**DOG AND CAT MANAGEMENT BILL1994**

**Legislative Assembly, 17 November 1994, pages 1128-46**

Second reading

The Hon. D.C. WOTTON (Minister for the Environ­ment and Natural Resources) obtained leave and introduced a Bill for an Act to provide for the management of dogs and cats; to repeal the Dog Control Act 1979; to make a consequential amendment to the Local Government Act 1934; and for other purposes. Read a first time.

The Hon. D.C. WOTTON: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it.

Leave granted.

The purpose of the Dog and Cat Management Bill is to imple­ment the following changes:

A transfer of the full administrative responsibility for dog control from State Government to Local Government.

Amend existing regulatory provisions and include additional provisions relating to the management of dogs.

Include new provisions for the identification, control and regulation of cats.

A. Transfer of Administrative Responsibility

The amendments dealing with this issue are predominantly as contained in the Negotiated Agreement dated February 1994 between State and Local Government. Some additional provisions have, however, been incorporated to more specifically provide for the proper and efficient performance of various administrative functions.

1. The current Dog Control Act 1979 (the "current Act") establishes a Dog Advisory Committee (the "Committee") whose principal function is to advise the Minister and Local Government in relation to administrative and policy issues relating to dog management in the State. This committee does not have body corporate status under the current Act and its powers are fairly limited.

A Dog and Cat Management Board (the "Board") will be established as a body corporate under this Bill. The Board will have greater powers than the existing Committee, including the power to perform the following functions:

Contract and hold property in its own name

Advise Local Government on a wide range of issues relating to dog and cat management, including the development of dog and cat management programs.

Distribute funds collected on behalf of the Dog and Cat Management Fund for purposes associated with the administration of dog and cat management.

Make recommendations on the setting of fees under the legislation.

The establishment of the Board as a body corporate is consistent with current practice to grant greater autonomy, power and responsibility on statutory organisations. The Board will be fully responsible for the proper exercise of that power and subject to the ultimate direction of the Minister.

The Board will submit an annual report to the Minister and to Local Government. This will be tabled in Parliament. The Board may also be required to present a budget and operational plan to the Minister.

The principal function of the Board will be, in essence, to assist and liaise with Local Government in the administration of dog and cat management and to achieve a high standard of quality and consistency in the management of dogs and cats in this State.

The Dog Control Statutory Fund has been renamed as the Dog and Cat Management Fund. An additional provision will be included in Regulations to require district councils to pay a percentage of dog registration fees to the Dog and Cat Management Fund. Currently, only metropolitan councils make payments to the Fund and district councils are exempted. However, the expanded function of the Board will result in country councils obtaining new and useful benefits from the Board in the form of advice and general assistance and it is considered appropriate that those councils make payments to the Fund. This was agreed in the Negotiated Agreement and the Board will determine the actual amount of the percentage of fees to be paid by councils.

The composition of the Board will be made up of six members of whom:

five will be nominated by the Local Government Association; and one will be nominated by the Minister.

It is therefore clear that the Board will have the representation to be able to successfully consider and act upon the requirements of Local Government, which is in keeping with the transfer of responsibility for the management of the new Act to Local Government. All nominations are to be appointed by the Governor.

B. Amend existing regulatory provisions.

A large number of provisions have been amended following a very detailed examination and review of the current Act, incorporating submissions made by the Local Government Association and councils over a number of years.

The amendments include the following:

Definition of Effective Control

The definition of effective control is expanded to provide that a dog will be deemed to be under effective control if the dog is: effectively held or tethered by a chain, cord or leash not exceeding two metres in length; contained in a vehicle or other structure, although untethered dogs will be permitted to be transported and kept in utility vehicles; effectively controlled by the command of a person who is in close visible proximity to the dog.

Powers and responsibilities of authorised persons

The following variations and additions have been made to the appointment, powers and responsibilities of authorised persons under the new Act:

Councils arrangements in relation to the appointment of dog management officers must be satisfactory to the Board. It is also intended that the Board will oversee the suitability of appointees.

The Board may issue guidelines and advise councils about appropriate training for dog management officers.

Councils or dog management officers may seek assistance from dog management officers from another council area in the enforcement of the provisions. An additional power has been included to allow dog management officers to operate in areas outside their council area where it is necessary to investigate matters relating to the administration or enforcement of the Act in their own council area. This amendment simply acknowledges and authorises the practice of dog management officers crossing council boundaries in the administration and enforcement of the Act.

Use of pounds by councils

Council arrangements for the detention of dogs under the Act must be satisfactory to the Board. The Board may set standards for the facilities used. It is envisaged that arrangements between councils and pounds may extend to the collection by the pound of expiation fees for dogs wandering at large, and detention and maintenance fees. It is also envisaged that in certain instances the pound may be engaged by the council as a registration agent for the council. This would greatly assist councils in the efficient administration of dog management and provide greater flexibility to councils and pounds in jointly managing dogs in a manner appropriate to the abilities and resources of particular councils.

Registration of dogs

Provision has been made for expiation notices to be repeatedly issued at fourteen day intervals if a person fails to register a dog.

The minimum age of registration has been lowered from six months to three months. It is expected that this will assist in decreasing the number of young, unidentified dogs impounded.

The owner of a dog registered interstate who brings that dog to South Australia must, on request, produce evidence of registration.

Breeding or training kennels and businesses using dogs to provide security or other services will not be required to individually register the dogs but will be required to pay the council a 'total' registration fee appropriate to the number of dogs kept or used. This will improve the efficiency and ease with which businesses and councils may implement the registration requirements under the Act.

Boarding kennels will not be required to register unregistered dogs held for boarding, but will be required to maintain records of dogs kept at the kennel and provide the records to the council.

Additional requirements have been included to require a dog's owner to give notice to the council in which the dog was registered if any of the following occur;

the dog is moved to different premises;

the dog is transferred to another person; or

the dog dies or is missing for 72 hours.

This notification will greatly assist councils in maintaining records of dogs in their areas and in administering registration requirements.

Collars and registration discs

The requirement to have the name and address of the owner of a dog attached to the collar of the dog has been deleted. This will be optional.

The current exemption found in the regulations that dogs need not wear a collar and disc in public if held on a slip chain collar will not be retained.

Seizure of dogs

The current provision dealing with the seizure and detention of dogs wandering at large has been expanded and amended as follows:

Provision has been made for the seizure of dogs by a dog management officer if the dog has attacked any person or animal or is unduly dangerous or if it is necessary to do so to ensure that a destruction order is carried out. The current Act allows a dog to be seized if it is unduly dangerous but does not regulate procedures following seizure.

There are more stringent requirements for the collection of dogs that have been seized to allow councils or pounds to seek proof of authorisation of a person collecting a dog.

More detailed procedures have been specified for the detention of dogs and notification to and rights of owners of dogs which have been seized. These procedures are generally consistent with the current Act.

Provision has been made to allow dog management officers to destroy severely sick or injured dogs in urgent circumstances where a veterinary surgeon or stock inspector is not available. This amendment is necessary in remote areas where it is not possible to follow the usual procedure of obtaining a certificate from a veterinary surgeon or stock inspector authorising the destruction of the dog.

Protection from dog attacks

An express power has been included to allow a person to destroy or injure a dog if that is reasonable and necessary for the protection of life or property. The existing provision does not operate this widely, although similar provisions to that proposed are contained in dog legislation in most other States. Currently, a person must notify the police if he or she destroys a dog. The Bill expands this requirement to require that the council in whose area the dog was destroyed and, where possible, the owner of the dog, are notified as well.

The right to destroy any dog found on an enclosed property where livestock are present has been expanded to provide that the reference to livestock includes all farmed animals. This is necessary as the provision in the current Act permits the destruction of a dog found, for example, on a sheep property, but does not permit destruction of a dog found on certain other types of farming properties, such as an emu farm.

Provisions in the current Act dealing with destruction of dogs in National Parks and the baiting of dogs have been maintained.

Dogs infested with parasites

The provision in the current Act dealing with the treatment and destruction of dogs infested with parasites has been deleted in the Bill because this is more suitably and comprehensively dealt with under the provisions of the Prevention of Cruelty to Animals Act 1985.

Muzzling of greyhounds

Greyhounds are only to be permitted to be unmuzzled whilst training, exercising or racing if they do so with the consent of the owner or occupier of the land.

Prescribed breeds

An additional requirement has been included to prohibit persons giving away a dog of a prescribed breed . The current provision only prohibits the advertising and sale of prescribed breeds and is considered to be too limited in its scope.

Dangerous dogs or dogs creating a nuisance—council orders

An entire new Division of the Bill empowers councils to issue orders relating to dogs which are dangerous or create a nuisance. An order may be made if the dog has attacked or harassed a person or an owned animal or has created a nuisance through noise. The order may comprise an order for destruction, an order to confine the dog, an order to muzzle the dog in public or an order to take steps to stop the dog barking.

Owners or persons responsible for the control of the dog must be given notice of the impending order and a chance to make submissions on the matter to the council.

The owner or person responsible for the control of the dog has a right of appeal to the Administrative Appeals Court against the issue by a council of an order or a refusal to revoke an order.

To provide councils flexibility to make the orders relevant to the particular circumstances in which the dog is kept, the Bill provides councils the ability to issue directions as to how the order may be complied with. The directions are not mandatory but if a person chooses to comply with the directions no prosecution for contra­vention of the order may be taken.

The purpose of this new provision is to enable councils to resolve complaints and disputes concerning dog behaviour at a local level without the need to take court action in all instances. It is expected that this system will provide for a less costly and more immediate handling of the majority of complaints. However councils will still have the option to prosecute owners of dogs or issue expiation notices if that is appropriate.

Court orders

The circumstances in which court orders may be made has been expanded, as has the range of orders that may be made. An appropriate order may be made in any criminal proceedings under the Bill, in any civil proceedings relating to injury or loss caused by a dog or on direct application by any person.

Expiation of offences

The provisions in the current Act dealing with the expiation of offences have been deleted in the Bill because these are adequately dealt with by the Expiation of Offences Act 1987. Expiation is provided for in all appropriate cases.

C. Cat identification and control

Purpose

The Bill provides legal status to owned cats which are identified. This is the minimum legislation which is likely to be effective. Without this, no other controls can be put in place. It will also provide protection for Councils who wish to control unidentified cats without threat of civil liability. Legal status and admission of ownership of cats will form an important connection between legislation and any feral cat control mechanisms developed. It is hoped that it will also decrease the overflow from the owned to the feral population. The review of the Dog Control Act has provided the ideal opportunity to link dog and cat legislation.

Some form of biological control is seen to be the most likely feral cat management tool to become available. It has been predicted that a suitable agent will be not be developed for at least ten years. If a biological agent is developed, responsible ownership and possibly vaccination, will be essential for the protection of owned cats. To change community attitudes to this extent is likely to take consider­able time and be a gradual process. The link between feral cats, pet cats and their management will need to be monitored.

Education

The Dog and Cat Management Board will recommend educational and other initiatives to the Minister and the Local Government Association. The emphasis should be on responsible pet ownership.

Cat Provisions of the Dog and Cat Management Bill

The proposed Bill outlines cat management. This would require that all owned cats be identified by tag, collar or other means as outlined in the Regulations. It is proposed that the regulations will also recognise an "M" tattooed in the ear to indicate that the cat is microchipped.

Any cat in an area covered by the National Parks and Wildlife Act or the Wilderness Act may be destroyed by a person authorised by those Acts. Cats in designated private sanctuaries can be destroyed by the owners of the sanctuaries or their agents. Cats found in a place that is more than 1 kilometre from any place of residence may be destroyed.

Persons authorised under the Veterinary Surgeon's Act, the Animal and Plant Pest Control Act, the Crown Lands Act and the Prevention of Cruelty to Animals Act, will be permitted to trap or destroy unidentified cats in line with their normal functions.

If, in any circumstance, an identified cat is destroyed, the owner must be notified if possible.

In other cases, a person would need to trap a cat and check it for identification. If identified, it is to be released; if not, it must be delivered within 12 hours to a vet, council officer, RSPCA or Animal Welfare League where it may be destroyed, rehoused or released.

Cats can only be removed from any property with the consent of the land-holder. It is an offence under the Bill to hinder a person acting in accordance with the legislation; or to remove the identification from a cat.

The Dog and Cat Management Board will receive information from or comprise representatives of State Government, Local Government Association, Australian Veterinary Association, Animal Welfare League, RSPCA, independent experts on pet promotions, a Ministerial representative, persons with expertise in wildlife issues and knowledge of current developments in feral cat control; and the Dog and Cat Breeders Associations.

Review

The Board will review the cat legislation on an ongoing basis. If further initiatives are considered necessary, they will be recommended to the Minister.

By-laws

Councils will retain the ability to pass by-laws to regulate the number of cats on a property or institute other controls deemed necessary in their area.

Summary

The only way any plan can be effective is through the support and co-operation of the community.

An open consultative approach by all levels of Government is the best way of ensuring future success. It is apparent that no strategy will satisfy all interested parties. However, a moderate approach using minimal regulation and maximising education is more likely to produce long term results. Some interest groups will consider the Strategy "wishy-washy", others will consider it to be "draconian". Identification is a major though relatively inoffensive legislative requirement. This strategy provides a framework for addressing the cat problem which is likely to receive general public acceptance.

I commend the Bill to honourable members.