

Wildlife Act 1975

DECLARATION OF THE DINGO TO BE UNPROTECTED WILDLIFE

ORDER IN COUNCIL

The Governor in Council, on the recommendation of the Minister for Environment, the Minister for Agriculture, and the Minister for Outdoor Recreation, under section 7A of the **Wildlife Act 1975** revokes the Order in Council published in Government Gazette G39 on 27 September 2018, declaring the dingo (*Canis lupus dingo*), except when kept in captivity, to be unprotected wildlife.

The Governor in Council, on the recommendation of the Minister for Environment, the Minister for Agriculture, and the Minister for Outdoor Recreation, under section 7A of the **Wildlife Act 1975** declares the dingo (*Canis lupus dingo*), except when kept in captivity, unprotected wildlife on:

- (a) all private land in Victoria; and
- (b) public land within 3km of any private land boundary in the areas shown hatched in Schedule 1 of this Order.

Where unprotected, the conditions, limitations and restrictions specified in Schedule 2 of this Order apply and the dingo may be taken or killed by persons authorised and by the methods specified in that Schedule.

This Order comes into effect on the date it is published in the Government Gazette and applies until 1 October 2024.

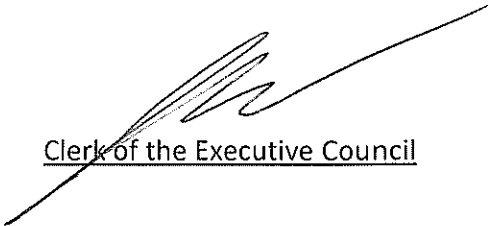
Dated: 26 SEP 2023

Responsible Ministers:

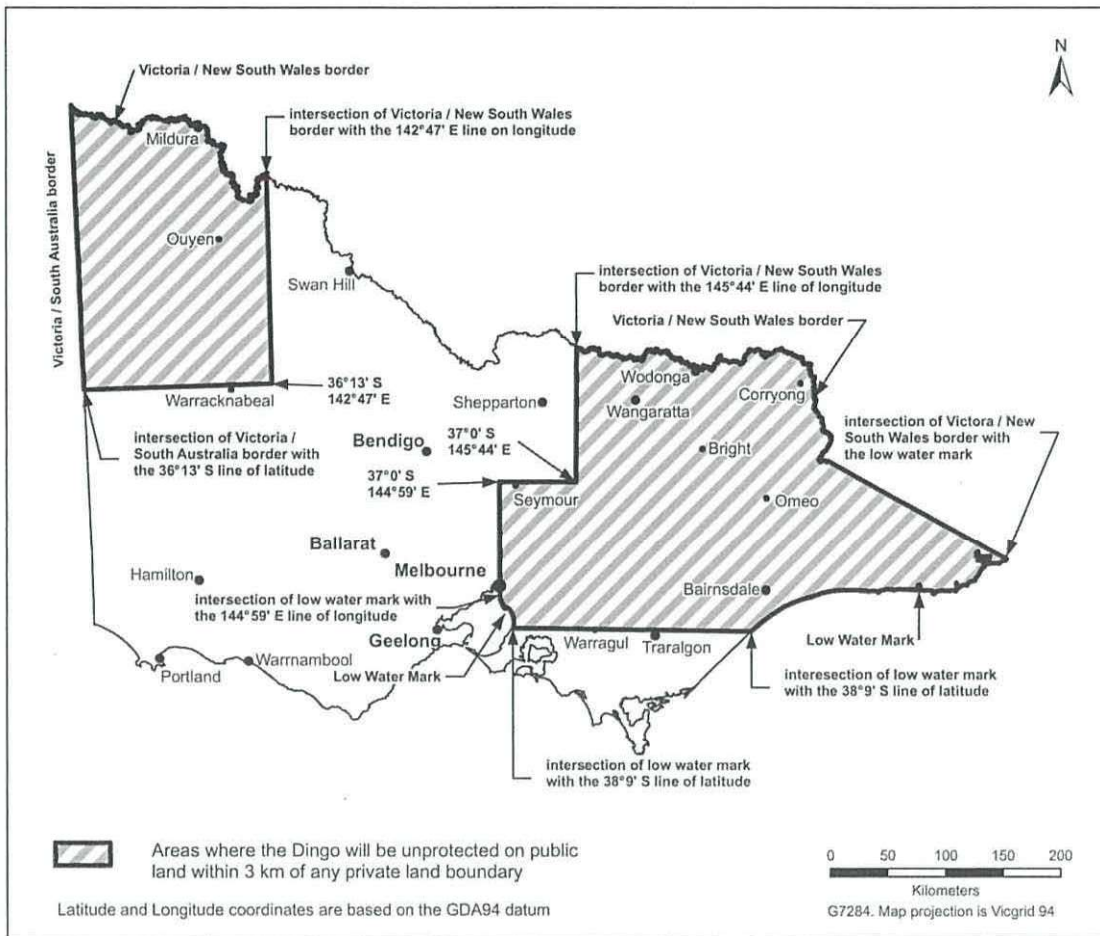
Ingrid Stitt MP
Minister for Environment

The Hon Gayle Tierney MP
Minister for Agriculture

The Hon Sonya Kilkenny MP
Minister for Outdoor Recreation


Clerk of the Executive Council

SCHEDULE 1



SCHEDULE 2

Conditions, Restrictions and Limitations

1. Where unprotected, the dingo can be taken or killed by the below methods:
 - (a) traps and other devices that comply with requirements under the **Prevention of Cruelty to Animals Regulations 2019**; or
 - (b) poisoned with registered baits in accordance with the **Agricultural and Veterinary Chemicals (Victoria) Act 1994**; or
 - (c) firearms in accordance with the **Firearms Act 1996**.
2. In the case of private land specified in this Order, there are no restrictions on who may kill or take a dingo.
3. In the case of public land specified in this Order, employees of, and persons engaged to kill or take dingoes in writing, by the Department of Energy, Environment, and Climate Action or Parks Victoria may kill or take a dingo.





The Hon Daniel Andrews MP

Premier of Victoria



1 Treasury Place
Melbourne, Victoria 3002 Australia
Telephone: +613 9651 5000

Subordinate Legislation Act 1994

PREMIER'S exemption CERTIFICATE

(Section 12G)

Declaration of the Dingo to be Unprotected Wildlife

Wildlife Act 1975

I, the Hon Daniel Andrews MP, Premier, certify under section 12G of the **Subordinate Legislation Act 1994** that, in my opinion, in the special circumstances of the case the public interest requires that the proposed legislative instrument relating to the declaration of the dingo to be unprotected wildlife under section 7A of the **Wildlife Act 1975** be made by the Governor in Council on the recommendation of the responsible Ministers without complying with section 12E of the **Subordinate Legislation Act 1994** for a period not exceeding 12 months.

The proposed legislative instrument will expire on 1 October 2024, on the day which is 12 months after the first day on which the proposed legislative instrument come into operation.

The responsible Ministers, Ingrid Stitt, Minister for Environment, the Hon Gayle Tierney, Minister for Agriculture, and the Hon Sonya Kilkenny, the Minister for Outdoor Recreation, have given me written reasons why the public interest requires that the proposed legislative instrument be made without complying with section 12E of the **Subordinate Legislation Act**.

My reasons for the exemption are:

1. Recent scientific research and DNA analysis has shown that most animals previously thought to be wild dogs or dingo-dog hybrids are dingoes and that hybridisation in the wild is rare.
2. The recent scientific evidence represents a significant change in the knowledge that underpins the current policy and regulatory framework for managing wild dogs and dingoes in Victoria. This information necessitates a review of the policy and regulatory settings for the management and control of dingoes in Victoria.
3. Such a review requires substantial and informed consultation with Traditional Owners, graziers and peak bodies representing the affected farming community and conservation interests. The recent information has given rise to uncertainty regarding the extent of the social and economic impacts, which cannot be determined without

the Department of Energy, Environment and Climate Action (DEECA) undertaking this substantial consultation.

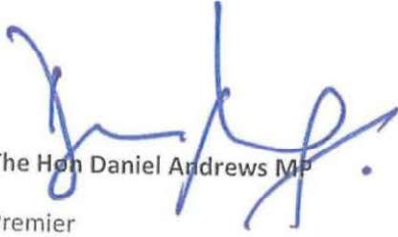
4. The review will be finalised in the next 12 months. This will allow time for further inquiries so that a reasonable and proportionate decision can be made on the future of policy and regulatory settings for the management and control of dingoes in Victoria in light of the new scientific research prior to October 2024. It will also support the preparation of a RIS to be completed within that 12-month period.
5. There is not sufficient time for DEECA to conduct adequate consultation, which takes into account this new research, before the expiry of the current Order in Council, published in Government Gazette G39 on 27 September 2018 (Current Order).
6. The proposed legislative instrument will maintain the current regulatory settings and preserve the current status quo, allowing time for all factors to be properly considered rather than making a decision that is pre-emptive.
7. If the Current Order that is set to expire on 1 October 2023 lapses, and if a new Order is not made, the lethal control of dingoes that occurs under the Current Order would become unauthorised, liable to penalties under the **Wildlife Act 1975**, and would need to cease.
8. The proposed legislative instrument will be the largely the same with only minor and technical changes proposed to the Current Order, which will be revoked. The proposed legislative instrument, made under section 7A of the **Wildlife Act 1975**, enables lethal control of dingoes on all private land in Victoria, and on public land within 3 km of a private land boundary in North-West and Eastern Victoria. The Current Order provides that, where unprotected, the dingo can be taken or killed by traps and other devices that comply with the Prevention of Cruelty to Animals Regulations 2008, poisoned with registered baits in accordance with the **Agricultural and Veterinary Chemicals (Victoria) Act 1994** or by firearms in accordance with the **Firearms Act 1996**.
9. The remaking of the Current Order, through the proposed legislative instrument, for a period of 12 months, will:
 - i. allow DEECA time to conduct a review of the policy and regulatory settings for the management and control of dingoes in Victoria following recent scientific research and DNA analysis;
 - ii. allow DEECA time to develop options that seek to balance the conservation of the dingo with the need to minimise impacts from predation on graziers, including alternatives to lethal control;
 - iii. provide the time required to work with Traditional Owners to understand and design a program that gives effect to their aspirations as they relate to dingoes on
 - iv. Country; iv. allow sufficient time for stakeholders to provide feedback and informed commentary on the proposed options for future dingo conservation and management; and
 - v. V. ensure sufficient time for a RIS to be prepared in accordance with Part 2 of the Subordinate Legislation Act 1994 and the terms of any replacement Order to be determined.



Dated:

18/9/23

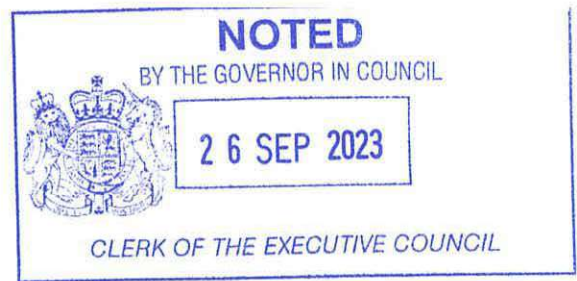
The Hon Daniel Andrews MP
Premier





Ingrid Stitt MP

Minister for Early Childhood & Pre-Prep
Minister for Environment



2 Treasury Place
East Melbourne, Victoria 3002

Subordinate Legislation Act 1994

HUMAN RIGHTS CERTIFICATE

(Section 12D)

DECLARATION OF THE DINGO TO BE UNPROTECTED WILDLIFE

I, Ingrid Stitt MP, Minister for Environment, and I, the Hon Gayle Tierney MP, Minister for Agriculture and I, the Hon Sonya Kilkenny MP, Minister for Outdoor Recreation as the Ministers responsible for administering section 7A of the **Wildlife Act 1975**, certify that, in our opinion the proposed Order in Council (the Order) under section 7A of the **Wildlife Act 1975** declaring the dingo (*Canis lupus dingo*), except when kept in captivity, to be unprotected wildlife does justifiably limit the cultural rights of Aboriginal persons as set out in section 19(2)(d) of the **Charter of Human Rights and Responsibilities Act 2006**. The Order temporarily maintains the regulatory status quo for a 12-month period as a proportionate measure while government undertakes a review that consider the rights and cultural obligations of Traditional Owners and determines how best to balance in the public interest the conservation of the dingo with the need to minimise impacts from predation on graziers, including alternatives to lethal control, to protect against injury or damage to livestock.

Cultural rights

Section 19(2)(d) of the **Charter of Human Rights and Responsibilities Act 2006** provides that Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community, to maintain their distinctive spiritual, material, and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

Under section 7(2) of the **Charter of Human Rights and Responsibilities Act 2006**, rights may be limited in certain circumstances, but it must be reasonable, necessary, justified and proportionate taking into account all relevant factors.

Relevantly, there is need for protection of biodiversity of wildlife including in the context of Aboriginal persons holding distinct cultural rights, namely that the dingo is a culturally identified species. The dingo was once widespread across Victoria and is now extinct in most of the State, persisting in two geographically isolated populations in the Mallee region of North-West Victoria (confined to the Big Desert) and Eastern Victoria. The dingo is a listed threatened species in Victoria under section 10(1) of the **Flora and Fauna Guarantee Act 1988** and threatened wildlife as defined by section 3(1) of the **Wildlife Act 1975**. In performing any of functions as Minister administering section 7A of the **Wildlife Act 1975** that may reasonably be expected to impact on biodiversity in Victoria, as required by section



4B of the **Flora and Fauna Guarantee Act 1988**, we have given proper consideration to the objectives set out in section 4 of that Act (including to protect, conserve, restore and enhance biodiversity such as dingoes and their habitats), so far as is consistent with the proper exercising of my functions under the **Flora and Fauna Guarantee Act 1988** and **Wildlife Act 1975**. In recommending the making of the proposed Order, balancing all factors, we have taken account of all the available information including the need for biodiversity protection of dingoes in the context of its' status under the **Flora and Fauna Guarantee Act 1988** balanced against the need for control measures to protect against injury or damage to livestock.

The Victorian Government has entered into Recognition and Settlement Agreements (RSAs) under the **Traditional Owner Settlement Act 2010** (Vic), giving Traditional Owners legal rights and obligations over Country, with three Traditional Owner groups where the lethal control of dingoes is currently occurring on land with Traditional Owner rights:

- Barengi Gadjin Land Council
- Taungurung Land and Waters Council
- Gunaikurnai Land and Waters Aboriginal Corporation.

In addition, dingo is extinct in the Dja Dja Wurrung Aboriginal Corporation (DJAARA) RSA area. The dingo is a culturally identified (totem) species for DJAARA and DJAARA has strong aspirations for the return of dingo on Country.

Natural Resource Agreements (NRAs) have also been entered into under the RSAs. The NRAs provide the right to the Traditional Owner group to participate in the management of the Natural Resources of the land and to 'develop, agree, implement, monitor and review strategies which promote or enable Members to participate in Natural Resource management'.

Traditional Owner Perspective

The Traditional Owner perspective contained in this certificate has been drawn from testimonies, formal submissions, public statements and informal conversations by Traditional Owners with the Department of Energy, Environment and Climate Action and over the past four years.

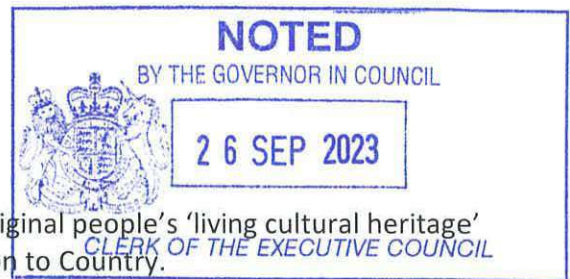
The dingo is a culturally identified species and is described as having a totemic (spirit) and kinship (familial) relationship for many Traditional Owner groups, with the dingo sometimes described as a 'spiritual relative'. Some Traditional Owners have experienced the impacts on the dingo as a loss of a family member and a continuation of the impacts of colonisation.

'We, the people of the Wotjobaluk Nations, have had an immensely strong cultural and spiritual connection to Wilkerr (dingo) for thousands of years, and it is part of our living cultural heritage. Wilkerr is a very significant Spiritual Relative, and this is demonstrated through our Creation Stories and Rock Art.

Wilkerr is an important part of our cultural environment and should be protected as a unique population but instead has been persecuted much as we the Wotjobaluk people have been since Colonisation".

Public Statement on Wilkerr (dingo) from the Wotjobaluk Peoples (August 2023)

The dingo features heavily in the lore, creation stories, dreamtime and songlines for



Victorian Traditional Owners. The dingo is part of Aboriginal people's 'living cultural heritage' and carries significance for maintaining their connection to Country.

Traditional Owners have expressed concerns about potential impact Orders made under section 7A of the Wildlife Act with respect to unprotecting the dingo is having on the survival of the dingo, and are advocating for protection of the dingo with the desire for changed management practices, especially for an end to the lethal control of the dingo. Traditional Owners have stated a strong desire to be involved in decisions and planning related to dingo conservation and management. I have taken into account, as relevant considerations, correspondence from both Environment Justice Australia, who advised that they act on behalf of Barengi Gadjin Land Council Aboriginal Corporation RNTBC (BGLC), who represent the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk peoples (Wotjobaluk Nations), and correspondence from Animals Australia, detailing their views to the making or extending an order under section 7A of the Wildlife Act with respect to dingoes.

Implications for the Unprotection Order on the dingo population in North-West Victoria

New scientific research and genetic analysis found dingoes in the Mallee region of North-West Victoria (the Big Desert) are a discrete population that is now small, isolated, has very limited genetic diversity, and has most likely entered the 'extinction vortex', meaning without intervention, the dingo is on a trajectory that will lead ultimately to local extinction. The population size of dingoes in the Big Desert is estimated at approximately 30 mature, breeding individuals.

The Wotjobaluk Nations, the Traditional Owners and Custodians of the Big Desert Cultural Landscape draws parallels to the 'persecution' of the dingo to that of the Wotjobaluk people. The Wotjobaluk Peoples have expressed significant concern for the future survival of Wilkerr (dingo) in the Big Desert Cultural Landscape:

' We call on the Victorian Government to remove the current Unprotection Order on Wilkerr (dingo) in the Big Desert Cultural Landscape, and to stop all other measures that result in the killing and persecution of Wilkerr. Don't wait until it is too late and they disappear through your neglect. We do not give you permission to kill Wilkerr, and we never did. '

Statement on Wilkerr (dingo) from the Wotjobaluk Peoples (August 2023)

The Proposed Order's limitation on the distinct Cultural Rights of Aboriginal Victorians as a consequence of temporarily maintaining the regulatory status quo for a 12-month period as a proportionate measure is justified while government undertakes a review that consider the rights and cultural obligations of Traditional Owners and determines how best to balance in the public interest the conservation of the dingo with the need to minimise impacts from predation on graziers, including alternatives to lethal control.

As required under the section 7(2)(e) of the **Charter of Human Rights and Responsibilities Act 2006**, the review will investigate ways of minimising the impacts from predation on graziers that are less restrictive on the distinct Cultural Rights of Aboriginal Victorians such as the use of non-lethal control options and predator safe farming practices.

Further, over the next 12 months, the government will seek to better understand the extent

and impact of current policy and regulatory approaches to the dingo on the cultural rights and aspirations of Aboriginal Victorians through substantial and informed consultation with Traditional Owners. The government will partner with Traditional Owners to design a future approach to the management of dingoes that gives effect to Traditional Owner rights and aspirations as they relate to dingoes on Country.

Dated: 22/09/2023



Ingrid Stitt MP
Minister for Environment

21 / 09 / 2023



The Hon Gayle Tierney MP
Minister for Agriculture

22/09/2023



The Hon Sonya Kilkenny MP
Minister for Outdoor Recreation

