



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.

Nature Conservation
Environment, Planning and Sustainable Development Directorate
GPO Box 158, Canberra City ACT 2601

By email: epsddcomm@act.gov.au

Dear Sir/Madam

Submission on the Draft ACT Cat Plan 2019-2029

Thank you for the opportunity to provide comments on the *Draft ACT Cat Plan 2019-2029* (“**the Plan**”).

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 by volunteer lawyers, law students and other professionals. The ADO offers information and representation for 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 the National Association of Community Legal Centres.

General principles

Our submission is based on the general principles that:

- All cats ‘are sentient beings that have the ability to perceive and feel a range of emotions including pain, fear and joy’¹, regardless of their classification or property status; and
- Cats are less domesticated than other ‘domestic’ animals such as dogs. In other words, they are closer to being wild animals than dogs are.²

In addition, we recognise 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.

¹ *Animal Welfare and Management Strategy 2017-2022* (ACT), p5.

² Temple Grandin and Catherin Johnson, *Making Animals Happy. How to Create the Best Life for Pets and Other Animals*, Bloomsbury, 2009, pp 67-71.

Finally, while the ADO supports measures to protect these ecosystems and eco-communities that have been so 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(s), 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 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) (s7)*.³

THE PLAN

Vision

We submit that the proposed vision for the Plan (that 'All cats in the ACT will be owned, wanted and cared for by responsible owners', p5) 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'.

Stakeholders

We submit that the Animal Welfare Advisory Committee (AWAC) should be referred to as a key stakeholder (p6), especially considering its function of participating 'in the development of approved codes of practice and mandatory codes of practice' (*Animal Welfare Act 1992 (ACT) ("AW Act")*, s109(3)(b)).

We also submit that under the Government's responsibilities (p6), the Plan should refer to the responsibility of government departments to review and clear draft codes of practice in a timely way.

Finally, we submit that the list of 'implementers' for Strategy 1 ('Promote responsible cat ownership through community education and engagement,' p8) should include community legal centres such as the ADO and the Environmental Defenders Office. These organisations are familiar with regulatory frameworks covering cats and engage in community education about animal welfare and management laws relating to cats and conservation.⁴

³ The *Domestic Animals Act 2000 (ACT)* does not define 'owner'.

⁴ See for example our fact sheet on 'Cats and the Law': <https://www.ado.org.au/submissions>. A hard copy of this fact sheet is regularly available at our community outreach stalls.

Animal welfare

Cat containment

While the Plan refers to animal welfare issues associated with ‘unowned and unwanted cats’ (p1), we submit that the Plan must take into account the animal welfare issues associated with cats kept in permanent containment, unable or with limited capacity to perform their natural behaviours, and lacking mental and physical stimulation.

Currently the Plan refers only to supposedly positive consequences of cat containment for the cats themselves, such as benefiting the ‘cat’s own health’ (p14), and that it can prolong a cat’s life (pp 18, 22). 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’ a fundamental element of animal welfare (p10). The AWMS states (p9):

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.

We are concerned about the lack of ‘aspects of naturalness’, or ‘natural living’, when cats are contained. For example, when considering cat containment, respected local 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.⁵

We agree with Dr Archinal that even for existing cat containment areas, we need ‘detailed containment guidelines drafted that prioritise cat welfare.’⁶

As previously indicated, our submission is based on the understanding that cats are less domesticated than other domestic animals such as dogs. This must also be acknowledged when considering cats’ overall wellbeing in the context of cat containment. If an 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 we do not support containment or confinement or captivity of that animal, including cats.

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

Regarding the options for containment proposed in Strategy 5 in the Plan (p22), at most we would support a version of Option A which would allow voluntary containment, or which would confine mandatory containment to new suburbs close to wildlife areas and extend it to both

⁵ <https://www.abc.net.au/news/2015-04-01/expanded-cat-containment-laws/6365000>.

⁶ Ibid.

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.

We do not support Option B or C.

We also do not support encouraging cats on leashes. Cats are not dogs. Walking cats on leashes can unduly restrict or conflict with their natural behaviours, is unsuited to their temperament, and may make them vulnerable to dog attacks.

Codes of Practice

In relation to Strategy 4 ('Continuously improve domestic cat welfare and management practices' p20), we submit that current codes of practice ("CoPs") covering the treatment of cats in the ACT are out of date and require urgent review.

For example, the CoP dealing with domestic cats (*Animal Welfare (Welfare of Cats in the ACT) Code of Practice 2007*) is over 12 years old.

CONFIDENTIAL: AWAC has revised, updated and finalised a new code of practice for cats that relevant government areas have consistently failed to review and progress to implementation. This CoP should be approved under s22 of the AW Act and implemented as soon as possible.

The CoP 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 exactly 24 years ago (30 June 1995).

Environmental impact of cats

The Plan refers frequently to the impact of cats on the environment and on native species of animals. The impact on non-native species is not dealt with in the Plan.

In our view any contributions cats may make to processes that threaten native ecosystems and biodiversity should be considered in the context of anthropogenic (ie human-made) processes such as habitat destruction and fragmentation, urbanisation, vehicle collisions, and climate change.

Moreover, documents such as the Plan tend to overstate the impact of cats on the environment. For example, the statement that 'Predation by feral cats has already directly contributed to extinctions of more than 20 Australian mammals' is not referenced.⁷

This is important given the harsh measures proposed by the Plan and their consequences for animal welfare (eg baiting or permanent containment), and also when it contrasts with cat keepers' lived experiences of their cats not hunting and killing native animals.

For this reason, we would support Action 20 ('Participate in regional and national research and trials' p9), to understand properly the impact of cats on their environment and non-lethal

⁷ Page 2. The statement that *is* referenced (to a study more than 20 years old, 'Barrat 1998') does not appear to have anything to do with extinctions.

measures to mitigate any impact. For example, we note that the Plan admits that there are ‘no reliable estimates of the feral cat population’ (p11) and that ‘there is no direct evidence that domestic cats in urban areas have caused the decline of any threatened species in Australia’ (p12).

Overpopulation—breeding

In our view there is not enough focus in the Plan on the breeding and sale of new cats and the contribution of these activities to the general overpopulation of cats.

Breeding moratorium

If reducing the overall number of cats is a desired policy outcome, then we submit 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 the *Animal Welfare (Breeding Standard) Determination 2015 (No 1)* (“**the Breeding Standard**”) to reduce:

- the ‘age for breeding’ (currently 12 months to 7 years; clause 5),
- the number of litters (currently 8; clause 6), and
- the frequency of litters (currently up to 3 times within 2 years; clause 7).

Ultimately, we submit that the purpose-breeding of cats must be reduced or put on hold until numbers of cats in shelters, or 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).

Breeding—compliance and enforcement

In Strategy 2 the ‘Key Topics for Discussion’ asks ‘How important is compliance and enforcement in relation to: desexing, microchipping; and cat containment?’ (p17).

We submit that ‘breeding’ must be added to this list. Compliance and enforcement are critical when it comes to breeders adhering to the Breeding Standard and meeting licensing requirements.

Selling animals in pet shops

We submit that the ACT should follow the lead of Victoria and ban the sale of cats in pet shops unless the cat is from a rescue shelter.⁸

Cats are living beings, not commodities that can be discarded for the latest model.

Overpopulation—community organisations

Organisations such as the Canberra Street Cat Alliance and Flossie’s Kitten Rescue do incredible work in looking after abandoned, orphaned, injured and unwanted cats. These community groups have a network of dedicated foster carers and genuine no-kill policies. The Plan should recognise the contribution to cat welfare made by these unfunded, grassroots and volunteer-based charities. The Plan should commit to greater support for these groups,

⁸ *Domestic Animals Act 1994* (VIC) s 63AAB ‘Offences as to sale or giving away of animals by pet shops’.

including creating exemptions to multiple cat licensing requirements for cat and kitten foster carers.

These groups could be included in the discussion of 'partnerships with service providers' in the section relating to 'Implementation' on page 7 of the Plan.

They should also be explicitly acknowledged in Strategy 4 ('Continuously improve domestic cat welfare and management practices' p20).

Overpopulation—desexing

We support the Plan's proposal to improve cat desexing rates ('Action 3' p15). We submit that cat desexing rates 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 individual cat.

Overpopulation—free-living cats

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

For example, we oppose euthanasing 'unwanted cats' (p6).

We also strongly oppose the baiting or poisoning of cats or any other animal. We submit that in any discussion in the Plan of lethal measures of control, the extremely negative welfare outcomes associated with these measures must be included. Under the AW Act, administering and laying poisons for domestic or native animals are cruelty offences (ss 12 and 12A). This acknowledges the intense pain and suffering poisons inflict on animals.

We therefore support the Plan's proposal to work 'with animal care and rescue organisations to manage semi-owned and unowned cats in public places' (p8), but submit that 'trap, desex and release' programs be implemented rather than 'adopt' activities. Freelifving cats, especially older cats, are often unsuited to living in a domestic situation.

Registration of cats

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

As a community legal centre, we frequently see the distress to a cat keeper when his or her cat is taken without consent or goes missing and the person has not updated his or her details on microchip or registration databases. When another party is involved, there are very few legal remedies other than court action which is stressful, expensive and risky. We therefore would support registration for cats as it would function as an incentive or trigger to remind keepers to update their details.

Responsible pet owners are already used to doing things annually for their cats such as attending a veterinary clinic for vaccinations, so another annual requirement may not be too onerous.

Risks to human health

We submit that the issues addressed in this section of the Plan are not related to the welfare or management of cats and would therefore be better placed in a CoP.

Conclusion

While the Plan contains some positive initiatives for cats and the environment in general, we believe the Plan could be improved by adopting the suggestions made in this submission.

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