



DOG AND CAT
MANAGEMENT BOARD
A GUIDE TO PREPARING
A CAT BY-LAW



Government of South Australia
Dog and Cat Management Board



Local Government Association
of South Australia

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A Guide to Preparing a Cat By-Law (2013) Reviewed 2019
Dog and Cat Management Board
Local Government Association of South Australia

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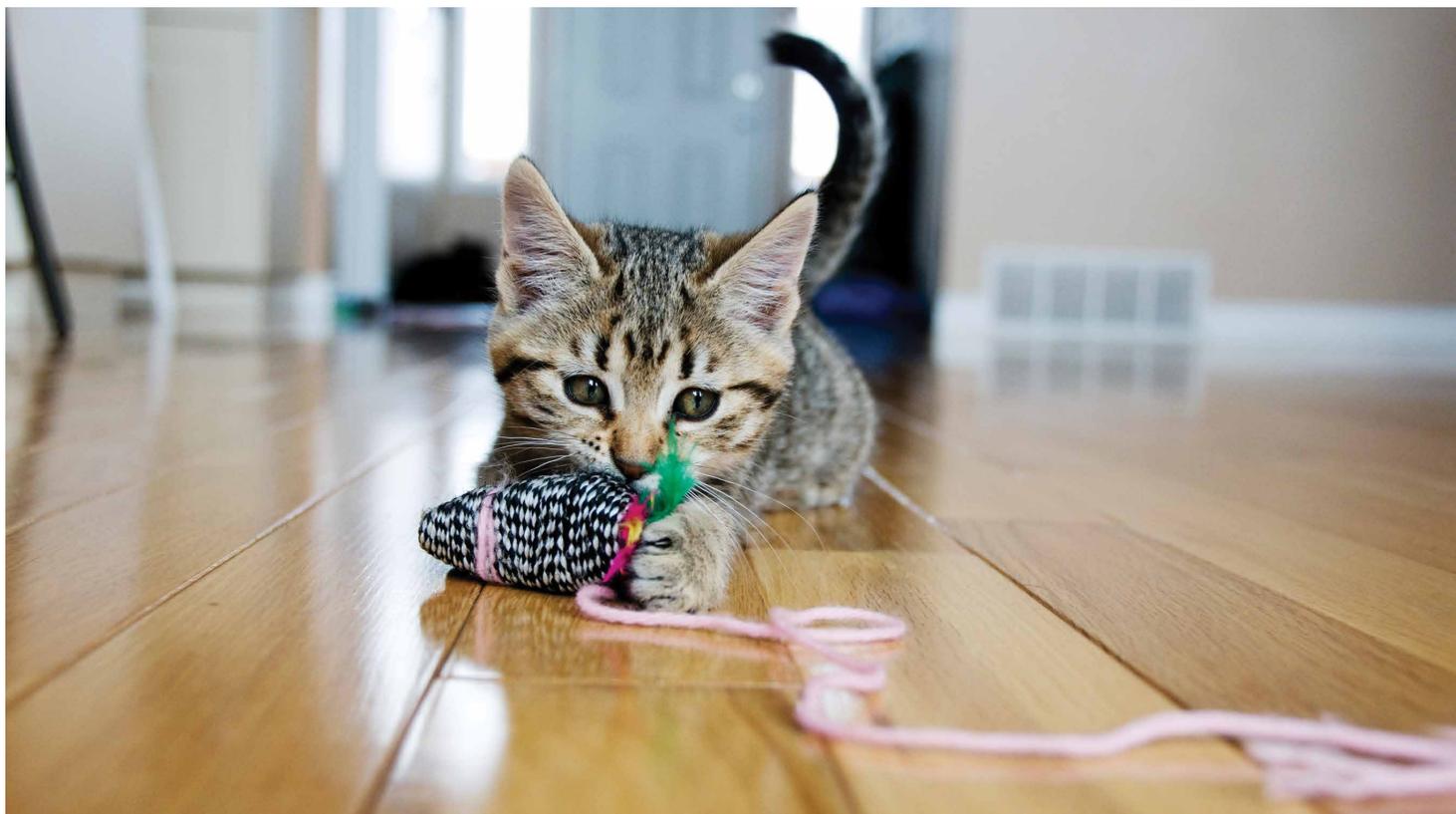
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1 Introduction



This guide was initially developed in 2014 as an adaption of the 2010 Local Government Association (LGA) By-law Guidelines. It was developed by the Dog and Cat Management Board with permission from the LGA.

The guide was revised in 2019 to reflect the changes to the Dog and Cat Management Act 1995 in 2017 and 2018.

This guide will assist Councils address cat management related issues. The guide provides practical advice about legislative requirements, policy considerations, community engagement and implementation.

The guide provides a summary of:

- background information on the By-law-making powers of Councils;
- key policy issues to be considered by Councils in the exercise of their statutory powers to make a By-law for the management of cats;
- procedural requirements for making Council By-laws;
- practical issues encountered by Councils making By-laws; and
- guidance and suggestions on various issues that may arise in relation to the making, review and administration of a cat By-law.

The Dog and Cat Management Board has developed a Model Cat By-Law template available through the The Dog and Cat Management Board website council secure http://council.dogandcatboard.com.au/users/sign_in

The content is intended as a guide only. Councils are required to seek legal advice on proposed By-laws.

2 Background

Cat popularity is evidenced by high cat owning population estimated to be over 500,000¹ in South Australia.

A key strategic priority of the Dog and Cat Management Board is *'Improved cat management through responsible cat ownership and community collaboration'*.

Well administered By-laws are proven to reduce cat management issues, improve cat welfare and help address community concerns. The Dog and Cat Management Board would welcome an increase in both the number of Councils using By-laws and the extent of matters addressed in them.

New legal responsibilities for cat owners were introduced 1 July 2018 relating to cats, the most significant being the introduction of:

- mandatory microchipping;
- mandatory desexing;
- a new registry and standards/guidelines for breeders who sell, exchange or barter;
- a new statewide database (Dogs and Cats Online) <http://dogsandcatsonline.com.au>

Microchipping:

Unlike a collar or tag, which can easily snag and fall off, microchipping is a safe and permanent way to identify a cat if it becomes lost or is impounded.

- All cats will be required to be microchipped;
- Kittens will need to be microchipped by 12 weeks of age or at the point of sale;
- If an owner acquires a new cat that is not microchipped, it must have one implanted within 28 days.

Microchips must be implanted by a veterinary surgeon or an authorised person.

It's important to remind cat owners to keep their personal details linked to that chip up-to-date. If cat owners move house, change phone numbers, etc, they must update the information on Dogs and Cats Online.

Desexing:

Cats are prolific breeders. In just seven years, a single litter can result in the birth of thousands of cats if breeding is left unchecked. Many of these unwanted litters will be euthanised in pounds or shelters. Desexing is a humane, practical solution to prevent this.

- All cats born after 1 July 2018 will be required to be desexed by 6 months of age (exemptions may apply);
- If an owner acquires a new cat it must be desexed within 28 days;
- Cats can only be desexed by a registered veterinary surgeon.

Along with stopping unwanted litters, desexing has a range of health and behavioural benefits for a cat.

- Desexing can increase a cat's life expectancy;
- It reduces the risks of developing certain cancers;
- Desexing may reduce undesirable behaviours, such as spraying, marking, fighting and yowling;
- It helps reduce the number of cats and kittens euthanised in pounds and shelters.

Cat breeders and sellers:

The laws regulating the breeding and sale of cats are designed to weed out unscrupulous breeders from the industry.

- Breeders who sell, exchange or barter must adhere to the South Australian Standards and Guidelines for Breeding and Trading Companion Animals;
- If a breeder intends to sell a cat, they must register as a breeder with the Dog and Cat Management Board;
- A cat must not be sold unless it has been microchipped in accordance with the *Dog and Cat Management Act*;
- Advertisements must include the name, contact information and breeder registration number of all breeders and sellers.

Dogs and Cats Online:

All cat microchip information is required to be recorded on Dogs and Cats Online.

- Cat owners are responsible for documenting cat microchip information on Dogs and Cats Online;
- Microchip implanters are responsible for documenting microchip information on Dogs and Cats Online or providing the microchip details to the Dog Registrar or cat owner;
- Cat owners will be able to login online any time and update their contact details on Dogs and Cats Online and notify councils if their cat has gone missing.

Of the 68 incorporated Councils in South Australia, at least half currently have some form of Cat By-law.

Many Councils in South Australia limit the number of cats per property and include provision for nuisance clauses. Cat registration is encouraged by The Dog and Cat Management Board to assist Councils to fund key management strategies.

Cat By-laws can address:

- Registration of cats;
- Limits on the number of cats;
- Curfews;
- Confinement and/or control;
- Nuisance and wandering at large.

¹ Cat Management Plan for South Australia, RSPCA SA and AWL, November 2019

3 How should Councils respond?

3.1 Examine local evidence

Whether a Council has already taken significant steps to address cat impacts or is considering embarking on this for the first time, there will already be some local information available about the extent of the problem. Much more can be established through thoughtful investigation and community consultation.

The management of cats is an issue which tends to generate strong and diverse opinions. During this fact-finding stage the objective should be to identify, and seek information from, both the organised groups which represent cats and the silent majority.

Care should be taken to:

- Keep an open mind;
- Gauge the relative extent of concerns from various sectors of the community;
- Not jump to solutions.

Consider the following actions:

- Survey Elected Members who may have strong opinions of their own, but also will be aware of community attitudes;
- Include specific questions in annual community surveys;
- Provide staff who take telephone calls from the public with a check sheet to record complaints and requests that refer to cats, including complaints not currently, or only partially, addressed by Council;
- Engage with animal management staff to gain their insights;
- Ask customers who collect “cat cages” to provide details about the problem being addressed;
- Use Council’s website to seek feedback on cat related concerns;
- Invite preliminary feedback through the local press;
- Contact neighbouring Councils, or those with a similar profile (e.g inner suburban, rural fringe), which may have comparative data;
- Contact Board staff for access to expert assistance, particularly data about cat admissions to animal shelters in your Council area.

3.2 Understand the research

As part of the fact-finding stage it is important to understand how the various options available to Council may impact on any identified problems. The guide contains a discussion of the value of various options for addressing cat related issues. It has been designed as a “discussion guide” which can be distributed to the community at large, as well as used with key stakeholders in issue forums. Staff should be very familiar with the contents of this discussion guide before proceeding. Board staff can provide a wealth of research to assist.

The RSPCA and AWL 'Cat Management Plan for South Australia' published in 2019 proposes a statewide approach and suggested strategies that Councils may consider in drafting By-Laws.

3.3 Prepare a management report

Having collected a range of information, it is necessary to determine whether the facts justify Council intervention on some level. The best way to do this may be to write a report for the consideration of the Council or the CEO and Senior Management. Provide a summary of the investigations undertaken, the extent of issues identified and propose the next steps.

If the information collected so far suggests that there may be justification for applying (additional) controls and resources to cat management, it will be necessary to provide a basic rationale as to how the matter may be taken forward, including an outline of a community engagement strategy and communication plan.

Management may also require some indication of the benefits and costs of pursuing the proposed program.

3.4 Engage the Community

Strong community opinion is likely to emerge during the consultation phase. It is critical that this process be commenced early, with a clear plan about what is being sought.

The selection of techniques to use as part of the engagement strategy will depend on the issues being considered and the resources available to council. However, it is recommended that a 'Discussion Guide' is used as the basis of engagement with stakeholders.

Depending on Council's resources, engagement may range from:

- Basic: An on-line or hardcopy survey on the content of the Discussion Guide;
- Moderate: Open House sessions to capture feedback; or
- Best Practice: A Discussion Forum (or Issue Forum), which brings stakeholders together to deliberate on the content of the Discussion Guide and develop common ground for dealing with cat-related issues.

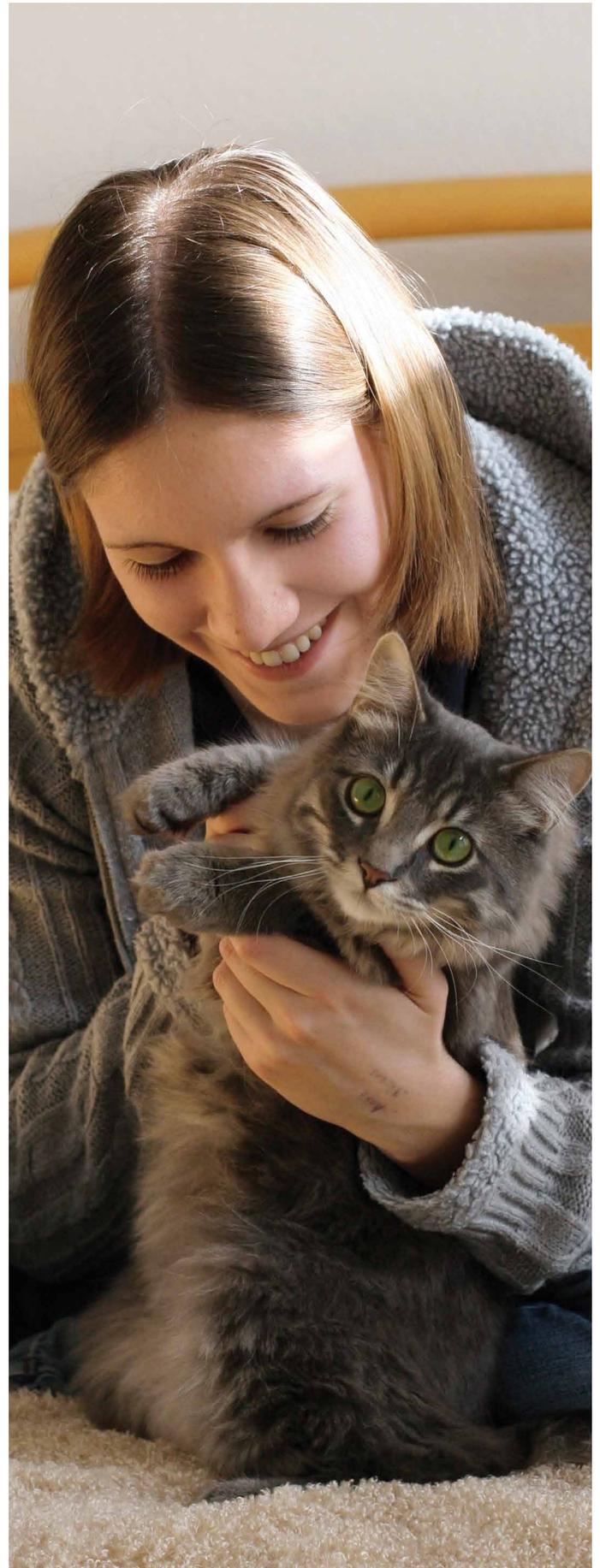
The Local Government Community Engagement Framework Revised Edition 2016² contains descriptions of the techniques and guidelines for preparing Discussion Guides.

An Issue Forum is a technique based on the simple notion that people need to come together to reason, talk and deliberate about issues, interests and opportunities to help them determine a common public direction in decision making.

The Forum design helps people see that even the most complex issues can be approached, understood, deliberated on, and addressed by people who take the time and interest needed to consider a resolution of the issue.

Issue Forums provide a way for people of diverse views and experiences to seek a shared understanding of a problem and to search for common ground, leading to a democratic resolution. They encourage community 'buy-in' to the solutions proposed.

Council may also consider the value of establishing a Community Advisory Group, with appointed representatives, who can provide Council with feedback on any options under serious consideration.



² Local Government Community Engagement Framework Revised Edition 2016, <http://www.lga.sa.gov.au>

4 When to use a By-Law?

Once you have substantial information about the principal 'cat issues' which affect your community and have made some assessment of the degree of support and opposition to addressing them, (from both the community at large and the Elected Council) it is time to consider Council's response.

In considering any proposal to make a By-law, Councils need to understand the extent of their legal powers. Section 246 (1) of the Local Government Act provides:

Subject to this or another Act, a Council may make By-laws:

- (a) that are within the contemplation of this or another Act; or
- (b) that relate to a matter in relation to which the making of By-laws is authorised by the regulations under this or another Act.

In the case of a Cat By-law the 'another Act' refers to the *Dog and Cat Management Act 1995*:

The objectives of the *Dog and Cat Management Act 1995* are to:

- encourage responsible dog and cat ownership;
- to reduce public and environmental nuisance caused by dogs and cats;
- promote the effective management of dogs and cats.

The intent of the *Dog and Cat Management Act 1995* is to provide Councils with the use of By-laws is very clear;

Section 90 (1) – By-laws:

Enables Council's to make By-laws for the control or management of dogs or cats within its area:

- (a) *limit the number of dogs or cats that may be kept on any premises;*
- (b) *fix periods during which dogs or cats must be effectively confined to premises occupied by a person who is responsible for the control or entitled to the possession of the dog or cat;*
- (c) *require dogs or cats to be identified in a specified manner or in specified circumstances;*
- (d) *require dogs or cats to be effectively controlled, secured or confined in a specified manner or in specified circumstances;*
- (e) *make provision for a registration scheme for cats (including payment of a fee for registration) and encourage the desexing of cats;*
- (f) *exempt (conditionally or unconditionally) classes of persons or activities from the application of the By-laws or specified provisions of the By laws.*

Consequently, the *Dog and Cat Management Act 1995* empowers Councils to make By-laws that apply to private land.

Note that, if your proposed By-law includes a limit on the number of cats a person may keep, this limit will not apply to a 'kennel' (usually called a cattery) that has a Development Authorisation in force.

While this guide refers exclusively to the process in relation to the *Dog and Cat Management Act 1995*, it is conceivable that Council may also consider the following section of the Local Government Act in formulation of a cat By-law:

Using Section 238 – Access to and use of Local Government land Council may, for example, create a By-law:

- regulate, restrict or prohibit public access to specified land;
- regulate, restrict or prohibit the bringing of animals or a specified class of animals onto specified land or the movement of animals or a specified class of animals on specified land;
- close specified land, or part of the land, to public access.

5 Reviewing an existing By-Law

Section 251 of the Local Government Act provides that a By-law (and all subsequent By-laws altering that By-law) will normally expire on 1 January of the year following the year in which the seventh anniversary of the day on which the By-law was made falls – e.g. a By-law made on 1 July 2009 will have its seventh anniversary on 1 July 2016 and therefore expire on 1 January 2017. This rule is subject to variation as follows:

- the By-law may be revoked by a further By-law before its seventh anniversary; and
- the By-law may expire at any time if the statutory power under which it was made is repealed and it is not subject to a transitional preservation period fixed by Regulation³.

The timing of the review should be organised so that all the necessary steps can be taken to comply with the statutory procedures and the Parliamentary process. This approach will avoid the existing By-law lapsing before the new By-law becomes operative, which would normally be 4 months after publication in the Government Gazette (section 249(5)). If it is Council's intention to strengthen the controls in an existing cat By-law, the commencement of community engagement 12-18 months before the expiry date should be the minimum time set aside to complete the process.



³ Certain parts of the By-law may expire in advance of the normal expiry date if the By-law deals with subjects where the statutory power is repealed. The remainder of the By-law may continue in operation until the normal expiry date if the expired provisions can be severed.

6 Statutory Procedures

By-laws, when operative, have the force of legislation creating criminal offences for breach of the By-law provisions. Councils should therefore take the utmost care to ensure the express provisions are not only well drafted but also in compliance with all statutory provisions.

The statutory procedures for making By-laws are set out in Part 1 of Chapter 12 of the Local Government Act, but reference will also be required to the Subordinate Legislation Act 1978 and Regulations.

If the Council proposes to make a By-law under the *Dog and Cat Management Act 1995*, it must give 42 days notice to the Dog and Cat Management Board under section 90 of the *Dog and Cat Management Act 1995* and provide a report to the Dog and Cat Management Board:

- (a) outlining the objectives of the proposed By-law;
- (b) setting out how it is proposed to implement or enforce the proposed By-law; and
- (c) explaining the reasons for any differences from similar By-laws made by other Councils.

The Council must consider any recommendations made by the Dog and Cat Management Board.

The Dog and Cat Management Board has prepared a pro forma (form 29) Notice to the Dog and Cat Management Board of Proposed By-laws, which is available from the Dog and Cat Management Board website – council secure <http://council.dogandcatboard.com/users/sign-in>. However, early contact with the Dog and Cat Management Board is recommended to make use of the available expertise and resources.



7 Discussion guide on legislative requirements

Cats present a unique challenge in the Australian community. The popularity of cats is evidenced by Australia's high cat owning population. Views on cat ownership can vary greatly from those who believe that cats should be allowed to roam freely, to those who believe that all cats should be removed. A summary of cat information is contained in Appendix.

Increasingly, communities are looking to State and local governments to enforce responsible ownership and address problems.

There are many ways in which Councils may consider responding to community concerns related to cats from community education to introducing legislative measures.

Mandatory Identification

For legislative controls to work it is imperative that an owned cat must be identified to an owner and the microchip information of the cat must be recorded on Dogs and Cats Online as per the requirements of the *Dog and Cat Management Act 1995*.

Mandatory Identification by Microchip

The requirement for a cat to be identified by microchip is set out in the *Dog and Cat Management Act 1995* and Regulations 2017:

42A—Dogs and cats to be microchipped

- (1) *The owner of a dog or cat must ensure that the dog or cat is microchipped in accordance with any requirements set out in the regulations.*
- (2) *An owner of a dog or cat who contravenes subsection (1) is guilty of an offence.*

Maximum penalty:

- (a) *if the dog is a dog of a prescribed breed, or an attack trained dog, guard dog or patrol dog—\$5 000;*
- (b) *in any other case—\$2 500.*

Expiation fee:

- (a) *if the dog is a dog of a prescribed breed, or an attack trained dog, guard dog or patrol dog—\$750;*
- (b) *in any other case—\$170.*

4—Identified and unidentified cats

- (1) *For the purposes of the definition of identified cat in section 4 of the Act, a cat is to be identified—*
 - (a) *by being microchipped in accordance with section 42A of the Act; or*

- (b) *by being identified in the manner referred to in section 42C(2) of the Act.*

10—Requirements relating to microchipping dogs and cats—section 42A of Act

- (1) *For the purposes of section 42A(1) of the Act, a dog or cat is to be microchipped in accordance with the following requirements:*
 - (a) *the dog or cat must be microchipped before it is sold;*
 - (b) *without limiting paragraph (a), the dog or cat must in any event be microchipped—*
 - (i) *before it reaches 12 weeks of age; or*
 - (ii) *within 28 days after the owner takes possession of the dog or cat; or*
 - (iii) *if the owner of a dog or cat is granted an extension of time under regulation 14—before the day specified in the notice of extension by which the dog or cat must be microchipped,*
whichever is the later;
 - (c) *the microchip—*
 - (i) *must conform to AS 5018-2001 Electronic Animal Identification—National Coding Scheme or AS 5018-2001 Electronic Animal Identification—Radiofrequency Methods; and*
 - (ii) *must record a unique identification number assigned to the microchip;*
 - (d) *the microchip must be implanted by—*
 - (i) *a registered veterinary surgeon; or*
 - (ii) *a person working under the direction or supervision of a registered veterinary surgeon; or*
 - (iii) *a person who holds a qualification, or who has undertaken training, approved by the Dog and Cat Management Board for the purposes of this paragraph; or*
 - (iv) *a person authorised by the Dog and Cat Management Board to implant microchips for the purposes of the Act;*
 - (e) *the microchip must be permanently implanted.*

Microchipping is the most effective form of permanent identification. It ensures owners and breeders are accountable and assists the recovery of pets, should they become lost or injured.

A Microchip is a small computer chip approximately the size of a grain of rice, which is placed under the skin at the back of the cat's neck by a trained practitioner. The procedure is painless. The microchip has a unique number which can be read by a special electronic reader.

Advantages

- Unique and permanent identification which cannot be separated from the cat and is not restricted to any Council area;
- Helps to reunite cats with owners;
- Provides Council staff with a degree of confidence in transferring unidentified cats to shelters;
- Reduced risk of unnecessary euthanasia;
- Council staff are already trained and equipped to read microchips;
- Can be implanted without anaesthetic (if done without the ear tattoo, which provides visible identification);
- Provides for owner accountability.

Disadvantages

- An additional cost for cat owners and may lead to cat abandonment;
- A visual inspection of a cat will not reveal whether a microchip has been inserted. To read a microchip, the cat must be caught and scanned;
- A microchipping regime will only have a marginal impact on problems associated with existing semi-owned and/or feral cat populations, without proactive programs to seize;
- Up-to-date contact information relies on owners to report changes in details to the microchip registration database in Dogs and Cats Online.

Considerations

- The *Dog and Cat Management Act 1995* does provide the ability to seize, detain, destroy or dispose of any unidentified cat, in addition to any By-law;
- Standards of microchip design, implantation techniques, readers and administration of registries, all of which have caused issues in the past, are improving greatly as the tool of microchipping is gaining worldwide popularity and increased use;
- Increased responsibilities may require the employment of additional staff, acquisition of additional vehicles, microchip scanners and/or impounding facility arrangements, to manage public awareness campaigns, handling queries and complaints, seizing and impounding;
- A handful of studies have suggested that microchips may increase the likelihood of cancer at the microchip insertion site or localised area of the microchip implant in cats. Hundreds of thousands of animals are micro-chipped across the world. The evidence for cancer related incidents has been based on a few individual cases and on the proximity of the cancer to the microchip site rather than a direct association. It is worth noting that this site is also often where vaccinations are administered which may also lead to reactions. In the cases of research rodents which

presented cancers around the microchip site, it is documented that the rodents used in the studies were particularly susceptible to cancers⁴.

Mandatory Identification by Collar and Tag

The requirement for a cat to be identified by collar and tag is set out in the *Dog and Cat Management Act 1995*:

42C—Further requirements relating to identification of certain dogs and cats

The owner of a dog or cat to which this section applies must ensure that the dog or cat (as the case requires), at all times while the dog or cat is not effectively confined to premises of which the person is the occupier, wears a collar around its neck to which is attached—

- (a) *if the dog or cat is required to be registered under this Act—the registration disc last issued for the dog or cat; and*
- (b) *in any case—a tag legibly setting out—*
 - (i) *the name of the owner of the dog or cat, or of a person entitled to possession of the dog or cat; and*
 - (ii) *either—*
 - (A) *the address of the owner or other person; or*
 - (B) *the telephone number of the owner or other person.*

Maximum penalty: \$5 000.

Expiation fee: \$170.

Advantages

- Can be used to immediately identify and contact the owner of the cat;
- Easily visible and therefore able to determine that the cat is owned;
- Accountability of the cat owner likely to lead to long-term community benefit;
- Provides Council staff with a degree of confidence in efficiently transferring unidentified cats to shelters;
- Reduced risk of unnecessary euthanasia.

Disadvantages

- Marginal impact on problems associated with existing semi-owned and/or feral cat populations without proactive programs to seize;
- Up-to-date contact information relies on owners to report changes in details to the collar or tag;
- Collars can be lost. The information recorded on them can become unreadable;

⁴ Dr Philip Stott, Australian Veterinary Association SA Division Bulletin July 2012

- Can cause concern to owners about potential harm to the cat. Concerns regarding the use of collars include:
 - collars can be caught on trees leading cats to accidentally hang themselves;
 - if the collar gets caught on a snag; they can lose the collar;
 - if it is too loose; cats can get their paw or jaw stuck while trying to remove the collar;
 - a person can maliciously remove the collar and claim the animal is a stray.

Considerations

- The *Dog and Cat Management Act 1995* does provide the ability to seize, detain, destroy or dispose of any unidentified cat;
- Increased responsibilities may require the employment of additional staff, acquisition of additional vehicles and arrangements for impounding facilities in order to manage public awareness campaigns, handling queries and complaints, seizing and impounding.

Mandatory Desexing

Educating your community on their legislative responsibilities is an important part of the consultation process.

The requirement for a cat to be desexed is set out in the *Dog and Cat Management Act 1995* and *Regulations 2017*:

42E—Certain dogs and cats to be desexed

(1) *The owner of a dog or cat must ensure that the dog or cat is desexed in accordance with any requirements set out in the regulations.*

(2) *An owner of a dog or cat who contravenes subsection (1) is guilty of an offence.*

Maximum penalty:

(a) *if the dog is a dog of a prescribed breed—\$5 000;*

(b) *in any other case—\$2 500.*

Expiation fee:

(a) *if the dog is a dog of a prescribed breed—\$750;*

(b) *in any other case—\$170.*

12—Requirements relating to desexing dogs and cats—section 42E of Act

(1) *For the purposes of section 42E of the Act, a dog or cat is to be desexed in accordance with the following requirements:*

(a) *the dog or cat must be desexed—*

(i) *before it is 6 months of age; or*

(ii) *within 28 days after the owner takes possession of the dog or cat; or*

(iii) *if the owner of a dog or cat is granted an extension of time under regulation 14—before the day specified in the notice of extension by which the dog or cat must be desexed,*

whichever is the later;

(b) *the dog or cat must be desexed by a registered veterinary surgeon.*

Note: Exemptions for desexing may apply.

Advantages

- Can reduce nuisance noise, spraying, wandering and fighting with other cats;
- Less likely to suffer from disease and certain illnesses, such as mammary cancer and uterine infections in females and prostate problems in males;
- Fewer unwanted kittens requiring rehousing, or joining feral cat colonies or being euthanased;
- Reduction in the number of entire cats going into semi-owned colonies;
- Can reduced the risk of disease spread to other cats i.e FIV;
- Reduces cat population.

Disadvantages

- Difficulty of checking compliance, including visual identification without surgical inspection for female cats. Owners could be required to provide written confirmation from a Veterinary Surgeon that the cat has been desexed;
- May lead to cat abandonment if required of current owners of already-mature, undesexed cats;
- Costs for Councils to promote, administer and enforce mandatory desexing;
- Availability of veterinarians which can be an issue in some rural and remote areas.

Cooperative Approach

Cooperating with organisations that support and provide desexing services, to reduce the cost, could be a key strategy in increasing desexing rates. Such a service could be extended particularly to residents who currently feed a semi-owned cat. The extent of cooperation arrangements and financial support would need to be determined.

The National Desexing Network (NDN) are willing to work with Vets and Councils on low cost desexing programs.

Mandatory Limit On Cat Numbers

Placing a limit on the number of cats which can reside on a property can assist with the reduction of unwanted and semi owned cats. Whilst in most cases the number of cats owned is not usually a cause for concern, the provision can help to control the problem of hoarding where excessive numbers of cats are housed inappropriately and with associated health, nuisance and welfare issues.

Advantages

- Council can impose expiations and place orders on repeat offenders;
- Fewer unwanted kittens requiring rehousing, or joining feral cat colonies;
- An enforceable By-law may assist Council officers to deal with residents with mental health or other difficulties, who may otherwise refuse Council intervention.

Disadvantages

- Cost and difficulty of checking and enforcing compliance;
- Cats need to be identified to enforce mandatory limit.

Considerations

- Council can grant exemptions if certain conditions are met, for example where there are no insanitary conditions, the cats are not causing a nuisance and each cat is microchipped and desexed;
- Exemption provisions need to be made to cater for the needs of cat breeders;
- The Local Government Act 1999, South Australian Public Health Act 2011 and Environment Protection Act 1993 have existing provisions that can be applied in some circumstances;
- May be introduced by way of registration of new born cats, rather than all cats (with conditions) to avoid causing distress to residents who already own more than the regulated number of cats. If exemptions of existing animals were not applied, initially there may be an increase in cats abandoned.

Nuisance

A 'Nuisance' is:

- unreasonably interfering with the peace, comfort or convenience of a person; or
- injurious to a person's real or personal property; or
- obnoxious, offensive or hazardous to health.

In relation to cats, a nuisance could be:

Public Nuisance: Stray or wandering cats may cause problems including property damage, pollution (noise, odour, faeces, spraying), harassment of other pets and annoyance via intrusion.

Health Nuisance: Stray or wandering cats have been implicated in a number of health issues. There is a risk to public health with the possibility of transmission of toxoplasmosis, ringworm and fleas. Stray cats can also transmit feline diseases to owned cats.

Environmental Nuisance: Both owned and unowned cats have been implicated in the predation of native wildlife. Whilst the impact on wildlife in the urban environment is considered to be only marginal, many Councils have environmentally sensitive areas in which cats should not be allowed.

Councils can impose limitations on the movement of cats by requiring them to be confined within the owner's property; kept indoors, at certain times, and/ or in a suitable enclosure. Alternatively they can place a curfew that requires confinement during certain hours (usually dusk to dawn) or declare certain public areas to be cat free zones. Owners of cats found breaching these requirements could be expiated (assuming identification) for wandering at large, and more severe orders could be imposed on owners of repeat offenders.

Defining nuisance in a By-law may provide Council Officers with a legal tool to address extreme circumstances, but there are practical difficulties. Other strategies which provide a proactive and multi-pronged approach to cat management, such as public education, limiting the number of cats, confining owned cats and actively removing the unowned population - all address nuisance to a greater or lesser extent.

Council could consider a Cat Trap Hire Policy for the hire of traps to assist with the removal of unowned cats.

Cooperative Approach

Councils could consider negotiating a cooperative approach with the Animal Welfare League or RSPCA, whereby residents can take stray and unwanted cats wandering on to their property to a facility free of charge. The City of Playford has such an agreement with the Animal Welfare League whereby Council incurs the cost of handing cats over. This cost effective strategy, whereby the residents and Council work together, has been in place since 2005. All cats subsequently rehoused are desexed, microchipped and vaccinated.

Advantages

- Provides a clear understanding of what activities are not acceptable;
- Council can impose expiations and place orders on repeat offenders.

Disadvantages

- Difficult for Authorised Officers to observe and prove an offence.

Considerations

- Enacting By-law provisions which cannot be actively enforced, either through lack of resources or inability to identify the offender (owner) may lead to frustration on the part of owners, the community at large and staff which may undermine other strategies;
- A range of options already exist for the management of nuisance cats which are set out in various Acts. Generally these options are only available where the cat owner has been identified. These may include:
 - Council making an order under the insanitary condition provisions of the South Australian Public Health Act 2011. Council only has power to issue such an order where it has sufficient evidence to show that the manner in which a cat(s) is kept on premises gives rise to insanitary conditions on land;
 - Council making an order under section 254 of the Local Government Act 1999 against an owner or occupier of land or any person engaged in promoting or conducting an activity that creates a nuisance or hazard to health or safety associated with a live or dead animal(s), or otherwise to deal with animal(s). Council must prior to issuing a section 254 order provide a notice of intention stating the proposed action, reasons for the proposed action and an opportunity to appeal the proposed action. The Act states the various examples where a section 254 order that may be issued:
 - slaughtering of animals in an urban situation;
 - keeping an excessive number of animals;
 - keeping of animals which generate excessive noise, dust or odour or attract pests or vermin;
 - keeping an aggressive animal or keeping an animal in a situation where it cannot be adequately contained or may cause danger to the public;
 - failure to bury or otherwise lawfully dispose of any dead animal.
 - Development Act 1993– Unauthorised (Unapproved) Business Activity. If Council determines that there is an unauthorised (unapproved) business activity relating to the keeping of cats being conducted on land, the owner may be asked to submit a development application for approval and other necessary actions deemed appropriate at the time, depending on the issue(s);
 - The *Natural Resources Management Act 2004* provides provisions for the management of the feral cats.

Mandatory Registration Of Cats

As with dogs, the purpose of registering cats is to capture relevant data to identify cats and owners, including the premises at which they are usually kept and will provide a revenue source to undertake cat management strategies.

To be effective, registration needs to be implemented in association with a form of identification, either microchip or collar and tag.

When considering the introduction of cat registration, a phased-in approach could be adopted in which registration is free in the first year to encourage cat owners to register their cats, with fees (and associated rebates where applicable) applied in the second year.

Note: All cat microchip information is required to be recorded on Dogs and Cats Online.

Advantages

- Increased owner accountability;
- Can help to reunite cats with owners;
- Provides a source of revenue for Council to respond to 'cat issues' (user pays);
- Fee mechanism can be used to encourage other strategies such as desexing, microchipping, limits on cats per household and/or confinement;
- May discourage the harbouring or hoarding of stray cats.

Disadvantages

- Cost of set up, promotion, administration and enforcement of the registration process and subsequent control strategies may not be covered by fees;
- An additional cost for cat owners;
- Marginal impact on problems associated with existing semi-owned and/or feral cat populations;
- New fee imposts may lead to cat abandonment.

Considerations

- *The Dog and Cat Management Act 1995*, does not provide for registration of cats, so a By-law is essential to enact registration. The return of a percentage of fees to the Dog and Cat Management Board (as applies to dog registration) would therefore not apply. A balance would need to be struck between the income generation requirement and the encouragement of responsible ownership;
- Mandatory identification through microchipping may achieve similar cat control outcomes to mandatory registration. This will not, however, provide an income stream for Council enforcement;
- The registration process could mirror the annual dog registration system and management could be achieved through the Dogs and Cats Online system;

- An impounding system for cats would be required;
- Councils can allow for rebates to the registration fee such as:
 - During the first six (6) months of operation of this By-law a rebate of up to 100% of the registration fee for a cat will be provided upon satisfactory proof that the cat has been microchipped and desexed during this period but only to the value of the microchipping and desexing costs incurred;
 - First year is free. Cat owners can then put those savings in the first year towards de-sexing their cat to receive further discounts on registering their cat in following years. To ensure cat registration is affordable for all cat owners discounts for de-sexed and microchipped cats and pensioner concessions may also be made available.
- Community consultation;
- Education programs, publications and advertising;
- Staff resources (increase workload for animal management and administrative staff);
- Additional vehicle(s) and equipment;
- Arrangements for impounding facilities;
- For registration: database amendments, cat discs, registration forms, postage;
- Additional cat traps and increase disposal cost.

In the case of preparing By-law or amendments to an existing By-law there will also be legal fees.

As a guide, if one additional dedicated Authorised Officer was required to implement a widespread systematic engagement of the community concentrating on cat management alone, that resource would very likely cost in the region of \$100,000+pa when all on-costs (salary, vehicle and associated equipment) are taken into account.

Councils will also need to transport cats to a shelter and pay cat pound and administrative fees. In the early years of implementation of a new strategy it is possible that cat impoundment numbers would increase significantly and associated costs to Council would also increase.

Enforcement

The following identifies some of the operational issues which Council will need to consider in choosing how to proceed:

- Cat management By-laws generally seek to address the particular cat management needs, and social and environmental circumstances of their local community. This discretion can lead to regulatory inconsistency across the state;
- Cats are not easily restrained. They are agile and flexible in their use of space. Identification of an owner requires capture of the cat;
- A By-law infringement can only be penalised when it is observed by an authorised officer, identification is effected and the owner traced;
- As much of the nuisance activity occurs at night, observation is unlikely;
- While important, cat issues do not require the urgency that a dog wandering or dog attack requires;
- The main strategy for enforcement would require the use of traps and this can be time consuming;
- An unidentified cat on a property does not indicate ownership and ownership can be denied;
- The costs of enforcement exceed income from registration and expiations, and will need to be met either from an increase in budget allocation or reduction of other regulatory services such as parking patrols, dog management, bushfire risk management and enforcement of other By-laws;
- Allocation of resources to programs of proactive enforcement would be prohibitively expensive.

Financial Implications

There are cost considerations implicit in all of the options outlined in this document. Council will need to determine how, and to what extent, it will fund the programs it wishes to enact. The following lists some of the potential requirements:

Next Steps

It is imperative that Council considers the resources required to manage and enforce a by law before beginning the intensive process of establishing a By-law or a policy. Community awareness will be heightened by the public consultation and those being adversely affected will expect action and outcomes. Therefore an elected Council must be committed to resourcing the programs it endorses.

As in many other aspects of local government responsibility, Council must weigh the public good when determining how it will spend ratepayer's financial contribution to the management of the area. While it may well reach the conclusion that cat owners should make payment toward the cost of managing cat problems, in reality many of those problems are not produced by the owners who will comply with a By-law, register, desex and microchip their cats and ensure that they are safely confined within the owner's property.

Acknowledging that the majority of issues relate to semi-owned and feral cats does not abrogate Council's responsibilities for addressing community concerns. However, it may shape the direction in which it focuses its efforts and resources. Having received community feedback which represents the views of all stakeholders, Council must then resolve how it will proceed to introduce a By-law or other programs which will be effective and efficient in addressing the underlying causes of community concern.

8 Community Engagement Plan



Cat management is generally an emotive topic, which can polarise communities. Issues associated with cat management will mean different things to different people. The differences will not only exist between cat owners and non-cat owners, it will exist between any individual who provides care for cats in a variety of ways. For example, some cat owners view constraining cats in an enclosure as a way of protecting the cat; other cat owners see constraining their cat as an abuse of their natural roaming instinct. It will be important for community wellbeing to develop an engagement process that seeks to listen to and acknowledge the varying viewpoints of stakeholders on the management of cat issues.

The development of any cat management engagement with the community will need to give consideration to the diverse views held by all stakeholders including but not limited to, cat owners, non-cat owners, animal management services and Council. An equitable outcome on the management of cats can be achieved by extensive and appropriate background research and community engagement in every stage of development and implementation of a preferred model for cat management.

Further information in developing a community engagement plan is contained within the Local Government Community Engagement Framework Revised Edition 2016⁵.

⁵ Local Government Community Engagement Framework Revised Edition 2016, <http://www.lga.sa.gov.au>

9 Legislative Review Committee & Order Making Powers

Particular attention should be paid to:

Legislative Review Committee Issues

All By-laws made by Councils have to be considered by the Legislative Review Committee of Parliament. The Committee's role is to review all Regulations, including By-laws, and report as necessary to Parliament on whether a By-law should be disallowed.

Order Making Powers

As part of a general understanding of the scope of Councils' regulatory powers, it is essential that Councils recognise the relationship between the By-law provisions and the order making powers in Part 2, Chapter 12 of the Local Government Act (sections 254-259) and in other legislation.

10 Outcomes



Regardless of the final decision about how to respond, Council will have learned a great deal from the process, and it is very likely that some strategies aimed at relieving the impacts of cat nuisance will result. It is important to embed any changes into the next version of Council's Plans of Management Relating to Dogs and Cats to ensure that future actions are in keeping with Council's overall objectives and strategies.

Appendix i

Cat facts

Good cats are the result of love and good management. With an estimated 255,089⁶ cats in households around South Australia, the laws governing our beloved feline friends need to be the best possible, reflecting modern community attitudes.

Cats are not native to Australia and as highly effective, adaptable hunters they are able to reproduce rapidly in our climate. Failing to desex and identify owned cats or feeding unowned cats in the absence of desexing and identification, can create a major community problem - causing nuisance, threatening wildlife, and suffering themselves from disease and malnutrition. Thousands of unwanted cats are euthanised in shelters annually.

RSPCA and Animal Welfare League (AWL) shelters in South Australia together receive over 10,000 cats every year⁷. This number has not reduced in a decade.

Reproductive Biology and Behaviour

Cats have a remarkable reproductive capacity.

One female cat can be responsible for the production of 41 kittens in 12 months (Original female + Litter 1 of 4 + Litter 2 of 4 + Litter 3 of 4 + Litter 4 of 4 + Litter 1 kittens (16) + Litter 2 kittens (8) = 41). If 1 cat in 50 remains entire, a population of free-living cats will regenerate in 12 months. 98% of all cats need to be desexed before the cat population will be stabilised.

Defining the cat population

The cat population is considered to be broadly divided into three types:

- **Owned population:** cats that have an identification tag/microchip or are claimed to be owned. Owned cats may be free-roaming, are generally sociable and depend on human contact for survival;
- **Free-living/Semi-owned population:** this group consists of cats which are intentionally provided with food, medical treatment and/or shelter by people who nevertheless do not consider that they own the cat. Free living, semi-owned cats exhibit varying levels of sociability with people;
- **Feral population:** identified as cats that are completely unsocialised and do not depend on human contact for survival, but may have had domestic ancestry.

⁶⁷ Cat Management Plan for South Australia, RSPCA SA and AWL, November 2019

The Impact of Cats

Social Nuisance

In conjunction with five of South Australia's largest metropolitan councils, data relating to the nature of calls received regarding cats (May - September 2009) was collated (Dog and Cat Management Board 2010). The data indicated:

- 50% of calls related to too many stray cats in the area; and
- 50% of calls related to a neighbour's cat undertaking an activity (straying, defecating, fighting, urinating) in caller's yard

Economic Impact

"Euthanasia fatigue" in animal shelter staff as a result of the very high euthanasia percentage of cats in shelters has been identified as a significant cost to providers.

Feral cats can pose a risk to livestock (particularly sheep) through the transmission of Sarcosporidiosis. This has been cited as impacting on primary production in some regions (Kangaroo Island).

The cost to Councils for the provision of traps and transfer of trapped animals to shelters is not inconsiderable.

Environmental Impact

Cats are effective hunters. Numerous research papers clearly identify cats impacting on native wildlife and irrevocably altering previously balanced ecosystems.

Cats in Australia can have two litters per year. On average cats can have kittens from 4- 6 months of age and litters of between 2 - 9 kittens. In a Semi Owned cat population if 1 cat in 50 remains entire the population can regenerate in 12 months.

"The colony forming subgroup of cats that exploit resource rich, manmade habitats in rural and suburban fringe areas possibly constitute the largest subgroup of cats in Australia and move out into surrounding habitats to exploit native species"⁸.

Animal/Human Welfare

Semi owned and feral cats pose a threat to owned cats by spreading diseases such as cat flu, FIV (feline AIDS) and feline enteritis and causing injury through fighting.

Cats are also the main hosts of Toxoplasmosis which they acquire from eating infected rodents or birds. This can pose a public health risk. In most cases Toxoplasmosis does not cause any symptoms, however pregnant women and people who have compromised immune systems are more at risk of infection.

⁸ Review of cat ecology and management strategies in Australia, Invasive Animals Cooperative Research Centre, 2010

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Dogs and Cats Online

www.dogsandcatsonline.com.au

Cat Management Plan for South Australia

November, 2019, RSPCA and AWL

Dog and Cat Management Board

<http://council.dogandcatboard.com>

NDN National Desexing Network

<https://ndn.org.au/low-cost-desexing>



A GUIDE TO PREPARING A CAT BY-LAW

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