

Summary of proposed amendments to the *Cat Management Act 2009*

August 2019

The *Cat Management Act 2009* is the principal legislation relating to the management of cats in Tasmania. In 2017, the 'Tasmanian Cat Management Plan' recommended a number of amendments to the Act be made to improve its effectiveness and operation. These proposed amendments are available for public consultation and are explained in this summary.

Compulsory desexing of all cats by the age of four months

The Act will be amended to make desexing of a pet cat compulsory by four months of age (as evidenced by an ear tattoo). Penalties will apply to owners of pet cats if they fail to comply with the Act. Exceptions will apply where a vet certifies that the animal is not in a physically suitable condition to be desexed or for cats owned for the purpose of breeding by a registered breeder. There will be a transition period of 12 months to allow cat owners adequate time to adjust to the changes.

Background

Currently under the Act, only cats that are to be sold¹ must be desexed; however cats can reproduce from as young as four months of age. Whilst the Act encourages owners to desex pet cats, there is no penalty for not desexing a pet cat. Compulsory desexing at four months will reduce the period of time that cats can become pregnant, and the number of unwanted cats that end up part of the stray and/or feral cat population in Tasmania.

Undesexed cats can lead to unwanted litters of kittens. This results in destruction or abandonment of cats, creating an animal welfare issue and potentially contributing to the stray and/or feral cat population. Abandonment of kittens generates considerable community concern and imposes significant demands on cat management facilities and shelters.

¹Sale under the Act includes trade, give away, take consideration for, transfer ownership of and offer for sale.

Compulsory microchipping of all cats by the age of four months

The Act will be amended to make microchipping of a pet cat compulsory by four months of age. This is consistent with the proposed age for compulsory desexing of a cat. Penalties will apply to owners of pet cats if they fail to comply with the Act. Exceptions will apply where a vet certifies that the animal is not in a physically suitable condition to be microchipped. There will be a transition period of 12 months to allow cat owners adequate time to adjust to the changes.

Background

As with desexing, currently only cats that are to be sold¹ must be microchipped. Whilst the Act encourages owners to microchip pet cats, there is no penalty for not microchipping a pet cat. Lost or roaming domestic cats that cannot be identified are at risk of being destroyed because they are not identifiable and their owners cannot be located. Having all owned cats microchipped will help reunite lost cats with their owners, help to reduce the number of roaming or lost cats contributing to the stray and/or feral population, and reduce the number of cats being destroyed.

¹Sale under the Act includes trade, give away, take consideration for, transfer ownership of and offer for sale.

Limit to four, the number of cats allowed at a property without a permit

This amendment will require a person who wants to keep more than four cats at their property, and who is not a registered breeder, to apply to the State Government or local council for a permit to keep more than four cats. Penalties will apply to cat owners who fail to comply with this section of the *Cat Management Act 2009*. State Government will not charge a fee for an application to keep more than four cats; however, this does not preclude local government from charging a fee. There will be a transition period of 12 months to allow cat owners adequate time to adjust to the changes.

Background

Currently, there are no restrictions on the number of cats that can be kept at a property in Tasmania. Allowing people to keep unlimited numbers of cats at a property can result in animal welfare concerns for the cats, health issues for the owners, nuisance issues for neighbours, and potentially increases the number of cats roaming or contributing to the stray and/or feral cat population.

There have been a number of examples of people hoarding significant numbers of cats, which has put added pressure on the RSPCA, councils and animal shelters in dealing with them. Cats in this situation are often free-ranging and create significant nuisance to neighbours and rural properties.

The proposed limit of four cats is there primarily to provide authorised officers with powers to deal with nuisance complaints associated with the hoarding of cats or where a person is keeping multiple cats but does not contain them to their property and are causing a nuisance.

Changes to protection of private property

This amendment will permit:

- a person to trap, seize or detain a cat on their land regardless of the proximity to other residences, provided the cat is returned to the owner if possible, or taken to a cat management facility;

- persons whose land is more than 1km from the nearest residence and primary producers to take cat management action (trap, seize, detain, humanely destroy) on their land.

Background

Currently, only property owners involved in primary production relating to livestock, or a person on privately owned land more than 1km from the nearest residence are permitted to trap, seize or humanely destroy a cat. In urban and peri-urban areas, property owners cannot trap stray or roaming cats on their land and this has been one of the main source of complaints from the public.

The amendments will ensure that all primary producers (as defined in the *Tasmanian Land Tax Act 2000*) will have the same permissions under the Act (trap, seize, detain, humanely destroy), and that on any other private property type, owners can undertake trapping of nuisance cats in accordance with the Act.

Replace the State Government-registration of cat breeders with a permit system to breed cats

This amendment will replace the registration of cat breeders by State Government with a condition and time-based permitting system. There will be a transition period of 12 months to allow breeders registered with the State Government adequate time to adjust to the changes. Following a 12-month transition period, all State Government cat breeder registrations will be revoked; thereafter only a person who is a member of an approved cat organisation (i.e. Cat Association of Tasmania, Cat Control Council of Tasmania, Australian National Cats Inc.) will be taken to be a registered breeder. During the transition period, persons who are registered as a breeder with the State Government will be encouraged to apply to become a member of an approved cat organisation; alternatively they may apply to the State Government for a conditional permit to breed a cat.

Background

Under the current Act, all cat breeders in Tasmania must either be registered by the State Government or be a member of an approved cat organisation (i.e. Cat Association of Tasmania, Cat Control Council of Tasmania, Australian National Cats Inc.). The objectives of registration differ between the government and cat organisations, and this often causes conflict.

The proposed amendment to remove State Government registration of cat breeders, will mean that membership with a cat organisation will be the only means for a person to be a 'registered breeder' under the Act. Individuals who are not members of a cat organisation will be able to apply to State Government or their local council for a permit to breed a cat.

State Government or council permits will be considered on a case-by-case basis, and permits if issued, will be conditional and time-bound. Failure to meet the conditions of a permit could result in cancellation of the permit and possible fines for non-compliance.

The permit system will be targeted towards people whose cat has accidentally become pregnant or where the owner chooses to breed their cat for a specific, one-off reason. People who wish to breed cats on a regular basis will be encouraged to join one of the approved cat organisations.

The owner of a kitten that is being kept for the purposes of breeding will have until the kitten is four months of age to either become a member of a cat organisation or make an application to the State Government for a conditional permit, so as not to breach the compulsory desexing provisions.

Removal of Care Agreements

This amendment will remove the option of having a care agreement covering the sale of a cat from the *Cat Management Act 2009*. Compulsory desexing and microchipping of owned cats will negate the need for care agreements.

Background

A care agreement allows breeders and sellers of cats to pass on the responsibility of desexing and microchipping to a purchaser, on the agreed understanding that the new owner will do so in within a set time period.

Care agreements are difficult to enforce and represent a potential loophole in the existing legislation. The proposal to remove the option of a care agreement will mean that people wishing to sell a cat must ensure it is microchipped and desexed prior to sale¹.

The effect of this will be that the cost of microchipping and desexing will be built into the sale price of a cat, thus attaching a financial value to animals and discouraging irresponsible ownership.

¹Sale under the Act includes trade, give away, take consideration for, transfer ownership of and offer for sale.

Release of cats from cat management facilities

This amendment will commence Section 24 of the *Cat Management Act 2009* that requires a cat to be microchipped and desexed before being released from a cat management facility. Exemptions to compulsory desexing will apply where the owner is a registered breeder or where a vet provides a certificate of exemption.

Background

A provision to this effect is currently in the Act in Section 24, however the section was not enabled when the Act commenced. The provision gives the operator of a cat management facility the authority to microchip and/or desex a cat that is in its custody, if

the cat is not already microchipped and desexed, and to require the owner of the cat to pay reasonable costs; it is also consistent with proposed compulsory microchipping and desexing amendment provisions.

Under this proposed amendment, if an owned cat held at a facility is non-microchipped and/or undesexed, and the owner can be identified, the facility is to notify the owner that the cat is to be microchipped and desexed before being released back to its owner. This will give the owner the opportunity to show cause as to why the cat:

- should not be microchipped (in the form of a certificate from a vet stating that the animal is not in a physically suitable condition to be microchipped); and/or
- should not be desexed (in the form of evidence of breeder registration, a certificate from a vet stating that the animal is not in a physically suitable condition to be desexed, or the owner has made arrangements with a registered vet for the cat to be desexed).

Amend a number of sections related to the administration of the Act to remove ambiguities and inconsistencies in its wording and operation. These amendments, which do not seek to affect the intent of the Act, include:

- Additional definitions and refine existing terms to remove ambiguity and improve consistency and interpretation. Terms include, but are not limited to: breeding of cats, domestic cat, feral cat, stray cat, desex, primary production land, premises, cat management facility, abandon;
- Removing ambiguity around responsibility for costs of detaining or treating cats at cat management facilities;
- Clarifying the authority and responsibility of operators of cat management facilities to undertake particular actions in relation to cats in their care;
- Removing reference to 'working days' for holding times at cat management facilities;
- Notification of owners by cat management facilities to allow for verbal or written notification;
- Including the provision of a requirement notice in the Act that allows an authorised officer to require an individual to comply with the Act. Currently there is no option allowing the individual to rectify the situation prior to an infringement notice being served. Failure to comply with a requirement notice would result in an infringement notice;
- Increasing penalties for infringements (but not exceeding existing maximum penalty amounts) where appropriate, to reflect community expectations;

- Removing inconsistencies between the Act and other Tasmanian legislation; for example between the *Local Government Act 1993* and the *Cat Management Act 2009* in relation to owner liability for costs incurred of detaining and treating a cat;
- Including a non-derogation clause to make it clear that satisfying requirements of the *Cat Management Act 2009* will not discharge obligations required under other legislation, for example the *Animal Welfare Act 1993*; and
- Rectifying other ambiguities identified as part of the public consultation and in the process of drafting the Amendment Bill.