



Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office Inc. is accredited by the National Association of Community Legal Centres.

House of Representatives Standing Committee on the Environment and Energy
PO Box 6021
Parliament House
Canberra ACT 2600

By email: Environment.Reps@aph.gov.au

Dear Sir/Madam

Submission to the inquiry into cats in Australia

Thank you for the opportunity to provide written submissions to the House of Representatives Standing Committee on the Environment and Energy inquiry into the 'problem of feral and domestic cats in Australia' ("the Inquiry").

About the Animal Defenders Office

The Animal Defenders Office ("ADO") is a nationally accredited community legal centre that specialises in animal law. The ADO is run exclusively by volunteers and offers pro bono legal assistance to individuals and groups wishing to protect animals. The ADO also produces information to raise community awareness about animal protection issues and works to advance animal interests through law reform.

The ADO is based in the Australian Capital Territory ("ACT") and is a member of Community Legal Centres Australia, the national peak body representing community legal centres across Australia.

General principles

The ADO endorses the following acknowledgement of sentience in the *Animal Welfare Act 1992* (ACT) and recognises that it applies to all animals as defined in the Act, including all cats regardless of their legal or conservation classification:

- (a) animals are sentient beings that are able to subjectively feel and perceive the world around them; and
- (b) animals have intrinsic value and deserve to be treated with compassion and have a quality of life that reflects their intrinsic value[.]¹

¹ *Animal Welfare Act 1992* (ACT), s4A(1) 'Objects of Act'. The Act defines 'animal' as:

- (a) a live member of a vertebrate species, including—
 - (i) an amphibian; and
 - (ii) a bird; and
 - (iii) a fish; and
 - (iv) a mammal (other than a human being); and
 - (v) a reptile; or

The ADO also recognises that some animal, fish and insect species introduced into Australia by humans may adversely affect native ecosystems and eco-communities. We point out, however, that these ecosystems and eco-communities, together with the environment in general, have also been drastically affected by humans.

Finally, while the ADO supports measures to protect these ecosystems and eco-communities that have been significantly affected by humans, the ADO does not support any protection measures that cause pain or suffering to individual sentient animals (including humans).

Terminology

This submission uses value-neutral terms to refer to cats in different contexts. It avoids the term 'feral' as it carries negative connotations. Cats living without any interaction with humans are referred to as wild cats.

It also generally avoids referring to non-wild cats as 'owned' cats. While the term 'owned' denotes a property status which is relevant to cats owned by a specific person or persons, it is not applicable to cats who co-exist with a range of different persons or households, or who are not wild but who are also not wholly dependent on humans for basic needs such as food or shelter. These free-living cats have no property relationship with humans under existing legal frameworks. For example, a human who occasionally feeds a free-living cat or who traps, desexes and releases the cat, would arguably not meet any of the three definitions of 'owner' under the *Companion Animals Act* (NSW).²

TERMS OF REFERENCE

a. the prevalence of feral and domestic cats in Australia

b. the impact of feral and domestic cats including on native wildlife and habitats

The ADO understands that it is difficult to determine the prevalence of cats in Australia with any degree of certainty, or indeed the impact of cats on native or non-native wildlife and habitats. For example, the ACT recently released a *Draft ACT Cat Plan* ("ACT Cat Plan").³ This draft cat management document was released in April 2019 in the 'Bush Capital', yet relies on a 2010 estimate of numbers of Canberra households with a cat.⁴ The ACT Cat Plan further states that '[a]lthough cats are required by law to be microchipped, data is not centralised and microchipping does not provide a system for monitoring the number of domestic cats.'⁵ The ACT Cat Plan also admits that there are 'no reliable estimates of the feral cat population'.⁶

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- (b) a live cephalopod; or
 - (c) a live crustacean intended for human consumption.

² *Companion Animals Act* (NSW), s 7.

³ ACT Government (2019), *Draft ACT Cat Plan 2019-29*, April 2019, <https://www.yoursay.act.gov.au/cats-and-dogs/ACT-Cat-Plan>.

⁴ Page 11: 'It has been estimated that about a quarter of Canberra households own a cat (Eyles and Mulvaney 2010).'

⁵ Ibid.

⁶ Ibid.

When it comes to the impact of cats on native fauna, the ACT Cat Plan states that ‘there is no direct evidence that domestic cats in urban areas have caused the decline of any threatened species in Australia’.⁷ The impact on non-native species is not dealt with in the Plan.

The ADO submits that any contributions wild cats may make to processes that threaten native ecosystems and biodiversity must be considered in the context of anthropogenic (human-made) processes such as habitat destruction and fragmentation, urbanisation, vehicle collisions, and climate change. Other contributing factors must also be considered, such as the devastating 2019-2020 bushfires which a recent study estimates to have killed up to 3 billion animals.⁸ According to one of the lead researchers, the study ‘showed the extent to which megafires were reducing the country’s biodiversity, and underlined the need to address the climate crisis and stop the clearing of land for agriculture and development’. According to further studies, the 2019-2020 bushfires brought ‘the most dramatic loss of habitat for threatened species and devastation of ecological communities in postcolonial history’,⁹ and affected the habitat of 832 native animal species.¹⁰ It is important to consider these much more significant and widespread impacts on the environment before inflicting harsh, painful, and often ineffective measures to control cats (eg baiting or permanent containment). Any impact poisoning wild cats may have on the environment, causing great animal suffering in the process, would be obliterated in another mega-bushfire.

For these reasons, the ADO would support further regional and national research and trials, to understand properly the impact of cats on their environment and non-lethal measures to mitigate any impact.

c. the effectiveness of current legislative and regulatory approaches;

The ADO submits that current legislative and regulatory approaches could be enhanced by adopting the following measures:

- A moratorium on the breeding of cats
- A ban on the sale of cats in pet shops
- Increased use of Trap Neuter Release programs

Moratorium on breeding

The ADO submits that the breeding of cats should be a key focus of legislative and regulatory approaches.

If reducing the overall number of cats is a desired policy outcome, then the ADO submits that a key strategy should be to reduce or cap the numbers of purpose-bred cats. This could be achieved in the short term by amending breeding standards in state and territory jurisdictions

⁷ Page 12.

⁸ Readfearn, G., Morton, A., ‘Almost 3 billion animals affected by Australian bushfires, report shows’, *The Guardian*, 28 July 2020, <https://www.theguardian.com/environment/2020/jul/28/almost-3-billion-animals-affected-by-australian-megafires-report-shows-aoe>.

⁹ Wintle, B.A., Legge, S., Woinarski, J.C.Z., ‘After the Megafires: What Next for Australian Wildlife’, *Trends in Ecology & Evolution*, 2020.

¹⁰ Ward, M., Tulloch, A.I.T., Radford, J.Q. et al, ‘Impact of 2019–2020 mega-fires on Australian fauna habitat’, *Nat Ecol Evol* (2020), <https://doi.org/10.1038/s41559-020-1251-1>.

so as to impose meaningful limits on factors of breeding such as the age at which cats can and cannot breed, and the number and frequency of litters.¹¹

The ADO submits that ultimately the purpose-breeding of cats must be restricted or suspended until numbers both of cats in shelters, and of those put down because a new home cannot be found for them, are reduced significantly (cats in shelters), or to zero (cats put down rather than rehomed).

The ADO further submits that for as long as it is legal to breed cats, licensing regimes must be introduced in jurisdictions that currently do not require licences or permits for breeders (such as NSW and WA). This would add some checks and controls on the otherwise indiscriminate and unregulated breeding of cats in these jurisdictions.

Where licensing regimes have been implemented, compliance and enforcement measures must be increased. Compliance and enforcement are critical to ensuring that breeders adhere to the breeding standards and meet licensing requirements.

Selling animals in pet shops

The ADO submits that jurisdictions should follow the lead of Victoria and ban the sale of cats in pet shops other than cats from rescue shelters.¹²

This measure would reduce the numbers of cats bred for sale, bought 'on impulse', and/or potentially abandoned.

TNR programs

Programs for humanely controlling the population of free-living, abandoned or wild cats, such as 'Trap Neuter Release' ("TNR") programs, should be facilitated rather than proscribed. TNR programs are reported as at the very least keeping population numbers stable, while potentially lowering cat numbers, and even being more effective than lethal measures such as trap-and-kill.¹³

The ADO submits that legislative barriers to TNR should be removed. For example in NSW it is recognised that a person releasing cats as part of a TNR program could be charged with the offences of abandoning and/or unlawfully liberating the animals.¹⁴ In NSW the Animal Welfare (Population Control Programs) Bill 2014 was introduced into the Legislative Assembly by independent member Alex Greenwich to overcome these impediments, but lapsed before being passed.¹⁵ The Bill aimed to 'facilitate programs for controlling the population of stray,

¹¹ See for example the *Animal Welfare (Breeding Standard) Determination 2015 (No 1)* (ACT). This Standard contains the following restrictions on commercial and non-commercial breeding of cats in the ACT:

- age for breeding: 12 months to 7 years (clause 5)
- number of litters: 8 (clause 6)
- frequency of litters: up to 3 times within 2 years (clause 7).

¹² *Domestic Animals Act 1994* (VIC) s 63AAB 'Offences as to sale or giving away of animals by pet shops'.

¹³ See for example Jongman, E., and Karlen, G., *TNR programs for cats: A literature review on an alternative control method of feral cats in defined urban areas* (2006) Urban Animal Management Conference Proceedings 81; and Alex Greenwich MP, 'Animal Welfare (Population Control Programs) Bill 2014: 2R Speech', 11 Sep 2014.

¹⁴ *Prevention of Cruelty to Animals Act 1979* (NSW) s 11, and *Biodiversity Conservation Act 2016* (NSW), s 2.6.

¹⁵ <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=2821>.

abandoned or wild cats or other non-native animals by providing immunity from civil liability and exemptions from licensing and other requirements.¹⁶

The ADO submits that legislation based on this prescient bill should be drafted and introduced to Parliaments around Australia to facilitate these non-lethal and effective population-control programs.

The ADO also submits that community organisations that look after rescued, orphaned, injured and unwanted cats should be regarded as key stakeholders in cat population management. These community groups have a network of dedicated foster carers and genuine no-kill policies. Governments should recognise the contribution to cat welfare and population control made by these unfunded, grassroots and volunteer-based charities. Greater support should be provided to these groups, including exemptions to the need for multiple-cat licences (where there are such licences) for cat and kitten foster carers and those who would be involved in TNR programs.¹⁷

Codes of Practice

The ADO submits that all state and territories should have legally enforceable standards to improve cat welfare and management practices. Existing codes of practice should be reviewed, updated, and converted to standards and guidelines.

For example, the code of practice dealing with cats in the ACT (*Animal Welfare (Welfare of Cats in the ACT) Code of Practice 2007*) is over 13 years old. The code of practice dealing with companion animals in pounds and shelters (*Code of Practice for the Handling of Companion Animals in Pounds and Shelters in the ACT*) was approved 25 years ago (30 June 1995).

Management plans should also be based on principles of humane treatment and non-lethal forms of control, and have realistic objectives. For example, the proposed vision for the ACT Cat Plan is that 'All cats in the ACT will be owned, wanted and cared for by responsible owners'.¹⁸ The ADO submits that such a goal is unrealistic and does not take into account free-living and wild cats. Alternatively, if the implication is that the proposed vision does take into account these independent cats, then it raises concerns as to what will happen to cats who are not kept by 'owners'.

e. the efficacy (in terms of reducing the impact of cats), cost effectiveness and use of current and emerging methods and tools for controlling feral cats, including baiting, the establishment of feral cat-free areas using conservation fencing, gene drive technology;

The ADO does not oppose measures to control populations of free-living cats, provided the measures do not include lethal or inhumane control procedures carried out on sentient animals.

The ADO strongly opposes baiting or poisoning cats or any other animal. We submit that any consideration of lethal measures of control must emphasise the extremely negative welfare

¹⁶ Animal Welfare (Population Control Programs) Bill 2014 (NSW), long title.

¹⁷ See for example *Domestic Animals Act 2000* (ACT), s 84A 'Multiple cat licences—requirement to be licensed'. Under the provision a person commits an offence if the person keeps four or more cats on one residential premises without holding a multiple cat licence.

¹⁸ Op.cit., p 5.

outcomes associated with these measures. The ADO notes, for example, that under animal welfare laws, administering and laying poisons for domestic or native animals are cruelty offences.¹⁹ This acknowledges the intense pain and suffering poisons inflict on animals.

The ADO also opposes euthanasing healthy but 'unwanted' domesticated or free-living cats.

g. public awareness and education in relation to the feral and domestic cat problem;

The ADO strongly supports measures to promote responsible cat guardianship through community education and engagement. As a community legal centre ADO volunteers are familiar with regulatory frameworks that apply to cats, and engage in community education about animal welfare and management laws relating to cats and conservation. Copies of our fact sheet on 'Cats and the Law' are available at our community outreach stalls and online.²⁰

h. the interaction between domestic cat ownership and the feral cat problem, and best practice approaches to the keeping of domestic cats in this regard.

Mandatory desexing

The ADO supports mandatory desexing of domestic cats. Currently in the ACT cats must be desexed unless a permit is obtained to keep them 'entire'.²¹ In South Australia it is mandatory to desex cats.²² The ADO recommends that other jurisdictions should also legislate at the state or territory level to require domestic cats to be desexed.

The ADO submits that desexing rates in all jurisdictions could be improved by:

- Facilitating trap, desex and release programs
- Preparing special response strategies to hoarding situations
- Requiring mandatory desexing prior to the sale or rehoming of a cat
- Subsidising the cost of desexing for low income earners (for example, people with an Australian Government Health Care Card)
- Abolishing permits to keep cats sexually entire except in exceptional circumstances ie in the interests of the welfare of the individual cat.

Registration of cats

The ADO supports cat registration provided it is affordable and accessible (eg can be easily done online).

As a community legal centre, the ADO frequently witnesses the distress to a carer of a cat when the cat is stolen or goes missing and the person has not updated his or her details on microchip or registration databases. When another party is involved (often an ex-partner who 'steals' the cat), there are few legal remedies other than court action which is stressful, expensive and risky.

¹⁹ See for example *Animal Welfare Act 1992* (ACT), ss 12 and 12A, and *Prevention of Cruelty to Animals Act 1979* (NSW), s 15.

²⁰ <https://www.ado.org.au/submissions>.

²¹ *Domestic Animal Act 2000* (ACT) s 74(1) and s 74(2).

²² *Dog and Cat Management Act 1995* (SA) s 42E.

The ADO therefore would support registration for cats as it would function as an incentive or trigger to remind carers to update their details.

Responsible carers are already used to doing things annually for their cats such as attending a veterinary clinic for vaccinations. It is reasonable to suggest that if annual registration were required, another annual requirement in relation to their cat would not be unduly onerous.

Cat containment

The ADO submits that the animal welfare issues associated with keeping cats in mandatory containment are often overlooked. Cats in permanent containment may be unable, or have limited capacity, to perform their natural behaviours and may lack mental and physical stimulation.

Proponents of mandatory cat containment often highlight the supposedly positive consequences for the cats themselves, such as benefiting the ‘cat’s own health’, and prolonging a cat’s life.²³ Health and longevity are important, but they do not equate to an animal’s ‘wellbeing’. The ACT’s *Animal Welfare and Management Strategy 2017-2022* (“AWMS”) considers ‘aspects of naturalness’ to be a fundamental element of animal welfare.²⁴ The AWMS states:

Contemporary animal welfare aims for a reduction or elimination of the negative experiences and a predominance of positive states in each domain so that an animal experiences a Life Worth Living. This encompasses both physical and mental wellbeing, and includes the ability to demonstrate natural species-typical behaviours.²⁵

The ADO is concerned about the lack of ‘aspects of naturalness’, or ‘natural living’, when cats are contained. For example, when considering cat containment, widely respected veterinarian Dr Michael Archinal has observed that:

There are many cases where it [containment] is actually detrimental to the health of the cat rather than being beneficial... also more and more we are recognising depression and anxiety in our pets and this is often because of a lack of environmental enrichment. I have great concerns about cats being totally confined to the house (where) there is a total lack of environmental enrichment for the cat especially with people being away for extended periods of time. It is not fair for the cat and it is not appropriate.²⁶

The ADO agrees with Dr Archinal, that where cats are legally required to be contained, there is a need for ‘detailed containment guidelines drafted that prioritise cat welfare.’²⁷

The ADO notes that cats are regarded as less domesticated than ‘domestic’ animals such as dogs. In other words, cats are closer to being wild animals than dogs are.²⁸ This must be taken into account when considering cats’ overall wellbeing in the context of cat containment. If an

²³ See for example the ACT Cat Plan, pp 14, 18, 22.

²⁴ City Services, Transport Canberra and City Services Directorate, *Animal Welfare and Management Strategy 2017-2022*, ACT Government, 2016, p 10.

²⁵ Page 9.

²⁶ <https://www.abc.net.au/news/2015-04-01/expanded-cat-containment-laws/6365000>.

²⁷ Ibid.

²⁸ Temple Grandin and Catherin Johnson, *Making Animals Happy. How to Create the Best Life for Pets and Other Animals*, Bloomsbury, 2009, pp 67-71.

animal will suffer because he or she is deprived of opportunities to perform natural behaviours, and suffer mental distress through frustrated instincts and lack of stimulation, then as a general principle the ADO does not support containment or confinement or captivity of that animal, including cats.

Instead the ADO would support not keeping cats at all rather than keeping them in permanent captivity.

Where keeping cats is permitted, the ADO would at most support partial voluntary containment (eg at night), or limiting mandatory containment to new suburbs close to wildlife areas and extending it to both cats and dogs (as dogs contribute to predation of wildlife and other animals). People would then be able to choose whether to move into these areas and live without cats or dogs as companion animals.

Conclusion

The ADO looks forward to positive initiatives for both cats and the environment resulting from the Inquiry, and we are grateful for the opportunity to have provided our comments to the committee on this important issue.

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