

Legislation - strategic planning for companion animals in the Australian Capital Territory

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INTRODUCTION

All laws are living in the sense that they must change with time and respond to new facts, opinions and community attitudes. The stimulus for change can come from:

- public opinion;
- community action groups lobbying for change;
- administrative need;
- legislative review processes; and
- ministerial direction

All of these processes have led to the new animal control legislation in the ACT.

EXISTING ANIMAL CONTROL LEGISLATION

The release of the SCAMP (Strategic Companion Animals Management Package) in 1999 was the result of a number of these processes. The ACT Government found that existing animal control legislation was "out of date" and had significant deficiencies. For example, the *Dog Control Act 1975* contained no provision for the renewal of dog registration. A single plastic tag was issued for the life of the dog, although renewal fees were demanded annually. The renewal rate is extremely low (*figures*). Currently there are about 14,000 dogs registered out of an estimated 55,000 dogs in the ACT.

Administration of the licence to keep four or more dogs required a full inspection of the premises every year, but there was no provision to take the opinions of neighbours into account. The keeping provisions for dangerous dogs needed updating. Certain areas were designated 'prohibited areas' with no provision for exemption for guide dogs, and only dogs could be designated as 'assistance animals'.

While a provision existed to kill a dog found attacking a person, animal, stock or wildlife, no such provision existed if the animal was chasing or harassing another animal or person. Nor was it an offence for a person to encourage a dog to attack a person or animal. There was no provision for an authorised officer to destroy (directly or by request to a policeman or a veterinary surgeon) a vicious animal.

Domestic Animal Services (DAS) is both the registering authority for dogs in the ACT, and the provider of dog control and impounding services. DAS has suffered significant community criticism about its apparent inability to effectively penalise dog owners who disregard the law. Problems include the low rate of registered dogs, dog faeces fouling public places, and straying dogs. A 'nuisance order' (under the *Animal Nuisance Control Act 1975*) requires a decision by a magistrate's court, and only four have been brought to court in the past three years.

There is no legislation at all regarding cats, except in so far as they constitute an 'animal nuisance'.

A review of both Acts commenced in late 1995. The aims of the review were to simplify the current law by removing technical information to subordinate legislation, to consolidate relevant laws in one Act, and to recommend changes to improve the efficiency of administration of the law. This is consistent with current Government policy regarding legislation that pre-dates 1980.

The review was undertaken by the Law Reform Unit of the Attorney-General's Department and addressed known community concerns and analysed relevant laws in other jurisdictions. It was identified that changes to the existing legislation were required to satisfy the community's needs for animal control.

The review recommended combining the dog control and animal nuisance legislation, as well as making a number of policy and technical changes in the consolidated Act to bring it to best practice standards compared to similar legislation in Australia.

CATS

A further stimulus was the release of the ACT Legislative Assembly Standing Committee on Conservation, Heritage and the Environment report 'Feral Animals and Invasive Plants in the ACT' (1994) which recommended an integrated package to minimise the effects of cats on ACT native fauna and the urban environment. The ACT Government accepted the need to act on this report, and commissioned the Wildlife Research and Monitoring unit of Environment ACT to consult with the community. Public comment was also calling for action with respect to responsible cat ownership, animal welfare and nature conservation.

In June 1997 the Urban Animal Management sub-committee of the Animal Welfare Advisory Committee of the ACT (AWAC) was formed after one member of the AWAC attended the 1996 UAM conference in Sydney. This committee provided extensive comment on the early drafts of community comment paper. The 'ACT Cat Management Discussion Paper for Community Comment' was released in December 1997. Approximately 800 copies were distributed - 81 responses were received ranking the issues, while 31 individual and 10 community groups lodged separate submissions, including Australian Veterinary Association, ACT Division (AVA ACT) and AWAC.

The Discussion Paper defined categories of cats (Domestic, Stray and Feral), and discussed both the role of cats in the community, and community inconvenience attributed to cats. The paper raised economic issues, environmental issues such as predation by cats, and aspects of urban cat management in Australia. It then introduced 8 main issues for comment:

- responsible cat ownership;
- community education and awareness;
- registration and awareness;
- desexing and breeding; and
- control;
- curfews;
- fees penalties and costs; and
- legislation.

In June 1998, representatives from AVA ACT, AWAC, Animal Liberation, Canberra Nature Park, Capital Cats (the registering body for cat breeders in the ACT), RSPCA, and the South-East Conservation Council, were brought together as the 'Cat Focus Group'. This group, with direction and secretarial support from Wildlife Research and Monitoring, finalised the 'ACT Cat Management Strategy' and 'Charter for Responsible Cat Ownership' in September 1998.

The strategy recognised the importance of cats as companion animals, their need to be treated humanely, that welfare and community nuisance issues arise mainly from irresponsibly owned or unowned cats, and the need for cats to be identified as a management tool. Policy was developed to:

- reduce the number of unwanted cats by control of breeding (desexing);
- facilitate the management of unowned cats and the return to owners of lost or wandering cats (microchipping);
- avoid neighbourhood nuisance by wandering cats (promote voluntary confinement/curfews);
- reduce impact on native wildlife (promote confinement/curfews, with provision for confinement orders in special cases).

These policy directives were developed into legislative strategy by the Cat Focus group. The group recognised that enforcement of legislative provisions would always be difficult, but that the legislation and Codes of Practice should establish a higher standard of animal care for the community. It strongly recommended a significant budget be set aside for community education.

The group recommended against the registration of cats. While some argue that cats should be treated like dogs, the issues are not really the same. There are very few offences for which a cat owner might be liable. Catching cats for impounding is very much more difficult than catching dogs. Dog registration fees only cover about half the cost of dog management in the ACT. There is also an argument (which perhaps equally applies to dogs, that the whole community has a stake in cat management, and thus the cost should be shared equally. You are either a cat owner, a cat lover with an interest in their welfare, or someone who would prefer cats to be better controlled. Cat registration would be even more difficult to administer and enforce than it is for dogs.

The Group further developed a 'Charter for Responsible Cat Ownership' which is seen as the basis of a community education campaign. This document explains, in accessible language, the benefits of and reasons for the key elements of responsible ownership ó desexing, planned breeding, identification, control and confinement, and the disposal of unwanted cats, as well as touching on the importance of good nutrition, housing, hygiene, health care and transport. There is a significant overlap with the existing 'Code of Practice for the Welfare of Cats' under the *Animal Welfare Act 1992*. Finally, the document provides advice on the management of neighbourhood disputes regarding cats, and gives sources of further information.

PREDATION BY CATS

More than 50% of the Australian public believe that cats are the major cause of the decline in Australia's wildlife. This is not supported by the scientific literature, and ignores the impact of predation by foxes, competition from introduced species such as rabbits, livestock, exotic and 'out of habitat' birds, habitat destruction, and man! Studies have shown that predation by cats may amount to as few as 2 animals (mammals, birds and reptiles) per cat per year in urban areas, and that more than 50% of the kill are introduced species. Removal of rodents and rabbits actually benefits native fauna. Urban areas generally support higher numbers of wildlife (although perhaps of a more limited range of species) than equivalent land in a natural state. It is accepted that cat predation is not a conservation threat, except to certain isolated pockets of threatened species. The maiming and killing of prey species by cats is, however, a welfare concern.

Cats who are well fed are less likely to hunt than their hungry cousins. Stray (and feral) cats almost certainly take more wildlife than owned cats. The two most appropriate ways to reduce cat predation of wildlife are encouraging responsible cat ownership (care and feeding, confinement and curfewing) and reducing the numbers of strays by desexing pet cats and other control measures. This was the approach taken in the ACT, although measures to control the existing stray (and feral) cat population are yet to be determined.

UNWANTED ANIMALS

A survey conducted by the AVA ACT in 1997 of vets in the ACT, combined with figures from the ACT Dog Pound and RSPCA, suggested that about 1750 dogs and 1860 cats were euthanased in the ACT each year for preventable reasons. These were animals for whom homes could not be found, which were lost or abandoned, the products of unplanned litters, or which had demonstrated some behavioural trait deemed undesirable by the owners. Despite some recent evidence of falling cat numbers and kitten availability, it seems that supply of animals still dramatically exceeds supply.

The euthanasia of so many animals is a blight on our society. Minister for Urban Services Brendan Smyth is fond of quoting "The greatness of a nation and its moral progress can be judged by the way its animals are treated" (Gandhi). It is ethically wrong to allow so many animals to be born who will live their short lives in unhappy homes or in cages at an animal shelter. It is wrong that lay and professional staff of shelters and veterinary surgeries have to destroy the lives they chose to care for and save. It is wrong that so many members of our society are callous to the consequences of their irresponsibility.

Euthanasia carries risks of physical injury to the people performing it, as well as the emotional scars which can cause intense feelings of guilt, isolation and stress. These feelings can lead to personal problems, potentially even suicide, as well as work dissatisfaction, alienation, absenteeism, belligerence, careless animal handling and cruelty.

Reduced breeding of animals is the only solution to these problems. Fewer puppies and kittens:

- are more likely to find homes;
- may be deemed more 'valuable' by their owners if they will be hard to replace; and
- may become more financially valuable, requiring a more positive decision prior to purchase.

Desexing has been encouraged for many years. Differential dog registration fees have existed in Canberra since the introduction of the legislation. Veterinarians have always offered desexing as a reduced price service (relative to the charging of other surgeries of equivalent duration and difficulty) and informed owners of the social, behavioural and health benefits of sterilisation. Shelters such as the RSPCA have sold animals with a requirement that they be desexed, with prepaid desexing vouchers, or in other States have desexed all animals prior to sale.

These measures have been fairly successful. A 1993 survey conducted by AVA ACT revealed that about 70% of dogs and 92% of cats in the ACT were desexed. Although the proportion of animals which are neutered in the ACT is probably higher than in many other areas (perhaps reflecting the ACT's reported high levels of tertiary education, employment and income), an unacceptable number of animals still die.

The Cat Focus Group, AWAC and Environment ACT considered options to increase desexing rates. Mandatory desexing was considered to draconian, and impossible to enforce. Free sterilisation programs, while popular amongst some members of the welfare community, do not encourage pet owners to accept responsibility, and of course the required funds were not available.

Instead, pet owners in the ACT will be required to purchase permits to keep an animal entire. These permits will also contain keeping conditions, such as keeping the entire animal confined at all times. Such confinement is to prevent unplanned breeding, and also because it is recognised that the much community animal nuisance is caused by entire animals, such as fighting between tom cats, caterwauling during fighting and mating, urine spraying, and wandering and aggression by dogs.

TAIL DOCKING

Minister for Urban Services Brendan Smyth asked the AWAC to provide advice about the tail docking of dogs, especially when performed on neo-natal puppies. Members of AWAC were concerned about the issue, but the Chair had delayed discussion on the issue because of its contentious nature. It was clear that members had entrenched positions.

The *Animal Welfare Act 1992* allows a person to dock the tail of a dog within 10 days after its' birth, and to remove the dew claws of a dog (age not defined). This falls in a part of the Act forbidding a person (other than a veterinary surgeon) to carry out medical or surgical procedures on animals, except for certain common husbandry procedures of livestock, and for the purpose of research under the direction of an Ethics Committee.

The AVA and the RSPCA, together with many other welfare groups and individuals, have waged a campaign against the practice of tail docking for many years. In England, tail-docking has been illegal except when performed by a veterinary surgeon since July 1993. Further, the Royal College of Veterinary Surgeons (which registers veterinarians in the UK) has decreed that the tail-docking of puppies constitutes disgraceful professional conduct by members except where the procedure is for therapeutic or prophylactic purposes.

Tail-docking has been banned in Finland since 1996, in Switzerland since 1 July 1998, and is also banned in both Sweden and Norway. Germany banned tail-docking on 1 May 1998 with an exception for dogs which are used for hunting. These puppies must be offspring of parents that were specifically hunting dogs, not just of hunting breeds.

Dog breeders and others who support the docking of puppy's tails contend that the procedure is minimally or not painful, and that it is in the welfare interests of the dog. They argue that undocked individuals of breeds traditionally docked will suffer tail injury in the field or kennel, or will have a high incidence of matting and faecal soiling of the hair around the tail. They also believe that individuals of the 76 breeds which are traditionally docked in Australia look better without their tails, and claim economic hardship due to reduced sales of puppies into both the domestic and international markets.

While one can never be certain that pain is comparable between humans and animals, the body of evidence supports the conclusion that neo-natal animals (including humans) experience pain which is at least comparable to, if not greater than, their adult counterparts. Puppies are traditionally docked without anaesthesia or analgesia. Studies have shown that there is no lesser incidence of tail injury in docked than in tailed individual dogs, and any vet will tell you stories of neglected dogs who become matted, soiled or fly-blown amongst both tailed and docked dogs. The majority of veterinarians are opposed to the tail docking of puppies, and very many now refuse to perform the procedure, at economic loss to their businesses.

In May 1999 the AWAC gave advice to Minister on tail docking, noting the divided opinion amongst its members, and offering a number of solutions. The Minister determined to ban the tail docking of dogs in the ACT, except by a veterinarian and only for a therapeutic purpose. This induced significant heated debate in the media, and representatives of both sides of the argument had meetings with individual members of the House of Assembly from both the Liberal and Labor parties.

In late February 2000, the AVA and the RSPCA organised a public rally in support of the Government's decision. At the rally, the Opposition spokesman for animal welfare, Simon Corbell MLA, announced that the Opposition would support the ban.

FURTHER SUPPORTIVE MATERIAL

It was decided to produce a parallel document to the 'Charter for Responsible Cat Ownership', resulting in the release in July 1999 of the 'Charter for Responsible Dog Ownership' developed by the UAM subcommittee of AWAC, including the then Registrar of Dogs, Ms Christine Motby. The sub-committee worked to maximise the welfare potential of the planned legislative change.

This sub-committee was also very concerned about the welfare of animals for sale in the ACT, particularly that puppies, kittens and birds were often offered for sale at public markets. These animals were frequently overcrowded, in unhygienic conditions with no heating or cooling, and often without water for many hours. They were sold without vaccination or prophylactic health care, without advice to the new owners and with no concern for new owner's ability to care for the animal. In many cases, this was true 'purchase on a whim'. The purchaser, overwhelmed with the delightful sight of a puppy or kitten and with children's plaintive voices in their ear, in general gave no thought to the animal's needs, nor their ability to provide the facility, time or money to meet those needs.

The committee developed a new 'Code of Practice for the Sale of Animals in the ACT', which was based on but went far beyond the old Code for Pet Shops. It gives firm guidelines about the management of animals for sale (other than those in saleyards), including requirements for vaccination, worming, socialisation and the provision of accurate information to prospective purchases.

SCAMP, the 'Strategic Companion Animals Management Package', was finally released by the Minister for Urban Services in December 1999. A three month period for public comment was provided, with plans to table the final legislation in August 2000. SCAMP was available for perusal on the ACT Government web-site, and copies were posted on request to interested parties and stakeholders.

In a Territory without a specific Policy Department for Animals, the bulk of the preparation of drafting instructions was performed by the Animal Welfare Unit, which has one full time officer with occasional assistance. The Unit was then delegated to receive, answer and compound all the public comments received. A total of 962 submissions were received on the package.

In 2000, AWAC made revisions to the ACT 'Code of Practice for the Welfare of Cats' and 'of Dogs'. These revisions brought the Codes up to date both with respect to the proposed legislation, but also with new animal husbandry and behavioural information. It also developed guidelines for the trapping of animals in the ACT, to ensure the welfare of such animals under the new legislation.

SCAMP

The components of SCAMP are therefore the result of a prolonged period of discussion and consultation between:

- the Minister for Urban Services;
- staff of Environment ACT (including , the Animal Welfare unit , Canberra Nature Park, Domestic Animal Services, Wildlife Research and Monitoring);
- the Animal Welfare Advisory Committee especially its Urban Animal Management sub-committee;
- the Cat Focus Group; and
- the individuals and community groups who contributed by submissions and/or by representation on these various committees, including ACT Canine Association, Animal Liberation ACT, AVA ACT, Capital Cats, PIJAC, RSPCA ACT and the South-East Conservation Council.

The Community, both as individuals and as groups representing various interests, have had three opportunities to comment on the various components of SCAMP before they are voted on in the assembly. The initial release of SCAMP elicited positive editorial comment, but surprisingly little public comment. Very little was negative. The greatest response was elicited by the intention to ban the docking of dog's tails in the ACT, and this from a relatively small group in the community.

Dog breeders saw the ban as an attack on their freedom to continue a long entrenched practice, and as a financial threat due to reduced sales of, and markets for, puppies. Comments were received by the ACT Government from across Australia, from veterinarians and their staff who were almost unanimously opposed to tail docking, from members of the public who generally congratulated the Government on their courageous stand, and from a large number of breeders who attacked the proposal.

SCAMP consists of:

- the draft *Domestic Animals Bill 2000 (regulations to follow)*;
- draft *ACT Urban Cat Management Strategy*;
- draft *Charter for Responsible Dog Ownership*;
- draft *Charter for Responsible Cat Ownership*;
- draft *Code of Practice for the Sale of Animals in the ACT*;
- revisions to *the Codes of Practice for the Welfare of Dogs and Cats in the ACT*;
- the *Animal Welfare Act Amendment Bill 2000*;
- future changes to the *Nature Conservation Act 1980*.

These various proposals are integrated and have been released as a package to maximise the benefits while minimising complexity and difficulties for the consumer. The main features of the package are:

Changes to the *Animal Welfare Act 1999*

- **banning the tail docking** of puppies, except by a veterinary surgeon and for therapeutic purposes;
- **banning the carriage of dogs in the backs of open trucks** unless secured by a short lead or within a cage;
- changes to the definition of animal to include some invertebrates, changes to research provisions to enable gazettal of *the Code of Practice for Animals in Research Establishments*

Draft Domestic Animals Bill 2000

- **compulsory identification** of dogs and cats at 8 weeks or point of sale (by microchip implant once an Australian Standard is brought down, or sooner!);
- ongoing registration of dogs by collar tag, all registrations to fall due for renewal on a single date (1 September) and new tags (in a different colour) to be issued annually;
- no registration for cats;
- revised registration requirements for multiple dogs, dangerous dogs, and simplified methods to deal with these and animal nuisance issues;
- **compulsory desexing of dogs and cats by 6 months of age.** Entire animals may be kept (for breeding, exhibition or racing) if a permit is held. Exemptions for dogs kept by a government agency whose functions include protecting the national security, public safety or public property, or by a private security body or organisation for use as a guard dog. Does not apply if owned less than 28 days, or if registrar is satisfied would be detrimental to health of animal. Permits to be easily obtainable;
- **compulsory tattooing** of all dogs and cats when desexed with the standard neuter symbol Ø;
- guaranteed right of entry to public places for people with **assistance animals**;
- **dogs in public to be on a leash** unless the dog is in a designated exercise areas, is working livestock, or is taking part in a dog show, field or obedience trial, or dramatic performance;
- dogs prohibited from **child care centres, pre schools, primary schools** without permission of the principal;
- dogs prohibited from **high schools/colleges** during school hours or when sport or training in progress, and from **sporting fields** when sport or training in progress;
- dogs prohibited **within 10 metres of children's play equipment, public fireplaces and designated swimming areas**;
- dogs to be on a leash when on private property, unless with the permission of the landholder;
- dog **faeces to be removed** from - footpaths, plazas and other pedestrian areas, private land (other than the dog's owner's land), prohibited areas. The carer or keeper to carry a **means of disposal**;
- carer or keeper is **liable if a dog harasses** (reasonable fear that the dog is about to attack without provocation) **a person or animal**, whether or not they are with the animal, and/or if they encourage the animal to attack;
- the registrar has the power to **declare an animal** (dog or cat) **a nuisance** and to apply keeping conditions on the owner (eg confinement, perhaps between certain hours). A nuisance exists if the animal causes or is likely to cause:
 - damage to property;
 - excessive disturbance (noise);
 - danger to the health of an animal or person;
- power to declare certain urban areas defined such that cats must be restrained to their owners property. This would only be in the face of a proven and serious ecological threat, and will be a 'disallowable instrument'. A disallowable instrument is an ordinance declared by the Minister, which can be overturned by vote of the House of Assembly;
- support for community education in responsible animal ownership and animal welfare, particularly based on the Charters for Responsible Dog and Cat Ownership;
- encouragement for voluntary curfewing of cats.

The Draft Code of Practice for the Sale of Animals the ACT

(Note, such Codes are gazetted under the Animal Welfare Act 1992. They are not legal requirements, but compliance is seen as a defence against prosecution under the Act)

- Puppies and kittens to remain with their mother till 8 weeks of age, to be identified, vaccinated and wormed as appropriate prior to sale; and
- animals not to form part, or all or a prize, except amongst members of specific animal appreciation societies (ie. not at school fetes etc).

It is incongruous that, despite all the work that has gone into SCAMP, there is still no legislative or strategic provision for the control of stray (eg colony) and feral cats, which was part of the original stimulation for the package.

Further information is available from the Environment ACT Information Centre at Macarthur House (Wattle St and Northbourne Ave, Lyneham), and at ACT Government Libraries. Enquiries to Environment ACT Helpline (02) 6207 9777.

FURTHER READING

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