



Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office Inc. is accredited by the National Association of Community Legal Centres.

Transport Canberra and City Services
GPO Box 158
CANBERRA ACT 2601

Dear Sir/Madam

Submission on the draft *Feral Peafowl Management Plan 2018–2023*

Thank you for the opportunity to provide a submission on the draft *Feral Peafowl Management Plan 2018 – 2023* (“**draft plan**”).

About the Animal Defenders Office

The Animal Defenders Office (“**ADO**”) is a nationally accredited non-profit community legal centre that specialises in animal law. The ADO is run by volunteer lawyers, law students and other professionals. The ADO offers information and representation for individuals and groups wishing to protect animals. The ADO also produces information to raise community awareness about animal protection issues, and works to advance animal interests through law reform.

The ADO is based in the Australian Capital Territory (“**ACT**”) and is a member of the National Association of Community Legal Centres.

Background

The draft plan deals with wild peafowl (“**the peafowl**”) who have inhabited various streets in the suburb of Narrabundah in the ACT for the last 30 or so years. Over this time the population of the peafowl has remained stable at approximately 25-30 birds (page 8).

About this submission

The ADO has the following concerns about the draft plan and its regulatory context, including:

1. The classification and treatment of peafowl as a ‘pest’ animal;
2. The proposed trapping and killing of peafowl as a potential management option;
3. The proposed trapping by members of the public where peafowl birds are on private premises as a potential management option;
4. The proposed shooting of peafowl birds as a potential management option;
5. The proposed destruction of peafowl eggs as a potential management option; and
6. The proposed poisoning of peafowl birds as a potential management option.

Our concerns are set out in detail below.

2. Purpose and Objectives

The purpose of the draft plan is to ‘set out the approach to be adopted in managing the feral peafowl population in the ACT in order to address the negative impacts these birds have on the community, the environment and the economy’ (page 2).

The ADO submits that the draft plan has not established sufficient negative impacts on the environment and the economy to warrant the lethal ‘management’ options it recommends (trapping and killing).

The draft plan states that peafowl ‘have not been declared an environmental pest anywhere in Australia’ (page 5), and that they ‘have not been identified as a significant environmental risk’ and that any impact on native species populations by peafowl ‘is considered minor’ (page 9).¹ It is therefore reasonable to suggest that if peafowl were of concern to the local environment, they would be identified as a pest species under ACT legislation. Similarly, if there were national concerns about the impact of these birds on native flora and fauna, they would have been identified as such under relevant Commonwealth legislation.

In our view the draft plan fails even to establish a *potential* threat to the environment. The draft plan’s second objective is to ‘prevent the feral peafowl population from spreading and impacting on other areas, including nature reserves’ (page 2). Yet the draft plan states that this has not occurred during the decades that the peafowl have inhabited their territory in Narrabundah (page 4), and does not provide any evidence of the likelihood that this will happen in the future.

The ADO also submits that the draft plan has not demonstrated the negative impacts that the peafowl are alleged to be having on the economy and that supposedly justify removing the birds from their suburban territory. For example, while the draft plan refers to infectious diseases and parasites that peafowl are ‘known to carry’ and have the ‘potential to spread’ (page 5), the draft plan admits that the ‘extent to which these diseases are present in the peafowl population of Canberra is unknown’ (pages 5 and 8).

4.3 Predators

This section discusses predators of adult peafowl and of peachicks. The ADO submits that the predators and general vulnerability of peafowl eggs mentioned in section 5.1 of the draft plan (page 8), should also be referred to in this section.

4.4 Environmental impacts

This section purports to establish the environmental impacts of the peafowl. We note statements such as ‘peafowl *can* also have a negative impact on native plant and animal species’; ‘environmental impacts are *likely to be negligible*’; and ‘if the population remains unmanaged and is allowed to spread into neighbouring nature reserves then the peafowl *could have* a significant impact on the environment’ (page 4, emphases added). These assertions are not supported by references or other evidence. Moreover, there is no evidence to show why the population is likely to

¹ The draft plan also states that the ‘Indian peafowl and/or its activities have not been identified as a key threatening process or a pest species under the relevant Commonwealth or ACT Government legislation’ (page 5).

spread 'into neighbouring nature reserves' when the population has not done so in the past 30 years (ie during its existence to date).

The ADO submits that this section fails to establish any environmental impacts that may warrant management action regarding the peafowl. Unless evidence can be provided to support the assertions made in this section, the ADO submits it should be removed from the draft plan or the lack of evidence should be explicitly acknowledged.

4.7 Strategic policy

The Animal Welfare and Management Strategy 2017-2012 (ACT)

The draft plan states that it 'is consistent with the Animal Welfare and Management Strategy and in particular supports action 3.1.5: Develop policies and where necessary revise regulations to manage domestic animals other than companion animals in urban areas. This is a short term action to be delivered within three (3) years' (page 6).

The ADO submits that the Animal Welfare and Management Strategy ("**the Strategy**")² is not relevant to the peafowl. The draft plan cites action 3.1.5 in the Strategy. Action 3.1.5 refers to 'domestic animals'. Yet the definition of 'domestic animal' in the Strategy does not apply to the peafowl as they are not 'domesticated by humans as to live and breed in a tame condition and depend on humankind for survival'³ and they are not one of the three categories of 'domestic animal' listed for the purposes of the Strategy.⁴ Moreover, the peafowl cannot be regarded as companion animals, which is a synonym for pets.

The ADO therefore submits that the draft plan should not claim that its proposed 'management' action regarding the peafowl is supported by action 3.1.5 in the Strategy.

Treating the peafowl population as pest animals

The draft plan includes a lengthy discussion of the *ACT Pest Animal Management Strategy 2012–2022* ("**Pest Strategy**") in the discussion of the policy settings of the plan (pages 6–7).

Yet as noted earlier, the draft plan states that peafowl have not been identified as a '*key threatening process or pest species*' under ACT or Commonwealth legislation.

Moreover, we note that peafowl are not listed as a pest animal in the *Pest Plants and Animals (Pest Animals) Declaration 2016 (No 1)* (ACT).

We also note that 'Indian peafowl' is an exempt animal for the purposes of the *Nature Conservation Act 2014* (ACT).⁵ This means that as an 'exempt exotic animal' the Indian peafowl is 'considered unlikely to be capable of becoming established in the wild, exacerbating existing pest populations, or

² *The Animal Welfare and Management Strategy 2017–2022*, ACT Government, Canberra 2016.

³ Ibid, Attachment C, p43.

⁴ The three categories are:

- Companion animals that often live in the home (eg dogs, cats, small mammals, birds).
- Livestock, including animals used for production (eg cattle, sheep etc).
- Animals kept for recreational purposes (eg horses).

⁵ *Nature Conservation (Exempt Animals) Declaration 2015 (No 1)* (ACT) ("**the Declaration**").

introducing a disease to wild populations’ and that there ‘is no public safety issue associated with keeping and or commerce in this species’.⁶

The ADO therefore submits that reference to the Pest Strategy in the draft plan is highly inappropriate and completely unjustified. The ADO recommends that all references to the Pest Strategy, and any reference to the peafowl themselves as ‘pests’, should be removed from the draft plan.

Finally we note that the draft plan refers to peafowl as a ‘non-declared pest species’ (page 1). The draft plan should clarify if this is a legal or scientific classification. If neither, the classification should not be used as the peafowl is not a declared pest species.

6 Management options for the ACT

6.2 Community Education/ Awareness

The ADO supports a general community education program about living with wild peafowl as a worthy initiative per se and not as part of a ‘population control program’ (page 17).

The ADO agrees that community education should include information about the consequences of feeding the birds, as suggested in section 6.2 of the draft plan.

6.3 Trap and relocate or euthanise

The ADO does not support trapping the peafowl, whether to relocate/rehome or to kill. The draft plan has failed to establish any reason based on welfare, environmental, social or economic grounds to remove the peafowl.

Yet the draft plan not only prefers removal, but also ‘complete’ removal. ‘Noise issues’ are cited as the reason not to leave a ‘small number of peacocks’ (page 17). Yet as we condone and live with noise issues associated with keeping domestic animals such as dogs and chickens (not roosters) in urban areas throughout the city of Canberra, it is unclear why a different response is warranted regarding the 25 peafowl of Narrabundah.

Relocation / rehoming

The draft plan discusses the possibility of relocating or rehoming trapped peafowl after they have been trapped. As stated, the draft plan fails to establish a need to trap the peafowl for removal purposes. However, if the peafowl are trapped, the ADO makes the following comments about relocating and/or rehoming the peafowl.

The draft plan states that ‘there are limited suitable re-homing options available’ (page 18). Yet the draft plan fails to mention the possibility of rehoming the peafowl at an animal sanctuary. The number of animal sanctuaries in the Capital region has been growing steadily in recent times.⁷

If the peafowl are trapped, the ADO submits that the only humane option would be to rehome the peafowl with an animal sanctuary. The ADO does not support rehoming to private zoos or any commercial enterprise that aims to profit from keeping and displaying animals. If trapped for

⁶ Explanatory Statement to the Declaration, p2.

⁷ See for example [Little Oak Sanctuary](#), [A Poultry Place](#), [Signal Hill Sanctuary](#), [Whisker Woods Sanctuary](#), [Lucky Stars Sanctuary](#).

removal, the peafowl must be rehomed with an animal sanctuary that will prioritise the birds' welfare above all other considerations.

The draft plan states that past requests to rehome trapped peafowl on private rural properties has been denied on the basis that 'relocating the birds could result in a feral population establishing at another location'. The ADO notes that if this policy were applied to all 'exempt exotic animals', then dogs and cats could not be moved between properties. This inconsistency in approach undermines the argument that peafowl should not be rehomed on private rural properties. Moreover, the potential for establishing feral populations could be controlled by requiring that any peafowl who is rehomed must be microchipped.

Killing trapped peafowl

The draft plan asserts that killing the 'trapped birds' needs to be considered because of 'the limited opportunities for rehousing' (page 18; also page 20). As the draft plan fails to mention the possibility of rehousing trapped birds with animal sanctuaries, this assertion is unsustainable. There is also no reference to animal sanctuaries in the list of stakeholders consulted about the draft plan (page 2).

The draft plan attempts to justify killing trapped birds (rather than relocating them) by reference to the PestSmart Standard Operation Procedure (SOP) 'BIR002' ("**the SOP**").⁸ We note, however, that this document does not refer to peafowl at all, and no evidence is provided to support the draft plan's assertion that the SOP's procedures can 'equally be applied to peafowl' (page 18).

The ADO therefore recommends that any reference to the SOP be removed from the draft plan because it is irrelevant and, as it deals with 'pest' species, misleading.

Trapping on private land—animal welfare considerations

The draft plan states that peafowl occurring on private land are the responsibility of the resident/leaseholder (page 13). The draft plan also suggests that leaseholders on private land trap the peafowl themselves (pages 18 and 21), and that this be undertaken 'in accordance with animal welfare legislation' (pages 18 and 22).

It is not clear what 'animal welfare legislation' is referred to as the draft plan's statement is not referenced. However, we note that Part 6 of the *Animal Welfare Act 1992* (ACT) ("**the Act**") deals with 'animal trapping'. Under the Act, it is an offence to set a trap with the intention of catching an animal (s62(1)), unless the trap is set by a person who holds a trapping permit (s62(2)). A trapping permit can be subject to animal welfare conditions (s65(b)), thereby providing some level of assurance that the trapped animal's welfare will be taken into account.

The ADO notes with concern, however, that the requirement for a trapping permit does not apply to persons trapping animals on their own premises (s62(3)). The draft plan's assertion that leaseholders trap peafowl 'in accordance with animal welfare legislation' therefore provides no protection at all for the birds. The ADO submits that this gap in welfare protection should be noted in the draft plan, and that it should recommend that leaseholders prioritise animal welfare when trapping on their own premises despite not having to hold a trapping permit.

⁸ The link to this document included in the draft plan on page 18 does not work. The document was found at: https://www.pestsmart.org.au/wp-content/uploads/2018/01/180110_SOP_BIR002_web.pdf.

Destroying peafowl eggs

The draft plan acknowledges that chicks and eggs may be abandoned due to trapping the mother (page 18). If that occurs, the draft plan recommends that the chicks and eggs be destroyed (pages 18 and 20). The draft plan refers to the SOP for guidance. As stated earlier, the SOP does not deal with peafowl, who are larger than any of the birds mentioned in the SOP. The ADO submits therefore that the plan should not refer to the SOP regarding the killing of peachicks. Alternatively, if the draft plan does refer to the SOP in this section, it should explain how the advice the SOP provides is relevant to peachicks, and should state the killing methods recommended by the SOP and incorporated by the draft plan (gassing with carbon dioxide, cervical dislocation, decapitation, or blow to the head followed by bleeding-out etc).⁹

The draft plan states that ‘peafowl eggs over 14 days old (greater than half way to the hatching) are considered to have developed sufficiently to allow perception of pain’ (page 19). The draft plan also states that ‘it can be difficult to determine the age of the eggs’ and therefore supports the SOP’s recommendation of destroying eggs by freezing (page 19).

The draft plan does not refer to any scientific evidence about peachick eggs in particular, or the capacity of peachick embryos to feel pain, or the least inhumane method of destruction of peachick eggs. In the absence of scientific evidence about these important factors, and given the difficulty in establishing the age of eggs, the ADO recommends that the draft plan should refrain from advocating the destruction of peachick eggs. We also do not support any proposed method of rendering eggs unhatchable, again due to the risk of causing the embryo pain.

6.4 Shooting

The draft plan asserts that ‘shooting birds in urban areas is a viable option’. No evidence is provided to support this assertion. The draft plan does not refer to an animal welfare code of practice for shooting peafowl. It is therefore unclear what guidance would be available for ensuring what is regarded as the least inhumane form of deliberate killing—that is, an instantaneous loss of consciousness followed by death before regaining consciousness.

The ADO strongly opposes on welfare grounds any suggestion of shooting the peafowl.

6.5 Poisoning

While the ADO supports the draft plan’s opposition to poisoning the peafowl, we do so on animal welfare grounds. We submit that the detrimental effect of poisoning on the individual birds be included as a reason why poisoning is not proposed.

6.6 Fertility control

The ADO notes that the only reference cited in this section is a 2011 study. Given the growth in research into fertility control in wild animal populations in recent years, a more recent study should be cited, or the absence of more recent research should be noted.

⁹ T Sharp, *Standard Operating Procedure BIR002: Trapping of pest birds*, Pestsmart, 2013, page 7.

6.8 Bird exclusion methods

The ADO opposes the use of electric wires as a bird exclusion method on animal welfare grounds. We recommend that animal welfare considerations be included in the discussion of bird exclusion methods in this section.

7 Future management of feral peafowl in the ACT

Table 1: Summary of Management Options

The ADO submits that:

- In the 'Do nothing' option, the statement that 'Birds could increase their range to adjacent suburbs or into the Red Hill Nature Reserve' be removed as the draft plan provides no evidence that this is likely.
- In the 'Community awareness' option, the statement that 'raising people's awareness of the issues is important in gaining understanding and/or support for any population control measure' be removed. This should not be the objective of a community awareness program about wild animals. Such a program should have as its main aim to educate the public about **responsible co-existence**, where protection of individual animals, the environment and residents' amenity have equal priority. Some of this is captured in the third point in this item, which should be retained.
- In the 'Treating the eggs to render them unhatchable' option, the negative animal welfare outcomes and associated issues be included in the list of 'cons', such as the difficulty in determining the age of the egg and the possibility the embryos will feel pain.
- The high likelihood of negative animal welfare outcomes be included in the list of 'cons' in the 'Shooting' and 'Poisoning' options.
- In the 'Deterrents' option, the assertions that peafowl 'will get accustomed to some deterrents' and 'will move to another location' be removed or modified (ie 'may' instead of 'will'), due to the absence of any evidence on which these assertions are based.

In conclusion, the ADO submits that the need to 'manage' the peafowl has not been established, and that therefore a population control plan is not required. In particular, we strongly oppose any proposal to destroy the peafowl or their eggs.

We also submit that the draft plan fails to adequately address animal welfare issues as asserted in its Introduction (page 2).

Rather than a population control plan, we suggest that a community awareness program could be implemented to educate residents about how to treat the birds in the best interests of the birds, their neighbours, and the environment.

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