



Animal Defenders
Office

Using the law to protect animals

Submission on proposed changes to declared pest animals in the ACT

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About Us

The Animal Defenders Office (ADO) is an incorporated, non-profit community legal practice that specialises in animal law. Our mission is to use the law to protect animals, which includes:

- assisting individuals and groups to secure animal interests through existing legal mechanisms;
- increasing public awareness of animal protection matters; and
- working to advance animal interests through law reform.

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

About this submission

The ADO welcomes the opportunity to comment on the *Pest Plants and Animals (Pest Animals) Declaration 2015 (No 1)* (the Declaration).

The ADO recognises that some animal, fish and insect species that have been introduced into Australia by humans may adversely affect ecosystems and eco-communities. The ADO notes that these ecosystems and eco-communities, together with the environment in general, have also been drastically affected by humans.

While the ADO supports measures to protect these ecosystems and eco-communities that have been so significantly affected by humans, the ADO does not support any protection measures that cause pain or suffering to individual sentient animals (including humans).

Therefore the ADO does not oppose changing various animals' status in law. It does, however, strongly recommend against the use of lethal 'control' measures that may be permitted by the changed status.

Specific comments

The ADO has the following specific comments to make in relation to the proposed amendments to the Declaration.

1. Declaration of additional deer species

The ADO questions how it can be 'accepted' that the Sambar Deer 'poses risks similar to or greater than other deer species' given the lack of a nationally-endorsed risk assessment for this species and of documented evidence of environmental impacts.

The ADO would recommend that any change to the status of this species wait until the research to quantify the actual impacts of the species is completed.¹

¹ See page 1 of the 'Pest Plants and Animals (Pest Animals) Declaration 2015 (No 1) – Rationale and summary of new and amended provisions' (the Summary).

2. Declaration of cats as Wild Cats

As mentioned above, the ADO does not oppose measures taken to protect the environment, provided they do not include lethal or inhumane control measures carried out on sentient animals.

The ADO strongly opposes the baiting or poisoning of cats or any other animal.

Any contributions cats may make to processes that threaten ecosystems, along with anthropogenic processes such as habitat destruction, urbanisation, and road construction, should be addressed by non-lethal means. Such means could include:

- requiring pet cats to be registered;
- improving enforcement of mandatory desexing and microchipping of cats;
- subsidising the cost of desexing for low income earners (for example, people with an Australian Government Health Care Card);
- banning the sale of cats and kittens from pet shops (which, in contrast with rescue groups such as the RSPCA, do not include desexing in the cost of obtaining an animal);
- phasing out of the keeping of cats as domestic animals or livestock;
- use of cat-proof fences;
- undertaking trap, neuter and release programs where appropriate.

5. Addition of 'Prohibited' status to declared...European Red Fox

As 'Pest Plants and Animals (Pest Animals) Declaration 2015 (No 1) – Rationale and summary of new and amended provisions' (the Summary) points out, foxes are already declared as pest animals in the ACT.² The Summary also recognises that foxes are not kept as domestic pets or livestock.³

The ADO understands, however, that under current ACT law an injured or orphaned wild fox may be rescued, rehabilitated, and then kept in captivity (ie not released back into the wild) if a licence is obtained.⁴ It would seem that this is the responsible approach to ensuring that injured or orphaned exotic animals are treated humanely, but that the animal is not reintroduced into the wild.

Therefore the ADO does not support the proposed declaration of foxes as 'prohibited' pest animals which would prevent the keeping of foxes under any circumstances, and which would not result in any discernible positive environmental outcome. Indeed, such an approach could have a number of negative impacts. This is because fox cubs will continue to be found by members of the public, due to their mothers being killed on the road or cubs being dropped by a vixen who is moving her litter between dens. Not all the people who find these animals will have them euthanised. It would be safer, from an environmental perspective, for the keeping of these animals to be permitted subject to requirements such as vaccination, desexing, and secure housing. Prohibiting the keeping of foxes is unlikely to result in foxes not being kept in the ACT, but it will result in such animals being unable to access veterinary care, including desexing. With proper enclosures the risk of captive foxes escaping is extremely low. In the unlikely event that this occurred, however, a desexed fox would not be able to contribute to the wild fox population.

² The Summary, page 2.

³ The Summary, page 3.

⁴ See ADO Factsheet: 'Can I keep a fox in the ACT or NSW' at: <http://goo.gl/SCZZeg> and <http://www.ado.org.au/#!faq/c14um>

The ADO notes that the Summary states that the intention behind the proposal to declare foxes as 'prohibited' is to:

...discourage reckless supply, reckless use of machinery, keeping or reckless disposal of these species under the provisions of the ACT *Pest Plants and Animals Act 2005*. These are activities that are likely to lead to further spread of these species in the ACT.⁵

It is difficult to see how permitting desexed, vaccinated foxes to be kept in secure (dig-proof) enclosures is 'reckless' or could lead to an increase in the fox population. The ADO would not support the breeding or supply of captive foxes, but there is nothing to indicate that this is occurring anywhere in Australia.

If foxes are declared to be 'prohibited' pest animals, an exception should be made for foxes who are currently in captivity. This approach was taken in NSW when a pest control order relating to foxes was made in December 2014.⁶ Failure to exempt foxes who are currently being kept as domestic companions could result in these animals not being able to access veterinary care, which could lead to needless suffering. The ADO also considers that it would be unreasonable, and likely to be unpalatable to many in the community, to require people who have raised orphaned or abandoned foxes from a young age, to euthanise these animals. The ADO understands that rescued foxes are as much a part of the rescuer's family as a cat or dog, and an edict to kill them would be met with as much resistance as would an order to dispose of a companion animal. Such a requirement could also potentially result in people releasing captive foxes (rather than killing them), which would be an unsatisfactory outcome from every perspective, especially that of the domesticated fox.

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⁵ The Summary, page 2.

⁶ *Local Land Services (European Red Fox) Pest Control Order 2014*, http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0010/537265/LLS-european-red-fox-pest-control-order-2014.pdf. See also Department of Primary Industries NSW, 'Pest Control Order for Foxes. Frequently Asked Questions', http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0011/537266/Pest-control-order-for-foxes-faq.pdf.