

INQUIRY INTO DINGOES IN NATIONAL PARKS IN NEW SOUTH WALES

Organisation: Animal Defenders Office Inc.

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Animal Defenders Office

Using the law to protect animals

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SUBMISSION

Inquiry into dingoes in national parks in New South Wales

NSW Legislative Council - *Animal Welfare Committee*

About the Animal Defenders Office

The Animal Defenders Office (“ADO”) is a nationally accredited community legal centre that specialises in animal law. The ADO provides pro bono animal law services to the community. The ADO is a member of Community Legal Centres NSW Inc., the peak body representing community legal centres in NSW.

The ADO has been in operation since 2013. Further information about the ADO can be found at www.ado.org.au.

About this submission

The ADO welcomes the opportunity to contribute to the NSW Legislative Council Animal Welfare Committee’s Inquiry into dingoes in national parks in New South Wales (“the Inquiry”).

This submission is based on the following presumptions:

- The dingo is a native Australian species that plays an important role in ecosystems as an apex predator.¹
- Dingoes are sentient animals who ‘are able to subjectively feel and perceive the world around them’².

¹ K M Cairns et al, ‘The myth of wild dogs in Australia: are there any out there?’ *Australian Mammalogy*, vol 44, Issue 1, Jan 2022: ‘Dingoes fill the ecological role of terrestrial apex predator on mainland Australia’.

² *Animal Welfare Act 1992* (ACT) s 4A(1)(a).

- Any kind of human management of dingoes involves a tension between competing human interests and the dingoes' fundamental interests in living free in their natural habitat and engaging in natural behaviours.

The ADO submits that the current regulatory framework in New South Wales ("NSW") unjustifiably separates dingoes from every other native mammal in NSW and classifies them as a 'pest wild dog'; a classification that contemporary science, First Nations people, and many other members of the community reject.

Ultimately this submission recommends that, if dingoes are to be managed, the management should be grounded in current genetic evidence, should not proceed under a legal fiction that includes a native species as a type of introduced 'pest', and should be developed in partnership with First Nations peoples rather than imposed on them.

1. The legislative, regulatory and policy framework

1. Statutory exclusion from native animal classification

1.1. Dingoes occupy an anomalous legal position in NSW. They are the only native mammal expressly excluded from the list of 'protected' native animals in the *Biodiversity Conservation Act 2016* (NSW) ("the BC Act"). Schedule 5 to the BC Act lists which native animals are 'protected animals' for the purposes of the Act. In relation to native mammal species, it specifies 'mammals of any species (including aquatic or amphibious mammals **but not including dingoes**)' (emphasis added). Thus the BC Act creates a legal fiction that Australian dingoes are not native mammals.

1.2. The practical consequence of this exclusion is that dingoes are deprived of the minimum 'protections' provided in relation to other native mammals under the BC Act, such as requiring a licence for lethal control on private property or other land outside of national parks and reserves.³ Being excluded from the classification of native mammals under the Act leaves dingoes in legal limbo. They are implicitly covered by biosecurity legislation with the consequence that they are deemed to be 'biosecurity matter'.⁴ This in turn creates an obligation on landholders and land managers to prevent, eliminate, or minimise the 'biosecurity risk' they allegedly pose as biosecurity matter.⁵

³ The BC Act, Part 2, Division 3 'Biodiversity conservation licences' especially ss 2.1 and 2.10. Section 2.1(1)(c) makes it an offence to harm a protected animal, and s 2.10 creates a defence to the offence if the person harming the animal holds a biodiversity conservation licence.

⁴ *Biosecurity Act 2015* (NSW) ("Biosecurity Act").

⁵ Biosecurity Act s 22.

2. The "wild dog" classification and its regulatory consequences

- 2.1.** Historically, NSW law classified dingoes as "wild dogs" which were in turn classified as pest animals. Under the *Wild Dog Destruction Act 1921* (NSW), "wild dog" was defined to include 'any dingo or native dog, or any dog which has become wild, or any dog which apparently has no owner and is not under control' (s 3).⁶ Under the (now expired) *Local Land Services (Wild Dogs) Pest Control Order 2015*, "wild dogs" were defined as a declared pest animal, defined to include 'any dog, including a dingo, that is, or has become wild', subject only to limited exclusions for companion, exhibited or research animals.⁷
- 2.2.** The current wild dog management plan, the *NSW Wild Dog Management Strategy 2022-2027* ("the Strategy")⁸, maintains this conflation of native dingoes with wild (introduced) dogs: 'In NSW, the term "wild dog" refers to all wild-living dogs (*Canis familiaris*) and includes dingoes, feral domestic dogs and the hybrid descendants of these.'⁹ The effect is that a genetically distinct native species has the same legal status as an introduced species regarded as a pest¹⁰. This in turn means that dingoes, as a 'wild dog', can be destroyed in national parks in NSW under an 'authority to harm' issued by the Secretary of the relevant department¹¹ in accordance with the *National Parks and Wildlife Act 1974*.¹²

3. Interjurisdictional comparison

- 3.1.** The NSW position is not unique. In most Australian jurisdictions¹³, the dingo is recognised as a native species but is also legislated as a pest, and is managed through lethal control including baiting, shooting and trapping, even within national parklands. The universal rationale for destroying dingoes is to prevent predation on non-indigenous farmed animals. Two of NSW's neighbouring jurisdictions illustrate this tension.
- 3.2.** In Victoria, dingoes (*Canis lupus dingo*) are protected threatened wildlife under the *Wildlife Act 1975* and listed as 'Vulnerable' on the *Flora and Fauna Guarantee Act 1988* Threatened List. However, they are only protected in the north-west of the State where the population is

⁶ In 2017 the Biosecurity Act repealed parts of the 1921 Act that dealt with destroying wild dogs and renamed the 1921 Act the *Border Fence Maintenance Act 1921* (NSW).

⁷ *Local Land Services (Wild Dogs) Pest Control Order 2015* (NSW), clauses 3 and 6; available at https://www.dpir.nsw.gov.au/_data/assets/pdf_file/0003/555942/Wild-Dog-PCO.pdf.

⁸ https://www.dpir.nsw.gov.au/_data/assets/pdf_file/0011/1628741/wild-dog-management-strategy-2022-2027.pdf.

⁹ The Strategy p 6.

¹⁰ The opening statement on the NSW Government's page on 'Wild dogs' is: 'Wild dogs are pest animals that threaten livestock and some native fauna.' <https://www.environment.nsw.gov.au/topics/animals-and-plants/pest-animals-and-weeds/pest-animals/wild-dogs>.

¹¹ Defined as 'the Department of Climate Change, Energy, the Environment and Water', *National Parks and Wildlife Act 1974* (NSW) ("NPW Act") s 5.

¹² NPW Act s 171.

¹³ There are no native dingoes in Tasmania.

critically low.¹⁴ In 2024, the Victorian Government continued an ‘unprotection order’ for the rest of the State specifically to enable ‘the lethal control of dingoes for the protection of livestock’, while also investing more than \$2 million to support some farmers to adopt non-lethal dingo management strategies.¹⁵

3.3. In the ACT (situated in the middle of NSW), the Government asserts that dingoes ‘can cause serious impacts on farming enterprises through harming livestock, particularly sheep’ and cites control methods including leghold traps (even when banned under ACT animal welfare law¹⁶), poisoned baits (1080) and shooting.¹⁷ Yet the ACT Government has committed to remove the listing of dingoes as a pest from the relevant legislative instrument¹⁸ and to bring the dingo back as a native animal under nature conservation laws.¹⁹ However, any meaningful (minimal) protection such a change may have provided will be undone because the Government has also committed to declaring the dingo to be a ‘controlled native species’ under the same nature conservation laws, which is arguably merely a different way of saying ‘pest’ and allows declared species to be killed without licences to harm.²⁰

3.4. This national pattern of legal contradictions regarding the dingo (native-but-unprotected, pest-by-classification) suggests that the Inquiry may have relevance beyond NSW, and that NSW should be well placed to lead reform on the legal status and the treatment of dingoes.

4. Cultural significance for First Nations communities

4.1. The National First Nations’ Dingo Declaration (2023)

4.1.1. In October 2023, representatives of more than 20 First Nations groups signed the National First Nations Dingo Declaration, arising from the National First Nations Dingo Forum.²¹ The Declaration states: ‘We do not, and have never, approved the killing of dingoes. Killing dingoes is killing family. We demand an immediate stop to this ‘management’ across Australia.’

¹⁴ <https://www.wildlife.vic.gov.au/our-wildlife/dingoes>.

¹⁵ The order permits the control of dingoes on private land and along the boundaries of public land until 1 January 2028: <https://www.premier.vic.gov.au/balancing-dingo-conservation-and-management>.

¹⁶ M Dahlstrom, ‘Australian authorities caught unlawfully using ‘cruel’ devices to catch native animals’, *Yahoo! News*, 2 August 2025, <https://au.news.yahoo.com/australian-authorities-caught-unlawfully-using-cruel-devices-to-catch-native-animals-013343033.html>.

¹⁷ <https://www.act.gov.au/environment/animals-and-plants/animals/wildlife-management/waragul-dingoes-wild-dogs>.

¹⁸ *Biosecurity (Pests) Declaration 2025* (ACT), Part 1.4, item 2 ‘*Canis lupus* (wild); Dingo/Wild Dog’.

¹⁹ *Ibid.*

²⁰ *Nature Conservation Act 2014* (ACT), Chapter 7. The only species that has so far been declared as a controlled native species is the Eastern Grey Kangaroo, and these animals are killed in their thousands in ACT nature reserves every year: <https://www.act.gov.au/environment/animals-and-plants/animals/wildlife-management/eastern-grey-kangaroo>.

²¹ <https://hsi.org.au/wp-content/uploads/2023/10/dingo-declaration-FINAL-A3.pdf>.

4.1.2. The Declaration describes the dingo as ‘the Boss of Country’ who ‘belong[s] in the landscape’, and states that this ecological role ‘ensures natural systems remain in balance’ but is ‘greatly under-appreciated.’ It further states that the dingo ‘is deeply sacred to Australia's First Nations peoples’. The Declaration also records that signatories ‘collectively welcome Dingoes back to [their] care as [their] Creator Beings, companions, and kin’, framing the relationship as one of reciprocal custodial responsibility: ‘We exist in a symbiosis. When you remove Dingoes, Country gets sick, we get sick.’

4.1.3. This position is grounded in both cultural authority and scientific evidence. The Declaration expressly rejects the legal terminology of dingoes as ‘wild dogs’ and urges that dingoes are not regulated under legislation designed for this loose category of introduced animals.

5. Genetic and scientific basis for distinct treatment

5.1. The First Nations position is supported by contemporary genetic science. In August 2023 approximately 30 genetic and environmental scientists collectively wrote to the NSW, Victorian and South Australian governments highlighting new research on the genetic distinction between dingoes and dogs.²² The research challenges previous assessments of ‘domestic dog admixture in dingo populations’ and supports ‘the use of genome-wide SNP genotyping as a refined method for wildlife managers and policymakers to assess and inform dingo management policy and legislation moving forwards’.²³ The research, as summarised in the letter, makes two findings of relevance to the regulatory framework:

5.1.1. First, DNA testing found that most of the animals classified as NSW “wild dogs” were in fact pure dingoes, and that most of the remainder carried more than 93% dingo ancestry. No first-cross dingo-dog hybrids or ‘feral’ dogs were identified in the study, consistent with earlier genetic surveys finding first-cross hybrids and ‘feral’ dogs to be extremely rare in NSW and elsewhere in Australia.

5.1.2. Second, the testing methodology previously used (and still used by NSW Department of Primary Industries in testing samples supplied by NSW Local Land Services, NSW National Parks and Wildlife Service and other state agencies) is a 23-marker DNA test that comparative studies have found frequently misidentifies pure dingoes as hybrids. On this basis, the scientists’ letter submits that existing knowledge of dingo ancestry across NSW and Australia is incorrect, and that new genetic surveys are required.

²² K M Cairns, ‘Scientists call for changes to NSW, VIC and SA dingo policy’, <https://www.kyliecairns.com/single-post/scientists-call-for-changes-to-nsw-vic-and-sa-dingo-policy>.

²³ K M Cairns et al, ‘Genome-wide variant analyses reveal new patterns of admixture and population structure in Australian dingoes’, *Molecular Ecology*, vol. 32, Issue 15, 2023.

6. From consultation to co-design: the appropriate engagement standard

- 6.1.** ToR 1(f) asks the Committee to consider ‘opportunities for incorporation of Indigenous knowledge and leadership in dingo conservation in national parks.’ We submit the word “leadership” is significant and should inform the standard the Committee recommends.
- 6.2.** Government engagement with stakeholders, including First Nations communities, is properly understood along a spectrum, from (i) informing, through (ii) consulting, to (iii) genuine co-design and shared decision-making. The ADO submits that informing and consulting treat First Nations communities merely as stakeholders to be notified of, or asked to comment on, decisions substantively made elsewhere. By contrast, co-design treats First Nations communities as holders of authority and knowledge who participate in setting not only the objectives, but also the implementation, of dingo management policy.
- 6.3.** The ADO submits that a consultation model that solicits First Nations views on the design of a cull program without conferring authority over whether and how dingo management occurs at all, does not meet the standard called for by the National First Nations Dingo Declaration, and would not enable incorporation of Indigenous knowledge and leadership referenced in ToR 1(f).
- 6.4.** The Declaration frames the relationship between First Nations peoples and dingoes as one of custodial responsibility, not merely interest: signatories describe ‘welcom[ing] Dingoes back to [their] care’ and restoring ‘custodial responsibilities to restore balance across the lands and waters.’ A framework that positions First Nations peoples as (merely) one stakeholder among others to be consulted does not reflect this unique custodial relationship, or the leadership contemplated by ToR 1(f).
- 6.5.** The ADO submits the Committee should recommend that dingo management in national parks be co-designed with First Nations communities and organisations rather than be developed by government and then subjected to First Nations ‘consultation’ after the substantive policy is settled. Co-design could include the setting of management objectives, the selection of permissible control methods, and the definition of “dingo” for regulatory purposes.

7. The case for law reform

- 7.1.** In light of the above considerations, the ADO submits that the legislative framework regarding dingoes should be completely overhauled and rewritten in line with current community expectations and scientific evidence. The blueprint for the new approach already exists in the form of the Declaration, in terms of what the legislation should contain and how First Nations Custodians should be involved in its development. The Declaration explicitly calls for:

a different model: caring for Dingoes on Country. This model sees Dingo recognised in legislation as—a culturally significant and protected native species. This model must use traditional knowledge, and evidence-based practice, focusing on peaceful co-existence between Dingoes and all stakeholders. This brings together cultural and western knowledges.

- 7.2.** In support of its position, the Declaration refers to the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”), which Australia (eventually) endorsed in 2009.²⁴ In calling for the preservation of the Dingo, the Declaration invokes Articles 25 and 26 of UNDRIP, which refer to the rights of Indigenous people ‘to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters ... and other resources’ and call for States to ‘give legal recognition and protection to these lands, territories and resources’.²⁵
- 7.3.** The ADO submits that dingoes must be legally recognised as a native species rather than with a misleading term of convenience such as ‘wild dog’. This is advocated by First Nations peoples, who state in the Declaration that they ‘do not support the use of the term “wild dog” ... It is a deliberate misrepresentation to justify killing. It disrespects and disregards culture’. It is also advocated by scientists who state that ‘[g]iven our demonstrated findings of limited domestic dog admixture in dingoes, future use of the terms “dingo” and “feral domestic dog” will more accurately reflect the identity of wild canids in Australia.’²⁶ In terms of law reform, this could be achieved simply by omitting the words ‘but not including dingoes’ from the category ‘mammals’ in Schedule 5 to the *Biodiversity Conservation Act 2016* (NSW). This would have the effect of appropriately including dingoes with all other native mammals for biodiversity conservation purposes.
- 7.4.** A contemporary regulatory framework would also ban the use of cruel lethal control methods such as 1080 poison and leghold (or soft-jaw) traps, and instead mandate non-lethal coexistence approaches.
- 7.5.** Finally, the legislative framework should clarify that sick, injured and orphaned dingoes are able to be rescued, rehabilitated and released or, if unable to be released, then kept in appropriate conditions by licensed carers.

²⁴ https://social.desa.un.org/sites/default/files/migrated/19/2018/11/UNDRIP_E_web.pdf.

²⁵ Ibid.

²⁶ K M Cairns et al, ‘Genome-wide variant analyses reveal new patterns of admixture and population structure in Australian dingoes’, *Molecular Ecology*, 2023. The ADO does not support the use of the term ‘feral’ given its negative connotations. A neutral term such as ‘introduced’ or ‘non-indigenous’ should be used instead.

8. Additional recommendations

- 8.1.** NSW DPI's dingo/wild dog DNA testing methodology should be reviewed and, if appropriate, replaced with high-density genomic testing, given the direct bearing of testing methodology on the current classification of dingoes as “wild dogs”.
- 8.2.** The Committee should recommend that NSW takes a leadership position in dingo reform rather than await national harmonisation.
- 8.3.** The Committee should recommend a co-design model for dingo management in national parks, rather than mere consultation, under which First Nations groups co-design definitions, management objectives and management methods.

9. Conclusion

- 9.1.** The current legislative and regulatory framework applying to dingoes in NSW is outdated, unscientific, incoherent, and cruel. It also denies First Nations communities inherent sovereign rights as Indigenous peoples.
- 9.2.** For these reasons the framework must be redesigned, adopting a co-design model of engagement with First Nations peoples in dingo management and regulation, and reinstating dingoes to their rightful place of cultural icon and Boss of Country.²⁷
- 9.3.** Thank you for the opportunity to make a submission to the Inquiry.

Yours sincerely

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²⁷ As referred to in the Declaration.