

## CLAUSE NOTES

### *Cat Management Amendment Bill 2019*

- Clause 1**      **Short title**  
Cat Management Amendment Bill 2019
- Clause 2**      **Commencement**  
The Act will not commence until proclamation. Different provisions of the Act may be proclaimed separately (and thus commenced) at different times.
- Clause 3**      **Principal Act**  
This Bill amends the *Cat Management Act 2009*.
- Clause 4**      **Section 4 amended (Interpretation)**  
This clause amends some of definitions used in the Act, including “desex”, “cat management facility”, “feral cat”, and “stray cat”; adds some additional terms, including “cat breeding permit”, “domestic cat”, “individual property”, “general manager”, “multiple cat permit”, “premises”, “private premises”, and “specified premises; and removes terms no longer used, such as “care agreement”.
- Clause 5**      **Section 4A Breeding of Cats inserted**  
This amendment defines the term breeding, and describes the circumstances under which a person is considered to have bred a cat. The definition also includes an explanation of the term “at large”.
- Clause 6**      **Section 7(c) Powers of authorised persons amended**  
This amendment adds the word “trap” to the powers of an authorised officer.
- Clause 7**      **Section 8A Collection and analysis of a sample from cat inserted**  
This amendment introduces additional definitions into the Act (s. 8A(1)) relating to the collecting and analysis of samples from a cat.  
This section enables an authorised officer, or an approved person or veterinary surgeon who has been authorised, to collect a sample from a cat for the purposes of determining whether an offence was committed in relation to the cat; enables a qualified person who has been authorised to conduct analysis of a section that has been collected.

- Clause 8 Section 10 Hindering authorised persons, &c. amended**  
This amendment increases the penalty unit for an offence from 20 penalty units to a fine not exceeding 50 penalty units.
- Clause 9 Section 12 Microchipping of cats amended**  
This amendment changes the minimum age that a cat must be microchipped from 6 months to 4 months of age. The section is also amended to make microchipping of all owned cats compulsory by replacing the words “is to” with “must ensure” and introducing a penalty fine not exceeding 20 penalty units.  
Exceptions will apply where a vet certifies that the animal is not in a physically suitable condition to be microchipped. There will be a transition period of 12 months for information materials to be developed and communicated and to allow cat owners adequate time to adjust to the changes.
- Clause 10 Section 14 Desexing of cats amended**  
This amendment changes the minimum age that a cat must be desexed from 6 months to 4 months of age. The section is also amended to make desexing of all owned cats compulsory by replacing the words “is to” with “must ensure” and introducing a penalty fine not exceeding 20 penalty units.  
Exceptions will apply where a vet certifies that the animal is not in a physically suitable condition or for cats owned for the purpose of breeding by a registered breeder. There will be a transition period of 12 months for information materials to be developed and communicated and to allow cat owners adequate time to adjust to the changes.  
Subsection 2 is amended to include an exemption from s. 14(1) for the holder of a valid cat breeding permit in addition to a registered breeder. Additional changes provide clarity in the intent of s. 14(2)(c) and 14(3).
- Clause 11 Section 15 Sale, &c., of cats amended**  
Section 15(1) removes from the Act the requirement to enter into a care agreement.
- Clause 12 Part 3A Keeping of cats inserted**  
**Section 16 Limit on number of cats kept**  
Defines relevant terms used in this section.  
This amendment limits the number of cats a person may keep for any period of time on any premises to no more than 4 cats that are more than 4 months of age. The amendment also provides for a number of exemptions, such as for registered cat breeders, those with a multiple cat permit and participants of cat foster program.  
There will be a transition period of 12 months.

### **Section 16A Keeping more than 4 cats**

This amendment enables a person to apply to the Secretary or general manager of a council for a permit to keep more than 4 cats (a multiple cat permit). The opportunity for a person to object to the granting of a multiple cat permit is included in this amendment.

### **Section 16B Determination of application to keep more than 4 cats**

This amendment allows for the Secretary or general manager of a council to grant a multiple cat permit subject to any conditions considered appropriate. A multiple cat permit must not be issued in contravention of a by-law.

### **Section 16C Cancellation of multiple cat permit**

This amendment allows for the Secretary or general manager of a council to cancel a multiple cat permit if the provisions of the Act or permit are not being complied with, or a nuisance is being created. The holder of the permit can appeal such a decision.

### **Section 16D Review of decision**

This amendment allows for a person whose multiple cat permit has been cancelled to apply to a Magistrates Court (Administrative Appeals Division) for a review of that decision.

## **Clause 13 Section 16 care agreements repealed**

This amendment will remove the option of having a written care agreement that a cat being sold will be microchipped and desexed within a period specified in the agreement. The amendment that introduces compulsory desexing of all owned cats removes the need for care agreements.

## **Clause 14 Section 17 substituted**

### **Section 17 Protection of property from cats**

The amendment introduces the ability for all landowners to trap, seize or detain a cat found on their property, regardless of the proximity to the nearest residence. Previously only a grazier, or person whose property is more than 1 kilometre from the nearest residence could trap or seize a cat.

### **Section 17A Destruction of cats on property**

Defines relevant terms used in this section.

This amendment allows for humane destruction of a cat on land used for primary production or by a person whose property is more than 1 kilometre from the nearest residence. Previously only a grazier, or a person whose property is more than 1 kilometre from the nearest residence, could humanely destroy a cat.

**Clause 15      Section 18 Cats in prohibited areas amended**

This section is amended to allow a person who traps, seizes or detains a cat in a prohibited area to return the cat to its owner, or take it to a cat management facility, or a nominee of the cat management facility. Currently these actions are restricted to an authorised officer.

The amendment introduces an obligation on a person who traps, seizes or detains a cat in a prohibited area that within 24 hours of trapping, seizing or detaining a cat, it is returned to its owner, taken to a cat management facility or a nominee of the cat management facility, or humanely destroyed.

**Clause 16      Sections 19, 20 and 21 substituted**

**Section 19 Declaration of prohibited area**

This amendment removes s. 19(2), (3) and (4) which cover commencement of the declaration and advertising by public notice notifying the declaration of a prohibited area and amendments or revocations in relation to that declaration.

**Section 20 Declaration of a cat management area**

This amendment removes s. 20(2) and (3) which cover commencement of the declaration and advertising by public notice notifying the declaration of a cat management area.

The amendment also clarifies that a “measure” includes cat management action as defined in s. 18(1).

**Section 21 Proposal for council declaration**

This amendment provides for public notification where a council proposes to declare a prohibited area or a cat management area and the means by which that notice should be published. The amendment also allows for written submissions to be made in relation to that proposal for declaration, which council is to consider prior to making a declaration.

**Section 21A Council declaration**

This amendment provides for declaration of a prohibited area or a cat management area and the means by which the declaration should be published. The amendment also allows for written submissions to be made in relation to the declaration, which council is to consider prior to amending or revoking a declaration.

**Section 21B Cat taken in cat management area**

This amendment allows a person who traps, seizes or detains a cat in a cat management area to return the cat to its owner, or take it to a cat management facility, or a nominee of the cat management facility.

The amendment introduces an obligation on a person who has trapped, seized or detained a cat in a cat management area, that within 24 hours of trapping, seizing or detaining a cat, it is returned to its owner, taken to a cat management facility or a nominee of the cat management facility, or humanely destroyed.

- Clause 17 Section 23 Notification where owner identified amended**
- The amendment changes the notification requirement from being writing “and” telephone to writing “or” telephone.
- Section 23(d) is amended so that the owner of cat “is” responsible for reasonable costs.
- Clause 18 Section 24 Reclaiming cats amended**
- This amendment enacts s. 24 and re-words s. 24(4) to better clarify responsibilities in relation to both microchipping and desexing.
- If a cat in the custody of a cat management facility is not microchipped and desexed, the operator of the facility is required to microchip and desex the cat before it is released from the facility.
- Before a cat is microchipped or desexed, the owner of the cat if known, is to be notified that the cat is to be microchipped and/or desexed. Exemptions to compulsory microchipping would apply where a vet certifies that the animal is not in a physically suitable condition to be microchipped. Exemptions to compulsory desexing would apply where the owner is a registered breeder or where a vet certifies that the animal is not in a physically suitable condition to be desexed or the owner can provide evidence that arrangements have been made with a registered vet for the cat to be desexed.
- Clause 19 Section 25 Unidentified, unclaimed and surrendered cats amended**
- This amendment removes “working” days from the number of days that a cat management facility must allow so that the owner can be notified before finding another home for the cat; offering the cat for sale; or causing the cat to be humanely destroyed.
- Clause 20 Section 28 Humane destruction of cats amended**
- This amendment increases the penalty unit for an offence from 20 penalty units to a fine not exceeding 100 penalty units. This brings this section in line with the *Animal Welfare Act 1993*.
- Clause 21 Section 29 Restriction on breeding of cats amended**
- This section is amended to include the option of cat breeding permit. The cat breeding permit replaces breeder registration by the State Government which currently exists. Breeder registration via membership of a gazetted cat organisation will be the only breeder registration that is recognised. People can apply to the State Government or their council for a conditional breeder permit.

**Clause 22      Sections 30, 31 and 32 substituted**

**Section 30 Registration of cat breeders**

This amendment removes the option for a breeder to apply to the State Government to be a registered breeder, replacing it with a condition-based permit system and allowing only members of a gazetted cat organisation to be taken as registered cat breeder.

There will be a transition period of 12 months to allow communication with breeders registered with the State Government and provide them adequate time to adjust to the changes.

Penalties apply for anyone who is not a breeder that holds themselves to being a breeder.

**Section 31 Permit to breed a cat**

This amendment introduces the option for a person to apply to the Secretary or council general manager for a permit to breed a cat. The Secretary or general manager may grant a permit, subject to any conditions he or she thinks fit; or refuse an application. That permit may be varied at any time by the Secretary or council general manager.

**Section 32 Cancellation of cat breeding permit**

The Secretary or council general manager may by notice in writing and served on the holder of a cat breeding permit, cancel the cat breeding permit. The permit may only be cancelled if the provisions of this Act or any other relevant Act are not being complied with; or any condition on the permit is not being complied with.

The holder of a cat breeding permit that is to be cancelled may make a submission to the Secretary or council general manager as to why the permit should not be cancelled.

**Clause 23      Section 33 Review of decisions amended**

This section is amended to include a local government general manager.

**Clause 24      Sections 36 and 37 substituted**

**Section 36 Surrender, &c., of cat to cat management facility**

This amendment provides for surrender of a cat to a cat management facility or a nominee of the cat management facility, and for a fee to be charged if the surrender is accepted.

**Section 37 Cats not to be abandoned**

This amendment introduces a definition for “abandon”.

**Clause 25 Section 38A and 38B inserted**

**Section 38A Requirement notice**

This amendment introduces the option to serve a requirement notice prior to serving an infringement notice for offences under this Act. The requirement notice will specify reasonable measures that a person who is failing or has failed to comply with a provision of this Act, is to take to rectify the failure.

A person must comply with a requirement notice.

**Section 38B Appeal against requirement notice**

This amendment allows for a person to appeal to a magistrate against a requirement notice. The magistrate may order that the requirement notice be complied with; that the requirement notice be amended; or that the requirement notice be revoked.

**Clause 26 Section 4I substituted**

**Section 4I Delegation**

This amendment allows the Secretary or a general manager of a council to delegate his or her powers under the Act.

**Clause 27 Section 45 Regulations amended**

This amendment amends s. 45(2) which provides for the making of regulations under this Act, by:

- s. 45(2)(f) adding desexing;
- s. 45(2)(ia) by adding in obligations in respect of holders of multiple cat permits or cat breeding permits;
- s. 45(2)(ib) by adding in any requirements or practices in respect of the declaration of prohibited areas or cat management areas.

**Clause 28 Repeal of Act**

The Act is repealed on the first anniversary of the day on which the last uncommenced provisions of this Act commenced.