



New South Wales

Animal Welfare (Population Control Programs) Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to facilitate programs for controlling the population of stray, abandoned or wild cats or other non-native animals by providing participants (and the program sponsors) with immunity from civil liability and exemptions from licensing and other requirements. The programs must be sponsored by a sponsoring agency (as defined in the Bill) and must meet certain requirements. Each sponsoring agency is required to keep a register of sponsored programs, which is to include the annual reports for the programs. Special provisions are included in relation to programs in national parks and other reserves and programs relating to pests. Particular programs or classes of programs may be prohibited by the regulations and other requirements or limitations may be imposed by the regulations.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act. As a *sponsoring agency*, the following may sponsor a program under the proposed Act:

- Animal Welfare League NSW,
- The Royal Society for the Prevention of Cruelty to Animals, New South Wales,

- a council,
- the head of a government sector agency within the meaning of the *Government Sector Employment Act 2013*.

The regulations may allow other persons to become sponsoring agencies.

The role that a sponsoring agency may take in relation to a sponsored program will vary but may include, for example, provision of supervision, funding or assistance or guidance with management, resources or expertise to the program.

Clause 4 provides for the sponsorship of programs for controlling the population of stray, abandoned or wild cats or other non-native animals in a specified area of the State. The programs are known in common parlance as trap-neuter-release programs, but may also involve, for example, rehousing of kittens, treatment or euthanasia of ill animals, clipping of the ears of desexed animals, implanting microchips in desexed animals and the provision of an adequate food source for a stable population. If a program affects a national park or the like, the head of the Public Service agency that administers the *National Parks and Wildlife Act 1974* must be the sponsoring agency. Regulation-making power is provided to allow the government of the day to impose limitations on, or requirements to be met by, sponsored programs.

The general law including the *Prevention of Cruelty to Animals Act 1979* and the *Veterinary Practice Act 2003* will apply in relation to animals subject to a sponsored program.

Clause 5 requires an annual report for a sponsored program to be prepared and provided to the sponsoring agency and the Minister responsible for the administration of the Act and to be laid before each House of Parliament. The clause sets out certain matters that must be included in each report.

Clause 6 requires a sponsoring agency to keep a register of sponsored programs and to make the register available on its website. The person responsible for a sponsored program must provide the sponsoring agency with information as necessary to keep the register up-to-date. If a sponsored program affects an animal that is a pest under the *Local Land Services Act 2013* and the area is within Metropolitan Sydney, the sponsoring agency must notify Local Land Services of the program. This is so that the program can be taken into account for the purposes of enforcement of that Act.

Clause 7 provides immunity from civil liability for participants in a sponsored program arising from an act or omission in relation to an animal in the course of the program. The clause also provides a sponsoring agency with immunity from civil liability arising out of a sponsored program.

Clause 8 provides that releasing an animal under a sponsored program does not constitute abandonment or liberation of the animal. Consequently, releasing an animal will not constitute an offence against section 11 of the *Prevention of Cruelty to Animals Act 1979* or section 109 of the *National Parks and Wildlife Act 1974*.

Clause 9 exempts a participant in a sponsored program from the requirement to obtain a game hunting licence under the *Game and Feral Animal Control Act 2002* for participation in the program.

Clause 10 exempts a participant in a sponsored program in a national park or other reserve from the requirement to obtain licences under the *National Parks and Wildlife Act 1974*. This is because the program must be sponsored by the head of the relevant Public Service agency and so appropriate management can be maintained through that mechanism.

Clause 11 provides for the exclusion of an area within Metropolitan Sydney that is subject to a sponsored program from any relevant pest control order under the *Local Land Services Act 2013*. It is noted that outside of Metropolitan Sydney the sponsored program would need to be allowed for in the relevant pest control order. Effectively, this means that outside Metropolitan Sydney the Minister and Local Land Services determine whether sponsored programs will be allowed for pests.

Clause 12 provides regulation-making power to include further exemptions from the application of specified Acts as necessary for the efficient operation of a sponsored program.

Clause 13 is an evidentiary provision allowing a sponsoring agency to certify relevant matters.
Clause 14 enables the Governor to make regulations for the purposes of the proposed Act.