sup>11</sup> Union calls for action on wild dogs, 7 May 2012.

<http://www.abc.net.au/news/2012-05-07/union-calls-for-action-on-wild-dogs/3995298>

<sup>12</sup> New South Wales State of the Environment 2009.

<http://www.environment.nsw.gov.au/soe/soe2009/index.htm>



*"..the intensive control [of invasive species] that is necessary to improve the condition of flora and fauna is largely limited to some conservation reserves."*

*"The main vertebrate pests found in NSW are now widespread across the state."*

*"The map [map 7.5] shows that these pest animals are broadly and relatively evenly distributed across the whole state and that no part of NSW is unaffected by the main pest animal species."*

OEH / NPWS have struggled to clearly define what "effective management" is and as a result, generate conflicting statements of the impact of invasive species on biodiversity.

In another example, DEC's 2006 report *Protecting our National Parks from Pests and Weeds*<sup>13</sup> suggested that pest animals were being **"effectively managed"** to reduce or contain their impacts in 92% of the area of the NSW national park system. Without a clear, unambiguous definition of "effective management" however DEC made errors in interpreting their performance to the point of contradicting the findings of a Commonwealth parliamentary report:

*"Although a recent Parliamentary report (Commonwealth of Australia 2005) found that pest animal problems are increasing Australia-wide, NPWS is managing to reduce or stabilise the problem across the majority of its estate in NSW. In the overwhelming majority of the NSW park system, management is effectively containing or reducing the threat*

DEC's 2006 report regrettably used confounding language which confuses the reader:

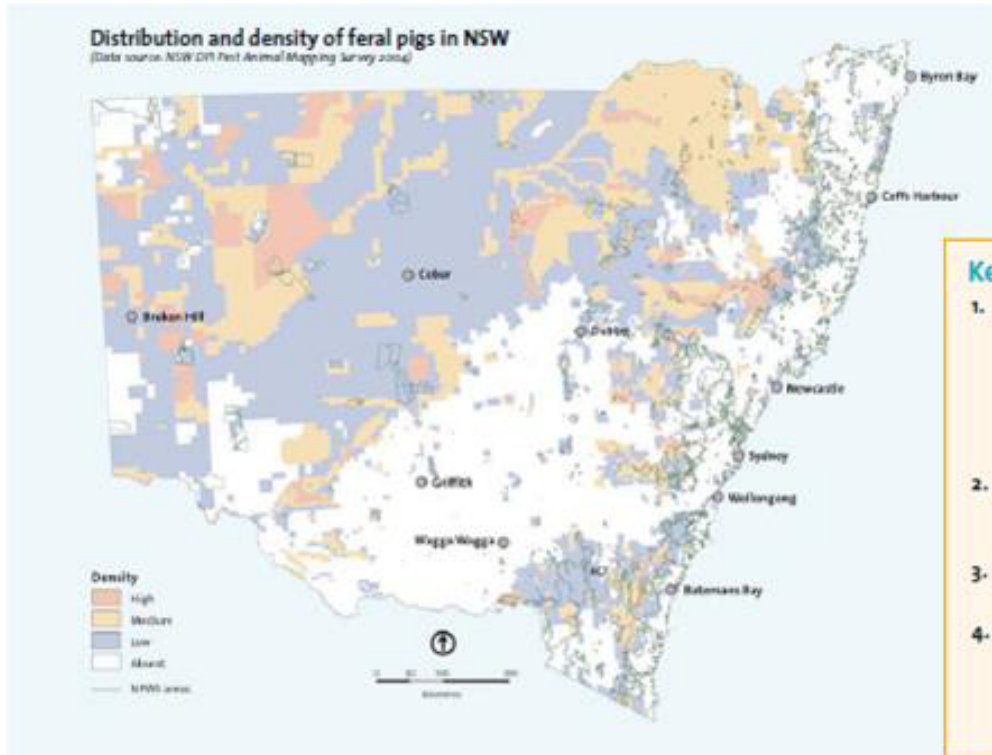
*Although parks cover only 8% of NSW, they contain more than 8% of the pig-free area Although parks cover only 8% of NSW, they contain more than 8% of the goat-free area Although parks cover only 8% of NSW, they contain more than 8% of the rabbit-free area* Source: DEC 2006.

These statements might have some validity if National Parks and pest animals were uniformly distributed across the State, however they are not, and rather than providing evidence of effective management of pests, these figures simply reflect the uneven distribution of individual pest animal species and reserves across NSW. As can be seen by comparing maps A and B below feral pigs are predominantly found in the north-west of the State (Map A) whereas the National Park estate is generally concentrated in the south-east of the State (Map B). Therefore it is not surprising that National Parks contain a larger 'pig-free' area than the rest of the State.

For DEC to imply by the statement '*Although parks cover only 8% of NSW, they contain more than 8% of the pig-free area*' that feral pigs are somehow better managed in National Parks is misleading.

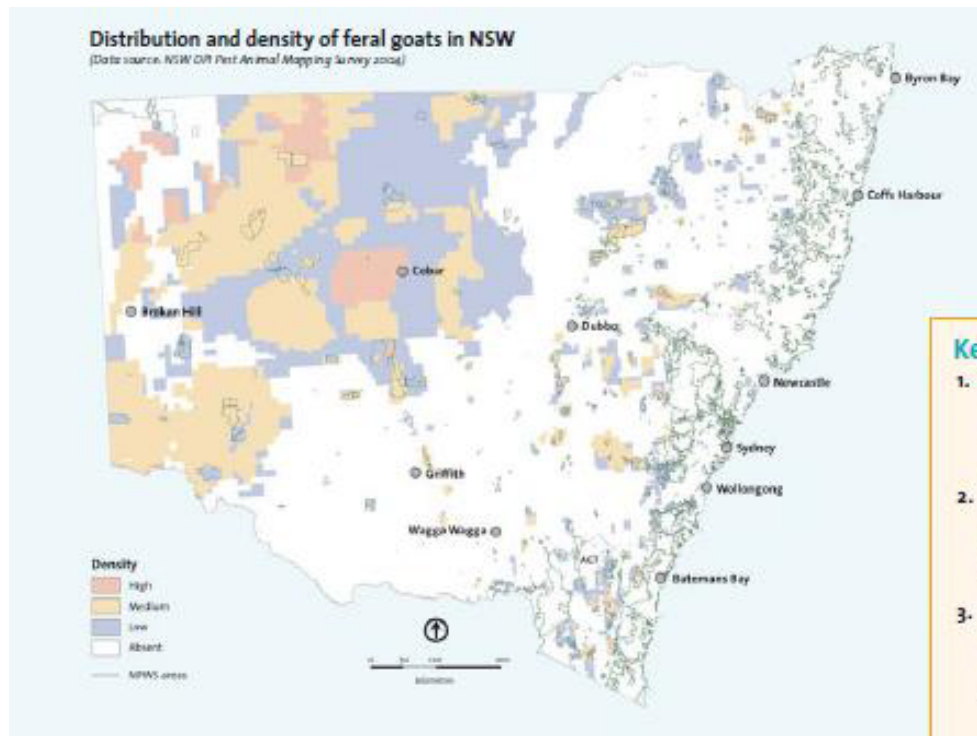
<sup>13</sup> Department of Environment and Conservation NSW 2006. *Protecting our national parks from Pests and Weeds*. ISBN 1 74137 973 3 DEC 2006/387, October 2006.  
<http://www.environment.nsw.gov.au/pestsweeds/SoPPestManagement.htm>

**Map A: Distribution and Density of Feral Pigs** **Map B: National Parks Estate**



Similarly, feral goats are predominantly found in the north-west of the State (Map C) but again DEC imply by the statement "Although parks cover only 8% of NSW, they contain more than 8% of the goat-free area" that goats are better managed in National Parks than the rest of the State.

**Map C: Distribution and Density of Feral Goats**



## Recommendations

1. That government agencies adopt a 'plain English' policy to ensure that their true performance across all aspects of public land management are clearly and accurately communicated in its annual, and various *ad hoc* reports.
2. That government agencies record and report the species and numbers of each species of feral animal destroyed in each national park and reserve under its control on an annual basis.

**NPWS social research informing policy** In 2009-2010 DECC's Parks and Wildlife Group commissioned a social research project to explore the preferences, motivations and barriers in relation to participation in nature-based outdoor recreation. The research was to inform strategies for increasing demand among current and prospective outdoor recreation participants.

There is reason to believe from information in the research reports that the DECC set out to manipulate the design, conduct and findings of the research study. This was been done by (a) manipulating the screening questionnaire, (b) asking 'leading' and 'loaded' questions, and (c) misrepresenting the results as being true participation and interest rates for nature based outdoor recreation in NSW, as will be shown below.

The stated objective of the research project was to:

*"...explore the preferences, motivations and barriers in relation to participation in nature-based outdoor recreation. This includes obtaining data on current demand, as well as forecasts for the future, in order to identify the types of experiences and locations in which the Parks and Wildlife Group (PWG) should supply new nature-based outdoor recreation opportunities and the ways in which it should manage existing opportunities." "It should be noted that current behaviour, interests, barriers and motivations were investigated in relation to nature-based outdoor recreation generally, not just in relation to activities carried out in National Parks, whilst preferences were investigated in relation to activities undertaken in a „National Park, State Conservation Area, State Forest or Nature Reserve“". [author's emphasis]*

### (a) Manipulating the screening questionnaire

The screening questionnaire for the exploratory qualitative phase of the research was developed and structured in such a way that only a highly selected group of screened candidates were eligible to participate i.e. only candidates undertaking at least one of only 7 very specific activities in the previous 12 months were eligible to participate. As shown below, the screening questionnaire *excluded* candidates who undertook activities permissible in State Forests such as '**conservation hunting**' and '**walking your dog**' etc. from participating in the research:

4. I am going to read to you a list of recreational activities, and I'd like you to tell me whether you engaged in any of them in the last twelve months. [Read list]

Visiting natural landmarks

Riding a bike on a path or road

Going to the beach

Walking and enjoying the scenery, flowers, birds

Scenic photography (If queried: photographing natural landscapes or scenes)

Engaged in none of the above	DOES NOT QUALIFY, THANK YOU AND TERMINATE
Engaged in one or more	CONTINUE TO Q5. CONSIDER FOR CURRENT PARTICIPATION GROUPS

(b) Asking 'leading' / 'loaded' questions

As shown below, the screening questionnaire prompts and suggests to prospective candidates the types of outdoor recreation activities that will help them be selected to participate and receive the \$70 participation payment.

APPENDIX B: SCREENING QUESTIONNAIRE

Good morning/afternoon/evening. My name is <name> from Ipsos-Eureka, a social research firm. We're looking for people to attend a discussion group for an important research project we are conducting on outdoor recreation activities, like picnicking, bike riding, and going to the beach.

[IF THEY ARE NOT FREE TO TALK NOW, ASK IF YOU CAN CALL BACK AT A MORE CONVENIENT TIME.]

If you are a participant, you will receive \$70 as a 'thank you' for giving up your time and helping us with the project. Around 6 to 8 people will attend the discussion and it will be very relaxed and informal. You'll probably find it quite interesting. Refreshments will be provided and it will take about 2 hours. Would you be interested in attending?

Clearly, this biased the sampling frame and excluded any participants who had a 'preference' to undertake activities deemed 'inappropriate' to DECCW such as 'conservation hunting' or 'walking the dog' - legitimate activities on State Forest land.

(c) Misrepresenting the results

The research reports state that the results will be used to "...inform strategies for increasing demand among current and prospective outdoor recreation users." By manipulating the screening questionnaire to ensure only highly selected subjects participated, the true prevalence of the public's interests and preference for outdoor recreation activities has been misrepresented.

### **Recommendations**

- 1. The strategies and actions implemented by OEH based on the results of this research are likely to be flawed and therefore ineffective at meeting the desired goals (increased visitation) and should be reviewed.**
- 2. That the research methodology should be independently reviewed for any impropriety.**
- 3. That any surveys to be done should include all activities.**

### **References**

**Burgman M. 2004.** Expert frailties in conservation risk assessment and listing decisions. pp22-29 in *Threatened species legislation: is it just an Act? 2004*, edited by Pat Hutchings, Daniel Lunney and Chris Dickman. Royal Zoological Society of New South Wales, Mosman, NSW, Australia.

**Parker B. and English A. 2004.** Justifiable invocation of the Precautionary Principle, or the product of paradigm and perception: 21st century deer management in south east Australia. Australian Wildlife Management Society (AWMS), 17th Scientific Meeting, Kingscote, Kangaroo Island, South Australia.