



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, rehoming 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.



New South Wales

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New South Wales

Animal Welfare (Population Control Programs) Bill 2014

No. , 2014

A Bill for

An Act to facilitate programs for controlling the population of stray, abandoned or wild cats or other non-native animals by providing immunity from civil liability and exemptions from licensing and other requirements; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Animal Welfare (Population Control Programs) Act 2014</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Definitions	6
In this Act:	7
<i>cat</i> means an animal of the species <i>Felis catus</i> , whether or not domesticated.	8
<i>Metropolitan Sydney</i> comprises the following local government areas: Ashfield, Auburn, Bankstown, Blacktown, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, Fairfield, Holroyd, Hornsby, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Sydney, The Hills, Warringah, Waverley, Willoughby, Woollahra.	9 10 11 12 13 14 15
<i>reserve</i> means an Aboriginal area, historic site, karst conservation reserve, national park, nature reserve, regional park, or state conservation area, under the <i>National Parks and Wildlife Act 1974</i> .	16 17 18
<i>sponsored program</i> means a program sponsored by a sponsoring agency under this Act.	19 20
<i>sponsoring agency</i> means:	21
(a) Animal Welfare League NSW, or	22
(b) The Royal Society for the Prevention of Cruelty to Animals, New South Wales, or	23 24
(c) a local council, or	25
(d) the head of a government sector agency within the meaning of the <i>Government Sector Employment Act 2013</i> , or	26 27
(e) a person designated as a sponsoring agency by the regulations.	28
4 Sponsorship of population control programs	29
(1) A sponsoring agency may sponsor a program for controlling the population of stray, abandoned or wild cats or other non-native animals in a specified area of the State.	30 31
(2) The sponsored program:	32
(a) must provide primarily for the capturing, desexing and releasing of the animals, but may also provide for the rehousing of animals suitable for domestication, the treatment or euthanasia of ill animals, the clipping of the ears of desexed animals, the implanting of microchips in desexed animals and the provision of an adequate food supply for the population, and	33 34 35 36 37
(b) must require residents of the area to be notified of the program by advertisement, post or other means, and	38 39
(c) must require a person entering land for the purposes of the program to have lawful authority to do so, and	40 41
(d) must comply with any other requirements imposed by the regulations.	42
(3) A program that provides for the control of the population of animals in a reserve, or for the release of animals in a reserve, may only be sponsored by the head of the	43 44

Public Service agency to which the administration of the <i>National Parks and Wildlife Act 1974</i> is assigned.	1 2
(4) The regulations may prohibit, or impose conditions on, sponsorship or continued sponsorship of a specified program or a program of a specified class.	3 4
5 Annual reports for sponsored programs	5
(1) The person responsible for a sponsored program must, on or before 1 November in each year, deliver to the sponsoring agency and the Minister a report on the operations carried out under the program during the financial year ending on the preceding 30 June.	6 7 8 9
(2) The report must include:	10
(a) for the financial year to which it relates, each of the following:	11
(i) the number of animals captured under the program,	12
(ii) the number of animals desexed and released under the program,	13
(iii) if relevant, each of the following:	14
(A) the number of animals rehoused under the program,	15
(B) the number of animals treated under the program,	16
(C) the number of animals euthanased under the program,	17
(D) the number of animals implanted with microchips under the program, and	18 19
(b) if it is reasonably practicable to estimate the population of animals subject to the program—an estimate of that population as at the beginning and end of the financial year to which the report relates.	20 21 22
(3) The Minister must, within 12 sitting days after receiving the report, have copies of the report laid before each House of Parliament.	23 24
6 Register and notification of sponsored programs	25
(1) A sponsoring agency must keep a register of sponsored programs that includes the following for each program:	26 27
(a) the animals and area of the State subject to the program,	28
(b) the name and contact details of the person responsible for the program,	29
(c) the name and contact details of each person participating in the program, including each veterinary practitioner who desexes, treats or euthanases animals captured under the program,	30 31 32
(d) the date on which the agency sponsored the program,	33
(e) a copy of each annual report for the program,	34
(f) if the program has ceased to operate—the date on which it ceased to operate or, if that date is unknown, the date on which a note of the cessation is entered in the register.	35 36 37
(2) The person responsible for a sponsored program must ensure that the sponsoring agency is provided with relevant information as necessary for the register to be kept up-to-date.	38 39 40
(3) The register (apart from the names and contact details of participants) must be made available on the sponsoring agency’s website.	41 42
(4) If a sponsored program is for controlling the population of an animal in a specified area within Metropolitan Sydney and the animal is a pest that is required to be	43 44

eradicated from the area under the <i>Local Land Services Act 2013</i> , the sponsoring agency must notify Local Land Services in writing of the program.	1 2
7 Protection from liability for participants in sponsored program and sponsoring agencies	3 4
(1) Anything done or omitted to be done by a person in relation to an animal in the course of participating in a sponsored program in accordance with the requirements of the program and this Act does not, if it was done or omitted to be done in good faith and without recklessness, subject the person to any civil liability.	5 6 7 8
(2) A sponsoring agency does not incur any civil liability arising from anything done or omitted to be done under, or in connection with, a program sponsored by the agency under this Act.	9 10 11
8 Releasing animal under sponsored program not to be construed as abandonment or liberation	12 13
Releasing an animal in accordance with a sponsored program does not constitute abandonment or liberation of the animal for the purposes of any law.	14 15
9 Exemption from game hunting licences for sponsored programs	16
A participant in a sponsored program is exempted from the requirement to hold a game hunting licence under the <i>Game and Feral Animal Control Act 2002</i> that the participant would, apart from this exemption, be required to hold for participation in the program.	17 18 19 20
10 Exemption from national parks and wildlife licences for program sponsored by national parks and wildlife agency	21 22
A participant in a sponsored program for controlling the population of animals in a reserve is exempted from the requirement to hold a licence under the <i>National Parks and Wildlife Act 1974</i> that the participant would, apart from this exemption, be required to hold for participation in the program.	23 24 25 26
11 Exemption from pest control order for sponsored programs in Metropolitan Sydney	27
If there is a sponsored program for controlling the population of an animal in an area within Metropolitan Sydney and the animal is a pest required to be eradicated from the area under the <i>Local Land Services Act 2013</i> , the area subject to the sponsored program is taken to be excluded from the controlled land for the pest under that Act.	28 29 30 31
Note. There can only be a sponsored program for controlling the population of a pest in an area outside Metropolitan Sydney if the relevant pest control order under the <i>Local Land Services Act 2013</i> allows for the conduct of the program.	32 33 34
12 Other exemptions for sponsored programs	35
The regulations may exempt a participant in a sponsored program from the application of a specified requirement or prohibition under an Act.	36 37
13 Evidence	38
In any proceedings, a certificate of a sponsoring agency certifying:	39
(a) that a specified program is or is not a sponsored program, or	40
(b) that a specified person is or is not responsible for or a participant in a sponsored program, or	41 42
(c) as to the details of a sponsored program,	43
is to be taken, in the absence of proof to the contrary, as proof of the matters so certified.	44 45

14 Regulations	1
(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	2 3 4 5
(2) The regulations may create an offence punishable by a penalty not exceeding 100 penalty units.	6 7
(3) Proceedings for an offence under the regulations may be dealt with summarily before the Local Court.	8 9