

## Re – State-wide review of pest animal management

Thank you for giving us the opportunity to express ideas and make submissions relating to this review.

I have over 12 year's experience working with companion animals and attempting to utilise the Companion Animals Act 1998(CAA), which does not assist in address some of the major issues faced in NSW.

Through discussions with animal management groups, councils and members of the community, there is a growing frustration that the CAA does not address the issue of responsible cat ownership in an effective and meaningful way.

Anecdotally, councils that do impound cats under Section 32 of the CAA have no recourse to recoup costs other than the impounding fee, that would normally go to the pound anyway. The following suggestions are made that would go to fulfilling the following sections of the CAA:

### **3A Principal object of Act**

The principal object of this Act is to provide for the effective and responsible care and management of companion animals.

- As there is no specification under the Act or Regulation requiring cats to be under the control of a competent person or kept on the property at which they would normally be housed, tacit approval is given to allow cats to roam and hunt as they would instinctively. This is not responsible management of a companion animal as many are killed each year on roads and euthanised as the owner can't be found or from unwanted litters.

### **4 Policy regarding animal welfare**

It is declared that the protection of native birds and animals is an objective of animal welfare policy in the State.

- Unfortunately the CAA does more to protect the cat than it does to protect native fauna. Responsibility need to be put back on the owners of these animals to ensure that if they are not kept on their properties and prevented from roaming, then authorised officers can impound these animals and fine owners just as they would companion animal owners.

There is ample scientific evidence on record showing the damage that cats do to native animals, the Act needs to be amended to promote the protection of our native animals.

## 5 Definitions

### There needs to be a solid definition for Feral and Infant in the Act

#### Division 1 General responsibilities

I have made amendments relating to the following sections for ease of use. The Act needs to be for Companion Animals in this division and not just relate to companion animals. The keeping requirements are difficult enough for companion animal owners, it is time some responsibility was placed on cat owners. There are many instances of cats attacking people however they are not generally reported. We can not discount an injury that can be received from a cats, toxoplasmosis and tetanus can be received by a bite or a scratch.

### 12 Companion Animal to wear collar and tag

- (1) A **Companion Animal** must have a collar around its neck and there must be attached to the collar:
  - (a) a name tag that shows the name of the **Companion Animal** and the address or telephone number of the owner of the companion animal, and
  - (b) (Repealed)
- (2) The owner of the **Companion Animal** is guilty of an offence if this section is not complied with.  
Maximum penalty:
  - (a) 8 penalty units except in the case of a dangerous, menacing or restricted **Companion Animal**, or
  - (b) 50 penalty units in the case of a dangerous, menacing or restricted **Companion Animal**.
- (3) The regulations may impose requirements in respect of the size, colour and material of a tag for use for the purposes of this section.
- (4) This section does not apply to a **Companion Animal** while it is on property of which the owner of the **Companion Animal** is the occupier or to a working companion animal.

### 12A Preventing **Companion Animal** from escaping

- (1) The owner of a **Companion Animal** must take all reasonable precautions to prevent the **Companion Animal** from escaping from the property on which it is being kept.  
Maximum penalty:
  - (a) 8 penalty units except in the case of a dangerous, menacing or restricted **Companion Animal**, or
  - (b) 50 penalty units in the case of a dangerous, menacing or restricted **Companion Animal**.
- (2) For the purposes of subsection (1), *owner* of a **Companion Animal** includes the person who is for the time being in charge of the companion animal.

### 13 Responsibilities while **Companion Animal** in public place

- (1) A **Companion Animal** that is in a public place must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the companion animal and that is being held by (or secured to) the person.

- (2) If this section is contravened:
- (a) the owner of the **Companion Animal**, or
  - (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the **Companion Animal** at that time—that other person,
- is guilty of an offence.

Maximum penalty:

- (a) 10 penalty units except in the case of a dangerous, menacing or restricted **Companion Animal**, or
  - (b) 100 penalty units in the case of a dangerous, menacing or restricted **Companion Animal**.
- (3) Any person (including an authorised officer) can seize a **Companion Animal** that is in a public place in contravention of this section. If the owner of the companion animal is present, the companion animal cannot be seized except by an authorised officer and only then if the contravention continues after the owner has been told of the contravention. A reference in this subsection to the owner of the companion animal includes a reference to the person who is for the time being in charge of the companion animal.
- (4) A companion animal is not considered to be under the effective control of a person if the person has more than 4 companion animals under his or her control.
- (5) This section does not apply to:
- (a) a **Companion Animal** accompanied by some competent person in an area declared to be an off-leash area by a declaration under this section (but only if the total number of companion animals that the person is accompanied by or has control of does not exceed 4), or
  - (c) a **Companion Animal** being exhibited for show purposes, or
  - (d) a **Companion Animal** participating in an obedience class, trial or exhibition, or
  - (f) a **Companion Animal** secured in a cage or vehicle or tethered to a fixed object or structure.

**Note.** Just because a companion animal is not on a lead in an off-leash area, or is secured in a cage or vehicle or is tethered to a fixed object or structure, does not mean that an offence under section 16 is not committed if the companion animal rushes at, attacks, bites, harasses or chases any person or animal, whether or not any injury is caused.

## **16 Offences where **Companion Animal** attacks person or animal**

- (1) If a **Companion Animal** rushes at, attacks, bites, harasses or chases any person or animal (other than vermin), whether or not any injury is caused to the person or animal:
- (a) the owner of the **Companion Animal**, or
  - (b) if the owner is not present at the time of the offence and another person who is of or above the age of 16 years is in charge of the **Companion Animal** at that time—that other person,
- is guilty of an offence.

Maximum penalty:

- (a) 100 penalty units except in the case of a dangerous, menacing or restricted **Companion Animal**, or
- (b) 400 penalty units in the case of a dangerous, menacing or restricted **Companion Animal**.

- (1AA) If a **Companion Animal** (other than a dangerous, menacing or restricted **Companion Animal**) rushes at, attacks, bites, harasses or chases any person or animal (other than vermin), whether or not any injury is caused to the person or animal:
- (a) the owner of the **Companion Animal** is guilty of an offence if the incident occurs as a result of a reckless act or omission by the owner, or
  - (b) if the owner is not present at the time of the incident and another person who is of or above the age of 16 years is in charge of the **Companion Animal** at that time—that other person is guilty of an offence if the incident occurs as a result of a reckless act or omission by that other person.

Maximum penalty: 200 penalty units or imprisonment for 2 years, or both.

- (1AB) If a dangerous, menacing or restricted **Companion Animal** rushes at, attacks, bites, harasses or chases any person or animal (other than vermin), whether or not any injury is caused to the person or animal:
- (a) the owner of the **Companion Animal** is guilty of an offence if the incident occurs as a result of a reckless act or omission by the owner, or
  - (b) if the owner is not present at the time of the incident and another person who is of or above the age of 16 years is in charge of the **Companion Animal** at that time—that other person is guilty of an offence if the incident occurs as a result of a reckless act or omission by that other person.

Maximum penalty: 500 penalty units or imprisonment for 4 years, or both.

- (1A) The owner of a dangerous **Companion Animal**, a menacing **Companion Animal** or a restricted companion animal is guilty of an offence if:
- (a) the **Companion Animal** attacks or bites any person (whether or not any injury is caused to the person), and
  - (b) the incident occurs as a result of the owner's failure to comply with any one or more of the requirements of section 51 or 56 (as the case requires) in relation to the **Companion Animal**.

Maximum penalty: 700 penalty units or imprisonment for 5 years, or both.

**Note.** Conviction for an offence under this subsection results in permanent disqualification from owning a companion animal or from being in charge of a companion animal in a public place. See section 23.

- (2) It is not an offence under this section if the incident occurred:
- (a) as a result of the **Companion Animal** being teased, mistreated, attacked or otherwise provoked, or
  - (b) as a result of the person or animal trespassing on the property on which the **Companion Animal** was being kept, or
- (4) If, on the trial of a person charged with an offence against subsection (1AA) or (1AB) the trier of fact is not satisfied that the person committed the offence but is satisfied that the person committed an offence against subsection (1), the trier of fact may find the person not guilty of the offence charged but guilty of an offence against subsection (1), and the person is liable to punishment accordingly.
- (5) For the purposes of this section, recklessness may also be established by proof of intention.

## 17 Companion animal must not be encouraged to attack

- (1) A person who sets on or urges a **Companion Animal** (other than a dangerous, menacing or restricted companion animal) to attack, bite, harass or chase any person or animal (other than vermin) is guilty of an offence, whether or not actual injury is caused.

Maximum penalty: 200 penalty units.

- (1A) A person who sets on or urges a dangerous, menacing or restricted **Companion Animal** to attack, bite, harass or chase any person or animal (other than vermin) is guilty of an offence, whether or not actual injury is caused.

Maximum penalty: 700 penalty units or imprisonment for 5 years, or both.

**Note.** If the companion animal is a dangerous, menacing or restricted companion animal, conviction for an offence under this section results in permanent disqualification from owning a companion animal or from being in charge of a companion animal in a public place. See section 23.

## 18 Companion animal that has attacked or bitten may be secured or seized

- (1) If **Companion Animal** attacks or bites any person or animal (except vermin) otherwise than in the circumstances referred to in section 16 (2), an authorised officer may, at any time within 72 hours after the attack or bite:
- (a) secure the **Companion Animal** on property that the officer has reason to believe is occupied by the **Companion Animal**'s owner, or
  - (b) seize the **Companion Animal**.
- (2) Any other person may seize the **Companion Animal** if the **Companion Animal** is on property owned or occupied by the person.
- (3) If the **Companion Animal** is on property that an authorised officer has reason to believe is occupied by the companion animal's owner, the officer may seize the **Companion Animal** only if the officer is satisfied that:
- (a) the **Companion Animal** cannot be kept adequately secured on that property, or
  - (b) **Companion Animal** cannot be kept under the effective control of some competent person while it is on that property, or
  - (c) the owner of the **Companion Animal** has repeatedly failed to keep the **Companion Animal** secured on that property or under the effective control of a competent person while it is on that property (regardless of whether the **Companion Animal** is secured or under effective control at the relevant time).
- (4) An authorised officer who, under this section, secures or seizes a **Companion Animal** on property that the officer has reason to believe is property occupied by the companion animal's owner must, before leaving that property, prepare a notice setting out:
- (a) the reasons why the **Companion Animal** has been secured or seized, and
  - (b) the method by which the **Companion Animal** has been secured, or the place to which it has been taken, as the case may be.
- (5) The notice must be left:
- (a) in a conspicuous place on the property, or
  - (b) with a person (being a person apparently above the age of 16 years) who appears to be an occupier of the property.

(6) This section applies whether or not any injury is caused to a person or animal by the **Companion Animal**'s attack or bite.

## **19 (Repealed)**

## **20 Companion animals defecating in public place or place other than its home**

- (1) If a **Companion Animal** defecates in a public place **or place other than its home**:
- (a) the owner of the **Companion Animal**, or
  - (b) if the owner is not present at the relevant time and another person who is of or above the age of 16 years is in charge of the **Companion Animal** at that time—that other person,

must immediately remove the **Companion Animal**'s faeces and properly dispose of them.

Maximum penalty: 8 penalty units.

## **Part 4 Responsibilities for control of cats**

### **29 Cats must have form of identification**

- (1) A cat must be identified by a form of identification that enables a local authority to ascertain the name of the cat and the address or telephone number of the owner of the cat.
- (2) The identification **must** take any of the following forms:
  - (a) a collar worn around the cat's neck with a tag or tags attached,
  - (b) a microchip,
  - (c) any other form of identification prescribed by the regulations.
- (3) The owner of the cat is guilty of an offence if this section is not complied with.

Maximum penalty: 8 penalty units.

- (4) This section does not affect the operation of section 8.



### **30 Cats prohibited in some public places**

- (1) A **Companion Animal** that is in a public place must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the companion animal and that is being held by (or secured to) the person.

Remove below



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(3) Any person (including an authorised officer) may seize a cat that is in a place or trespassing on any private place (in accordance with the Impounding Act). [REDACTED]

(4) If the owner of the cat is present, an authorised officer (but no other person) may seize the cat [REDACTED] but only if the owner fails to remove the cat from the place when the officer directs the owner to do so. A reference in this subsection to the owner of the cat includes a reference to the person who is for the time being in charge of the cat.

**Note.** Removing the cat prevents the cat being impounded but it does not excuse the contravention and does not stop action being taken for the contravention.

[REDACTED]

(6) A local authority is authorised to make the orders contemplated by this section.

**31 Nuisance cats**

- (1) For the purposes of this section, a cat is a nuisance if the cat:
  - (a) makes a noise that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises, or
  - (b) repeatedly damages anything outside the property on which it is ordinarily kept.
- (2) If an authorised officer of a council is satisfied that a cat is a nuisance, the officer may, after complying with section 31A, issue an order in the approved form to the owner of the cat requiring the owner to prevent the behaviour that is alleged to constitute the nuisance.
- (3) The order must specify the behaviour of the cat that is required to be prevented. The order can specify more than one kind of behaviour.
- (4) An order remains in force for 6 months after it is issued.
- (5) The owner of a cat must comply with an order issued to the owner under this section and must continue to comply with it while it is in force.

Maximum penalty: 3 penalty units for a first offence or 8 penalty units for a second or subsequent offence.

- (6) A council whose authorised officer issues an order under this section must notify the Director-General within 7 days after the order is issued.
- (7) An order under this section is final and is not subject to any appeal or review.

### **31A Procedure for issuing nuisance cat order**

- (1) Before an authorised officer of a council issues an order under section 31, the officer must give notice to the owner of the cat to which the proposed order relates of the officer's intention to issue the order.
- (2) The notice must set out:
  - (a) the requirements with which the owner will be required to comply if the order is issued, and
  - (b) the owner's right to object to the proposed order in writing to the authorised officer within 7 days after the date the notice is given.
- (3) The owner has 7 days after the date the notice is given in which to object to the proposed order.
- (4) If the owner does not object within that time, the authorised officer may proceed to issue the order after the 7 days have passed.
- (5) If the owner does object within that time, the authorised officer must consider the objection before deciding whether or not to issue the order.

### **32 Action to protect persons and animals against cats**

- (1) Any person may lawfully seize a cat if that action is reasonable and necessary for the protection of any person or animal (other than vermin) from injury or death.
- (2) (Repealed)
- (3) If a cat that is not under the effective control of some competent person the cat **may be seized and impounded**  

- (4) An authorised officer who finds a cat attacking or harassing an animal (other than vermin) within a wildlife protection area (as defined in section 30 (1) (b)) can lawfully injure or destroy the cat if there is no other reasonably practicable way of protecting the animal.
- (5) A person who takes action under the authority of this section that results in the injury to or death of a cat must:
  - (a) take reasonable steps to ensure that an injured cat receives any necessary treatment, and
  - (b) report the matter to an authorised officer (unless the person is an authorised officer) and comply with such reasonable directions as the authorised officer may give for the purpose of causing the cat to be returned to its owner or taken to a council pound, and
  - (c) take reasonable steps to inform the owner of the cat.

- (6) An authorised officer is not to give a direction under this section for the purpose of causing a cat to be taken to a council pound unless the authorised officer is satisfied that the owner of the cat cannot be identified.
- (7) Nothing in this section authorises a contravention of the *Prevention of Cruelty to Animals Act 1979*.
- (8) The authority conferred by this section to destroy a cat extends only to authorising the destruction of the cat in a manner that causes it to die quickly and without unnecessary suffering.

All sections in **Red** are to be deleted those in **Yellow** are additions.

In conclusion, the aim of these proposals is to promote responsible pet ownership for all companion animal owners and to make cat owners responsible for their animals. Too many cats are euthanised every year through feral breeding and on roads, they need to be restrained in line with the requirements for dogs.

If required I would be more than happy to put my hand up to be on any consultative committee and assist with my experience in both the welfare and regulatory fields.