

# Cat legislation in South Australia

**Deborah Kelly**

## **ABSTRACT**

A major problem in cat management is differentiating owned from unowned cats. The South Australian Dog and Cat Management Act, which was proclaimed on 1 July 1995, addresses this problem. A cat is legally owned if it is identified in accordance with the Regulations. Owned cats are protected unless they are in remote areas or within National Parks and designated sanctuaries. Unowned cats can, with the consent of the land holder, be removed without the risk of civil liability. Councils have the ability to introduce byelaws to manage dogs and cats, should this be the wish of their residents.

## **BACKGROUND**

The issue of cat control was initially raised in the late 1980's. There was considerable concern, and a lack of consensus, surrounding a number of 'cat issues'. Some councils wanted to instigate curfews and registration, others wanted to subsidise desex and release programs, and others wanted to play no role in cat management whatsoever. Some threatened to 'go it alone' if the State Government did not take the lead. As the magnitude of problems varied between areas, so did the attitude of the local councils. Some sectors of the community felt threatened by the possibility of Cat Police and wanted some means of protecting their pets, others wanted to be able to remove strays without threat of civil liability. It has long been recognised that too many lost, pet cats are euthanased because their owners never reclaim them. Conservationists emphasised the predatory nature of the cat but few people have seriously considered the benefits of pet ownership in general and of cats as pets in particular.

The Cat Working Party Report was completed in 1992. This outlined the benefits and problems associated with cats in South Australia and recommended several courses of action for the consideration of the government of the day. By 1993, it was clear that no course of action would be universally acceptable. The pro-cat lobby firmly opposed any legislative controls, the anti-cat lobby wanted all the recommendations of the Cat Working Party Report to be implemented and most people simply wanted the issue resolved in one way or another. In an election climate, the government decided not to introduce any legislation to manage cats - this too brought considerable public disquiet. After the election, the incoming government was lobbied by all the interest groups to act in all directions. It was clear that doing nothing was just as unacceptable to the public as any other possible course of action.

The 'Cat Debate' has centred around four main issues:

- the benefits of cats as pets;
- nuisance caused by stray, feral and irresponsibly owned cats;
- predation; and
- the welfare of all cats.

## **INTRODUCTION**

It is the role of Government, at all levels, to act in the best interests of the community it serves and to act according to the wishes of that community. When public opinion is firmly divided, it can be difficult to determine what the appropriate course of action should be. Cat control is an extremely emotive issue - and one which, in South Australia, has divided public opinion. The conservation lobby is strong and so is the animal rights lobby. Government must strive to determine the needs and expectations of the community, not those of minority lobby groups. The middle ground, which is acceptable to the majority of people is arguably the most appropriate course and the one which was adopted in South Australia. Some animal rights workers have described the legislation as 'draconian' and call it the 'Cat Kill Bill'.

Some conservationists, on the other hand described it as 'wishy-washy' and nicknamed it the 'Cat Protection Act'. The views of these groups are diametrically opposed. To them, there is no compromise position.

## **AIM OF LEGISLATION**

The aim of the cat management legislation is to encourage responsible cat ownership and to clearly establish a legal definition that differentiates an owned from an unowned cat. In this manner, owned cats can be protected by law. Unowned cats can be humanely removed without the risk of civil liability. The South Australian legislation recognises the value of cats as pets. Through differentiating owned from unowned cats, responsible cat ownership is promoted and unwanted cats can be removed. Given time this will reduce public nuisance and cat predation as well as improving the welfare of all cats.

## **PROVISIONS OF LEGISLATION**

If a cat is identified, either by a collar bearing the owner's address or phone number, or by microchip, if there is an 'M' tattooed in the ear, the cat is owned. If not, it is unowned.

In general terms, any person can trap a cat if they have the consent of the land-holder. If the cat is identified, it must be released. If it is not identified it can be taken to a recognised shelter, veterinarian or participating council officer within twelve hours. The cat may be released, rehomed or euthanased by the authorised person.

Under the National Parks and Wildlife Act, any cat found within a park can be euthanased by the ranger. This is confirmed in the cat provisions of the Dog and Cat Management Act. Most National Parks near suburban areas have cat trapping and removal programs. Local residents are aware of this and the process has been well accepted. In many cases, the Park staff notify local households of the dates traps will be set and ask that pets be kept inside at those times for their own protection. Publicity surrounding the introduction of the cat legislation has increased public awareness of this provision but the people affected have been aware of such programs for years.

In addition, the Minister may designate an area to be a sanctuary under this Act, in which case the owner of the property may euthanase any cat found within the sanctuary. There are several significant privately owned sanctuaries in South Australia. This provision allows the managers of those areas to continue to protect the wildlife contained within them. If a cat is more than a kilometre from the nearest bona fide dwelling it may also be euthanased, whether or not it is identified. In remote areas, feral cats are usually shot. It would not be reasonable for legislation to demand that they be trapped - even though it is difficult to see an 'M' tattooed in the ear of a cat through rifle sights. It should be noted that this provision refers to cats more than a kilometre from any dwelling - not merely their own home.

It is offence to remove the identification from a cat. Concern was expressed that 'cat haters' could remove collars and have pets euthanased. This provision reduces the likelihood of such an occurrence. The legislation also recognises the necessity for RSPCA Inspectors and veterinarians to be able to euthanase any cat in situations where the owner cannot be contacted and there is no alternative to humane euthanasia.

## **BYELAWS**

Councils may choose to introduce byelaws to provide more stringent controls over cats if this is the wish of their residents. All proposed byelaws must be submitted to the Dog and Cat Management Board for consideration and comment prior to the mandatory public consultation period. One of the functions of the Board is to encourage consistency in any byelaws which are developed subordinate to this legislation.

If residents support the proposed byelaw, the council can then apply for it to be come into effect, four months after gazettal, under the Dog and Cat Management Act.

During this four month period, the Legislative Review Committee must consider the byelaw. This committee does not approve or disapprove of anything. However, it can simply disallow any subordinate legislation that is not in the public interest. The Legislative Review Committee would consider the recommendations of the Dog and Cat Management Board when considering any bye-law.

## **ACCEPTING OWNERSHIP**

If recent surveys are indicative of trends, it would appear that as soon as a person says 'my cat' instead of 'a stray I feed', their attitude changes. In South Australia, 92% of cats which people claim to own are desexed. About 40% are confined to some extent. The legislation makes people decide whether it is their cat and whether they want it. Many people never seem to make such a decision. I am sure that every vet has heard the lines 'It's just a barn cat' or 'We keep it to keep down the mice in the shed' or 'It's just a stray I've been feeding for the past fifteen years!' These are the cats which tend not to be desexed, are not reclaimed if impounded and cause the greatest public nuisance. With the new legislation, such attitudes should change. People will decide if a cat is really theirs and they want it, or it is 'just' a stray, and they don't.

## **COUNCIL PARTICIPATION**

There is no obligation on councils to enforce the cat provisions of the Act. It would appear that many councils are now considering their local situations and discussing their options. Some councils will not participate. In this case, if a resident wishes to remove an unidentified cat from their property, they may trap it and take it to a veterinarian or recognised shelter. Some councils will continue to subsidise desex and release programs. If this is the wish of the residents and the council, there is no additional liability imposed by the legislation. Some councils may undertake a limited participation, lending traps to residents or perhaps providing a Cat Management Officer who will collect strays. Others may address particular problem spots, eg a council depot area with a large stray population. Councils, in consultation with residents, will determine the degree of participation appropriate to their area.

## **USER PAYS**

In the 1994-95 financial year, Local Government spent \$1.5 million more on enforcing the provisions of the Dog Control Act than was generated by registration fees. At this stage, councils are not prepared to undertake cat registration because they have lost so much money on dogs. Consequently, there is no central funding to enforce the cat provisions of the Act. It is a user pays system. If a person wishes to protect their cat, they must purchase a collar and identification, or pay for it to be microchipped and tattooed.

If a person wishes to remove a stray, they must pay to hire the trap, pay for transport and, in some cases, pay for euthanasia. If councils participate, they must use funds from general revenue.

## **MEANS OF IDENTIFICATION**

The means of identification has been the subject of considerable debate. A well-designed and properly applied collar is safe, convenient and cheap but concern was expressed that a cat can lose its collar and be trapped as a stray. Some people favoured microchips. They are permanent, but are far more expensive and are invisible. State legislation must be appropriate throughout the State. There are no microchip scanners outside the metropolitan area and councils were not prepared to purchase them without funding. Many microchipped cats wear a collar bearing their phone number. If the owner chooses not to collar the cat, the ear should be tattooed with an 'M' to provide a visible indication that it is identified.

Many cats are permanently confined or do not stray beyond the boundaries of their owners' properties. There is no need to identify such cats - because no cat may be trapped without the consent of the land-holder. This provides owners with another choice, they may choose to confine their cats to their own property or choose to identify it if it roams.

## **FERAL CATS**

The legislation has been criticised because it fails to address the problem of feral cats in remote areas. It does not attempt to do so. No legislation can control this problem and no State can address it unilaterally. If any strategy is to be effective, it must be done on a national basis.

A Cat Threat Abatement Program is currently being developed by the Australian Nature Conservation Agency in consultation with all States, Territories and the Federal Government. The environmental impact of feral cats can only be addressed through cooperative efforts of this type.

It is recognised that feral cat populations can be self-maintaining but populations are often topped up with stray, dumped and irresponsibly owned pets. This seems to be particularly evident when the resident feral population is low and, consequently, competition is lessened. If ever an effective strategy is to be developed, the continual drift from the pet population to the feral must be reduced or, ideally, stopped altogether.

It is likely that any biological or other mechanism to control feral cats will not be developed for twenty years at least - if ever. The best any legislation can do is attempt to limit the drift. That is all that the South Australian cat management provisions attempts to achieve.

## **NO COMPULSORY IMPOUNDING PERIOD**

Under the legislation, there is no requirement to impound cats for a specific time as there is for dogs. This is for several reasons. Most important of these is cat welfare. It is unfair to impound a truly feral cat for several days.

If the legislation stated that unidentified cats must be impounded, it is possible that wild cats would be held, for no purpose, in conditions which are appropriate for tame cats but not wild. Similarly, it is unreasonable to expect a person to hand rear a litter of dumped kittens for a specified period before euthanasing them.

Impounding is expensive. If there were a compulsory holding period, councils, veterinarians and the shelters would expect to be reimbursed their costs. The only way to fund such a strategy would be through registration. This proposal was unacceptable to Local Government and to some sections of the community. Less than 1% of cats taken to shelters are ever returned to their original owners. It seems rather unfair that all cat owners should have the financial burden of registration fees in order to pay to impound all strays when such a tiny percentage is reclaimed. It is likely, now that the legislation is in force, that the 1% would be identified and would not be impounded anyway.

The reclaiming rate for dogs is much higher than for cats. For some reason dogs tend to be more highly valued by their owners - some people consider cats to be a disposable commodity. Many people think that a missing cat has simply gone away to die so do not bother trying to find it.

Often when a lost cat arrives in a person's yard, that person will feed it for a few days before taking any action. By this time the owner may well have given up hope, so his or her cat is never returned.

Before this legislation, shelters and veterinarians had no legal requirement to hold cats and they still don't. However, most veterinarians and shelter staff like animals - including cats - and, if there is a chance of finding the owner or rehoming the cat, most will hold it for as long as possible. The basic nature of the people involved will not change and they will still give the cat a go wherever appropriate and possible.

Through education and the promotion of responsible cat ownership, it is hoped that the value people place on their cats will be increased. By deciding whether or not they own the cat, people will intrinsically decide if they want this cat or a cat. Then the 99% of cats in shelters which are currently not reclaimed may have a better chance of going home again.

## **NO LIMITATION ON CAT NUMBERS**

The Cat Working Party Report, which was prepared in 1992, recommended that a limit of two cats per property be considered. This was not incorporated into the legislation because it is impossible to prove ownership of an unidentified cat - especially if they are 'just strays that live here'. Unless a person admits ownership, there is no logical way to limit the number of cats they own.

Conversely, if a person owns one desexed house cat and several neighbourhood cats fight in the backyard all night, that person cannot be said to own those strays.

Many cat breeders would agree that thirty confined, well cared for cats cause less neighbourhood nuisance than one entire tom roaming. If any animal is poorly maintained public health concerns may ensue. In this case action can, and should be, taken on the basis of the health concern. If the cats remain on the owner's property, do not annoy neighbours and are well cared for, breeders would argue, convincingly, that it is none of the council's business how many cats are there.

Should councils wish to limit numbers of cats per property, they would require a system of registration. If this is the wish of the residents, a byelaw could be considered. However the council would have to consider the cost/benefit ratio of such a move and determine how they intend to police it. Once these questions are answered, councils can limit the number of cats per property if this is the wish of residents.

## **NO PENALTY TO TRESPASS**

The legislation does not prohibit trespass. In most cases a person who is continually woken by cat fights has no idea who owns the cats involved or where they live. Often there are honest mistakes in identifying the cat - one fighting tabby looks very much like another at two or three in the morning - it may not be the one which the aggrieved person thinks it is. Consequently it would be very difficult to establish, beyond reasonable doubt, which cat was trespassing anyway.

Some people believe that a person should have the right to remove any cat, identified or not, if they don't want it on their property.

It was only a generation ago that it was normal suburban practice to put the cat and the milk-bottles out at night. Community attitudes are changing and owners are becoming more responsible but many people still believe cats should be free to roam and they cannot be confined. Attitudes do not change through legislation - they change through education.

## **NO CURFEWS**

The Cat Working Party Report also recommended curfews. Cats should be kept inside from an hour before dusk until an hour after sunrise. Nobody would dispute that such confinement would reduce the number of cats hit by cars, reduce the nocturnal fighting and reduce, to some extent, predation. It is in the cat's best interest and that of the owner if they share the house at night. In dual income families, evenings may be the only time any member of the family actually plays with the animals. Responsible ownership has benefits for the owner, their cat, fauna and the community.

If compulsory curfews were to be introduced, they would need to be enforced. Trapping cats, especially at night is expensive. If there were fines applicable, the cat would still have to be trapped to read its identification to determine who is responsible for it being at large. Without funding, councils are unlikely to consider such a program.

As stated, about 40% of owned cats are confined to some degree. Through education, it is hoped that this will increase and it will become the norm for people to put the milk bottles out and the cat in at night.

There is a potential down side to compulsory curfews, even if cost were no object. If it were required that cats be confined from dusk to dawn, many people would not be home from work in time to comply.

So, effectively, in these cases, the requirement would become total confinement from Monday to Friday inclusive. Cats can be brought up to be totally inside pets and be perfectly happy but if a cat has been roaming for years, it is unlikely to willingly accept such confinement.

I am sure many of you have spent hours outside in the freezing cold searching for your cat who snuck out when you took the rubbish out. It isn't meant to happen, but it occasionally does. Most people would consider that the concern, guilt and cold you feel under such circumstances is punishment enough. Fining you or euthanasing your cat may be somewhat of an over-reaction. Education will increase the guilt and concern - but not the ambient temperature. Prosecution is likely to merely increase resentment.

## **NO COMPULSORY DESEXING**

Desexing is obviously a very important component of responsible cat ownership. However it is very difficult to determine whether a cat is desexed or not.

If councils decide to instigate cat registration, a desexing certificate could be produced at the time of registration as an incentive for a lower fee.

Many veterinarians tattoo a desexing symbol into one ear, but not all do this and there are certainly many desexed cats which do not have such a tattoo. Some clients do not want their cat tattooed anyway - and the veterinarian is not in a position to force them to accept it. If legislation demanded that a desexing symbol be tattooed, the problem of desexed cats with no symbol remains. Owners could take the cat back to the vet for tattooing, but one tabby looks very much like another and it would be virtually impossible for the vet to be sure that the cat being tattooed was the one actually desexed. Ultimately, then, the only way to prove that a cat has been desexed is by surgical intervention. Any proposal that suggests empowering any authority to take such action would be vigorously opposed by many sections of the community and, in any case, is unlikely to be a practical option.

As stated earlier, it appears that once a person considers a cat to be theirs, there is a 92% chance that it will be desexed. In the absence of legislation, an exceptional level of desexing has been achieved. It is unlikely that compulsion would improve on this. Education is necessary to modify attitudes like 'I don't want to spoil his fun', 'Having kittens makes a cat a better pet' or 'It's good for the kids'. The opinions of the remaining 8% will be difficult to change whatever strategy is used.

## **CATWATCH**

Throughout the development of the legislation, the importance of public education has been stressed. A single grant of \$50,000 was provided to promote responsible cat ownership and to inform people of their rights and responsibilities under the legislation. This money provided the financial base for 'Catwatch'.

Catwatch is an amalgamation of representatives of the State Government, Local Government Association, Animal Welfare League, RSPCA, Australian Veterinary Association, Pet Industry Joint Advisory Council, Feline Association of South Australia and the Governing Council of the Cat Fancy. An independent zoologist provides Catwatch with advice about the wildlife side of the equation. Originally, the group was formed as an advisory committee to the State Government which provided comment and input into the legislation throughout its development. However, the enthusiasm, knowledge and commitment of the group and the associations they represent became invaluable in the development of educational initiatives.

Catwatch was chosen as a name because it implies protection (eg Neighbourhood Watch) and environmental concern (eg Echidna Watch). A coordinator was contracted by tender to assist Catwatch fulfil its charter.

Catwatch encourages responsible cat ownership. This includes:

- desexing any cat not intended for breeding;
- identification;
- confinement, at least at night;
- good nutrition and housing; and
- environment enrichment and play.

These messages are presented in a positive and fun way - stressing the benefits to the owner and cat of being responsible, rather than continually concentrating on the negative aspects such as unwanted kittens, predation and car accidents.

The entire education program is developed and implemented by the group so it fulfils the community needs as perceived by the special interest groups working in the community. It is not dictated to by Government but works with State and Local Government. The group has been assisted by the Pet Week Committee, the Petcare Information and Advisory Service and Channel 7. The original State Government grant has been greatly enhanced by financial sponsorship and volunteer labour provided by the groups represented and commercial organisations.

Catwatch is proving to be an excellent example of Local and State Government working co-operatively with industry, special interest groups and the community in general to achieve their common goals.

## **CONCLUSION**

The South Australian cat management provisions reflect the current trend towards deregulation in our State. It provides a legal framework under which pet cats can be protected by their owners and unwanted cats can be removed without the risk of civil liability. It is based on freedom of choice.

Councils can choose to participate or not to according to the wishes of their residents. Veterinarians and shelters can choose whether to euthanase or to rehome stray cats and kittens. Cat owners can choose whether to confine their cat, identify it or run the risk. Land-holders can choose whether to allow an unidentified cat on their property or to remove it.

Through encouraging owners to identify their cats, the legislation implies that they also accept the responsibility of cat ownership. As stated earlier, the aim of the legislation is to acknowledge the benefits of responsibly owned cats, to minimise predation and public nuisance and to improve the welfare of all cats - owned or not. Through using a minimal legislative base, education and community support can influence public attitudes and effectively promote responsible cat ownership - which is the whole aim of the cat legislation.

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Dr Kelly has a long association with many community groups which promote animal welfare and management, including RSPCA, Animal Welfare League, South Australian Canine Association, fauna welfare groups and cat clubs.

