



7 June 2007

The Executive Officer
Flora and Fauna Guarantee Scientific Advisory Committee
Biodiversity and Natural Resources Division
Department of Sustainability and Environment
P.O. Box 500
East Melbourne Vic. 3002

Dear Sir/Madam,

Nomination of the dingo for listing as a threatened native taxon in Victoria and preliminary recommendation

We refer to the recent nomination made by Dr. Ernest Healy, secretary of the Dingo CARE Network, for listing of the Australian dingo (*Canis Lupus Dingo*) as a threatened native taxon pursuant to Section 10 of the *Flora and Fauna Guarantee Act 1988* (Vic.). We confirm that your Committee's preliminary recommendation is to approve this nomination.

We write to support to lend our endorsement to both the nomination and the preliminary recommendation.

Formed in Melbourne in 2005, Lawyers for Animals Inc. is a not-for-profit organisation which seeks to provide legal-oriented education to the public, government and industry in relation to animal welfare matters. We feel that it is through education, that law reform to reduce and eliminate animal suffering is most likely to be achieved. We also take an interest in preserving natural ecosystems and fauna, for the long-term benefit of indigenous animals and their human cohabitants.

Inconsistent legislation

We refer to Dr. Healy's identification of an apparent inconsistency between the 1997 proclamation of the dingo as an 'established pest' pursuant to Section 67 of the *Catchment and Land Protection Act 1994* (Vic) and the combined effect of Sections 3 and 4 of the *Flora and Fauna Guarantee Act 1988* (Vic) ("FFG").

Section 3 of the FFG Act states:

"fauna" means any animal-life which is indigenous to Victoria whether vertebrate or invertebrate and in any stage of biological [development](#) and includes [fish](#) and any other living thing generally classified as [fauna](#) but does not include humans

Section 4(1) of the FFG Act states:

- (1) The [flora](#) and [fauna](#) conservation and management objectives are-
- (a) to guarantee that all taxa of Victoria's [flora](#) and [fauna](#) other than the taxa listed in the [Excluded List](#) can survive, flourish and retain their potential for evolutionary [development](#) in the [wild](#); and
 - (b) to conserve Victoria's communities of [flora](#) and [fauna](#); and
 - (c) to manage [potentially threatening processes](#); and
 - (d) to ensure that any use of [flora](#) or [fauna](#) by humans is sustainable; and
 - (e) to ensure that the genetic diversity of [flora](#) and [fauna](#) is maintained; and
 - (f) to provide programs-
 - (i) of [community](#) education in the conservation of [flora](#) and [fauna](#); and
 - (ii) to encourage co-operative management of [flora](#) and [fauna](#) through, amongst other things, the entering into of [land](#) management co-operative agreements under the [Conservation, Forests and Lands Act 1987](#); and

- (iii) of assisting and giving incentives to people, including [landholders](#), to enable [flora](#) and [fauna](#) to be conserved; and
(g) to encourage the conserving of [flora](#) and [fauna](#) through co-operative [community](#) endeavours.

The dingo is not listed in the Excluded list [see FFG Act s.4(1)(a), above]. Some resistance still lingers – at least, on the part of interested Government agencies – to classifying the dingo as ‘indigenous’, due to the fact that it was introduced to Australia between 3,500 and 5,000 years ago. In view of the accepted application of the term ‘indigenous’ to species with far shorter periods of habitation in a particular region (humans, for instance); and in recognition of the dingo’s assimilation into the Australian mainland ecosystem during its long period of residence, we submit that it would be disingenuous to deny the dingo its indigenous status.

A remedy for legal fiction

In supporting Dr. Healy’s nomination of the dingo for listing as a threatened native taxon pursuant to Section 10 of the *Flora and Fauna Guarantee Act 1988* (Vic.), we are mindful of the fact that such a listing would effectively remedy two existing legal fictions. Not only would the questionable proclamation of the dingo as an ‘established pest’ under s.67 of the *Catchment and Land Protection Act 1994* (Vic) require instant repeal, thus restoring the intended effect of the FFG Act; but the dangerous ill-definition of the dingo as a ‘wild dog’ under several National Park Management Plans would finally demand correction.

At present, a number of National Park Management Plans are, as Dr. Healy notes, “logically incoherent” in their definition of the pestilent ‘wild dog’. For instance, the Cobberas-Tingaringy Alpine National Park Management Plan of 1992 states that ‘wild dogs’ are “to include all animals of the genus *Canis* in the wild, including the dingo, dingo hybrids and feral dogs” [at section 2.2.2]; while simultaneously acknowledging “that wildlife adapted to the presence of dingoes long before European settlement. [So] Within national parks, the dingo is considered an indigenous species” [also at section 2.2.2].

In fact, as Dr. Healy points out, the dingo may frequently be blamed for the actions of wild dogs, which are less adapted to hunting wildlife and therefore more inclined to attack farm animals; and also breed in far greater numbers, owing to their less hierarchical social structure. Attempts to reduce dingo populations have proven counter-productive in their creation of an artificial vacuum in the natural pack structure, encouraging dingoes other than the alpha female of the pack to breed, often with dingo hybrids or wild dogs, thus further diminishing the natural disinclination of dingoes to overbreed.

In any event, we note that even if the dingo is, as we advocate, listed as a threatened native taxon pursuant to Section 10 of the *Flora and Fauna Guarantee Act 1988* (Vic.), the National Parks Act 1975 provides for the control or eradication of “indigenous fauna to the extent necessary for the preservation and protection of any species.”

The lesser of two evils

As an organisation that undertakes human education in relation to animal welfare with the ancillary effect of reducing suffering on animals, we recognise the difficulty in achieving a balance between the preservation of an endangered predator animal such as the dingo, and the protection of livestock, particularly those situated on properties adjacent to National Parks and State Forests where dingoes might, one day, return. However, in choosing between allowing an indigenous animal, such as the dingo, to become extinct in the Victorian wilderness – as experts warn will soon happen if immediate steps are not taken to reverse the decline – and protecting whatever proportion of the 1,900 stock reported lost each year may accurately be attributed to dingo (rather than wild dog) attack; we recommend preserving the natural ecosystem, for the overall public benefit.

We note that Minister McGauran has previously recognised that kangaroos “inflict significant costs on grazing industries through pasture competition and damage of fences”. However, it seems likely that there would be public outrage and national devastation were a declaration ever made listing the kangaroo as an ‘established pest’, such that their population was eliminated in Victoria (and beyond). So too, we believe the public deserve to be properly educated and consulted about present policy, which is leading to the elimination of the dingo in Victoria.

We therefore lend our support to the nomination of the dingo as a threatened native taxon pursuant to Section 10 of the *Flora and Fauna Guarantee Act 1988* (Vic.), and to the Committee’s preliminary recommendation that this nomination be approved.

Should the Committee have any queries or require any further information concerning this letter, please do not hesitate to contact Nichola Donovan of this office.

Yours faithfully,

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DISCLAIMER: Although all reasonable efforts have been made to ensure that the content of this letter is accurate, Lawyers for Animals Inc. cannot guarantee that it is without flaw of any kind. Further, we note that nothing contained within this letter ought be construed as 'legal advice', it is intended for educational rather than legal purposes.