

The Dog and Cat Management (Cat Management) Amendment Bill 2024: Far from Purrfect

Ahead of the due date for submissions, being 4 September 2024, we provide some insights on the proposed amendments and their potential implications for councils.

1. Section 63 - Power to destroy cats

A number of amendments to section 63 of the Act are proposed including to:

- allow for the destruction of cats found a *prescribed distance* (to be determined by regulation) from a genuine place of residence. If no regulations exist, the 'default' distance is 1 kilometre (per the *status quo*).
The explanatory guide to the Bill suggests that the regulations may provide for different distances set for different geographical areas. Proposed section 63(6) provides that if no regulations exist, the 'default' distance is 1 kilometre;
- allow the regulations to prescribe additional situations where any person or an authorised person may injure or destroy a cat. This enables flexibility of the Act moving forward;
- confirm when cats lawfully trapped under the Act or other Acts can be destroyed without the need to comply with the detention provisions under the Act.

2. Section 64 – Power to seize and detain cats

A new section 64 is proposed which allows an *authorised person* to seize and detain a cat:

- to prevent or stop the contravention of a by-law of the relevant council; or
- if the authorised person reasonably suspects that the cat is lost, unowned or feral; or
- if requested to do so by a member of an emergency service; or
- in any other circumstances prescribed by the regulations.

Interestingly, this provision does not expressly authorise seizure where a cat is wandering at large on private property. This could, however, be a scenario included in the regulations.

For those councils that have adopted a Cats By-law, this amendment operates to provide additional enforcement options to address contraventions of the By-law.

Further, the proposed new section 64(2) outlines when other persons may seize and detain any cat, including most relevantly, section 63(2)(e) which would operate to regulate land owners trapping cats on their land so that any trapping must occur in accordance with an approval by a council or authorised person.

This places the onus on councils to determine when and how cat trapping on private properties in the council's area can occur, noting that any approval may be conditional and must otherwise comply with any requirements prescribed by the regulations (which are yet to be seen).

Subject to the conditions of any approval, a person who traps a cat must still deliver it to a facility nominated by the relevant council within 12 hours (which facility must agree to being nominated as such). To the extent that a third party facility does not agree to be nominated for this purpose then the cat must be dealt with in accordance with the regulations.

3. Section 64AA – Procedure following seizure of cat

This new provision establishes the procedure to be observed upon the seizure and detention of a cat. The procedure is similar to the requirements that operation in relation to dogs. It includes requiring cats to be scanned for microchips, requiring notices to be displayed at council offices and on the council website for at least 72 hours.

4. Section 64A – Destruction or disposal of seized cat

The current section 64A is proposed to be replaced with a new section 64A that operates such that where a council is responsible for seizing and detaining any cat the council cause the cat to be destroyed and otherwise disposed of if:

- the cat is suffering from injury, disease or sickness to the extent that it is impracticable to maintain the cat; or
- the cat is suffering from a contagious or infectious disease or sickness; or
- the cat is not claimed by a person entitled to the return of the cat within 72 hours from when notice of its detention was last given. However, unlike as is the case for a dog under the Act, the amendments do not clarify who is entitled to the return of a cat. This is a matter that would benefit from clarification; or
- a person in whose name the cat is registered declines to take possession of the cat; or
- money due in relation to the detention of the cat is not paid within 7 days after a request for payment; or
- the cat is an unidentified cat, or is unowned or feral; or
- in any other circumstances prescribed by the regulations.

This provision would operate to remove the current concerns surrounding a council's authority to dispose of a cat it has detained, particularly if the cat is identified. The manner of disposal of any cat will be a matter for councils to determine. We would recommend councils develop a policy position to ensure a consistent and reasonable approach.

If a cat is disposed of by sale, the Bill states that the proceeds of the sale are the property of the operator of the facility at which the cat had been detained.

5. Section 64D – Notification to owner of dog or cat destroyed etc under Part

Amendments to the definition of 'prescribed person' are proposed to ensure that persons who seize and detain cats under the above provisions are required to give notice to the cat's owner.