

# **No cat zone - City of Kingston**

**Robyn Buttriss**

## **INTRODUCTION**

On being requested to investigate the options for the control of cats, if not banning their presence completely in a new development site 'The Waterways Estate', I unfortunately discovered a wall of personal resistance. To articulate this more clearly, my initial belief was that a total cat ban would be unnecessary and unwarranted, when there are other, less imposing options available.

I quickly remembered why it is imperative to remain unbiased when dealing with urban animal management, as our decisions impact on both the environment and the people who reside within our districts.

It is acknowledged that if left uncontrolled pets in the new residential estate will have an impact on the existing areas of the abutting Braeside Park as well as the new wetlands within the estate.

Council received representation from the Kingston Conservation and Environment Coalition Inc. and Carrum-Carrum Lowlands Forum recommending cats be excluded from the Waterways Estate.

The purpose of this report is to share with you the identified options available for controlling or restricting cats within an area of Victoria and why The City of Kingston now has a 'No cat zone' within it municipality.

## **OBJECTIVES**

- Identify if cat control measures are necessary within The Waterways.
- Investigate the issues for Braeside Park and their view on cats being kept within the new estate.
- Identify legislative options available to address cat management within The Waterways.

## **BACKGROUND**

The Waterways is a significant environmental project providing rehabilitation of the Mordialloc Creek and returning important native flora and fauna to the area.

Fully developed, The Waterways will be home to seven hundred households living around eighty hectares of Freshwater Lake, Park Lands and the largest constructed wetlands in the State. The constructed wetlands cover forty six hectares of the estate.

What is being provided:

- over 1,000,000 aquatic and semi-aquatic plants of diverse and varying species;
- carefully selected native and exotic trees and plant species;
- breeding habitats for native birds and fish species; and
- a major contribution to water treatment of the upstream catchment.

## **Existing controls in the Waterways Estate**

With respect to The Waterways Estate, Council needed to consider the appropriateness of cats within this area. This occurred in part by the developer and Council which is reflected in the developer's document 'The Waterways — Guidelines for Housing Design and Landscaping', which states:

### *“DOMESTIC PETS*

*In keeping with the environmental approach that has influenced the design of The Waterways there is a need to provide a framework for domestic pets. In part this reflects the objective of encouraging native bird life within The Waterways wetlands and open spaces and in part the objective of enhancing and maintaining a series of high quality environments.*

*Accordingly, domestic pets are to be kept within your property boundaries and exercised in accordance with the relevant Kingston Council By-laws.”*

Although this is stated within the guidelines, official regulatory provisions were required to encourage compliance and to provide for enforcement where necessary. It is important to acknowledge that cats are an introduced species to Australia and as such we should consider their effects on the environment.

At 300 hectares in size, Braeside Park contains a range of regionally significant conservation values including remnant heathy woodland, remnant Red Gum grassy woodland and wetland habitats. It is one of the most important conservation reserves in the south-east of Melbourne. Due to its conservation values dogs and cats are not permitted in the park. Braeside Park and its associated vegetation communities provide habitat for 165 bird species, 19 mammal, 13 reptile and 10 amphibian. The wetland system adjacent to Governor Road and the Waterway Estate is an important wetland bird habitat.

Species found in isolated pockets of remnant habitat such as Braeside Park are extremely vulnerable to environmental pressures. The Waterways development will obviously provide additional habitat specifically for bird species. Therefore Council's management of the new estate may effect the current management of Braeside.

It was indicated by the management of Braeside Park that cats will influence their management such as their baiting programs. In addition they informally stated that cats will present a danger to threatened native species of birds and migratory wader species which are found within the parks wetland habitats.

Council received a letter from Parks Victoria stating that there are approximately twelve protected bird species and four other species — Southern Warty Frog, Blue Billed Duck, Australasian Bittern and Grey Goshawk, listed as 'rare, vulnerable and endangered in Victoria', all of which would be affected by the presence of cats.

The Great Egret has also been recorded in the park and is a listed species under the Flora and Fauna Guarantee Act 1988.

This information provides compelling argument for the need for some form of control on domestic animals in residential areas abutting Braeside Park, particularly near the more vulnerable southern end.

## LEGISLATIVE PROVISIONS

### The Domestic (Feral and Nuisance) Animals Act 1994

The Domestic (Feral and Nuisance) Animals Act provides a number of options for Councils to effect controls on domestic pets:

- a. Section 25 — A Council may, by resolution make an order, which restricts cats to the owner's property and which may specify the hours in which compliance is required.
- b. Section 26 — A Council may, by resolution make an order, which prohibits or restricts cats in any *public area*. In addition the order can impose restrictions with respect to method of restraint and/or time restrictions.
- c. Section 42 (b) — Council may make a local law prohibiting or regulating cats in a specified area of the municipal district of the Council where *threatened native fauna are at risk of attack*.
- d. Section 43 of the Act enables an authorised officer to destroy a prohibited animal found at large in an area which Council has made a local law under Section 42 (b) prohibiting the keeping of dogs or cats in a specified area.

### Planning And Environment Act 1987

Section 173 Agreement — where the property owner enters into an agreement with Council with respect to a parcel of land. This agreement is lodged against all titles and remains on the title as an incumbent. Specific conditions can be included in this agreement such as no cats to be housed on property or specifying cats must be confined within the said property.

## CONTROLS USED IN OTHER COUNCILS

The Domestic (Feral and Nuisance) Animals Act 1994 incorporates regulations pertaining to Feline Management. In general terms the legislation provides solutions to cat control problems by:

- helping to reduce the roaming of owned cats;
- removing and preventing unowned cats;
- enabling the removal of and/or prohibiting cats from designated environmentally sensitive areas;
- providing redress to property owners who do not wish to have cats entering the property;
- requiring identification of cats to facilitate return of cats to owners;
- putting in place a revenue scheme to cover the cost of cat control measures; and
- improving the standard of cat ownership in the community by offering responsible cat owners the option of reduced cat registration.

The City of Kingston is actively involved in Cat Management within its municipality. Our program has been successful to date and the *majority* of cats impounded/seized are wild trapped cats. The balance of cat complaints handled by our department involve tame cats, where the situation is resolved by negotiations between owners/complainant/Officer and educating the public on Responsible Pet Ownership. The most effective cat management tool is education, education and more education!

An important part of researching our options was to consider approaches taken by other Councils. The following examples cover three Councils we liaised with:

## **Manningham City Council**

- Have specific Environmentally Sensitive Areas.
- Previously approached this issue utilising the provisions of a Section 173 Agreement — Planning and Environment Act 1987.
  - A Section 173 Agreement presented a problem from an enforcement perspective. Should a breach be detected, the Planning Department would be responsible for enforcement action. This was seen as inappropriate as the experts in this area are their Animal Control Officers.
- Have adopted Orders under Section 25 and Section 26 in some established areas after public consultation.
- Do not have any ‘No Cat Zones’ yet their orders incorporate confining cats to the owners premises. This has resulted in a community expectation to enforce these provisions therefore they have had to review their resources.

## **Frankston City Council**

- Have specific Environmentally Sensitive Areas.
- Approach issue of cats in or near specific environmentally sensitive areas utilising the provisions of a Section 173 Agreement — Planning and Environment Act 1987.
- They understand the complications should a breach be detected where enforcement is required, yet the organisation has not considered this issue on a joint departmental basis.
- Orders under Section 25 and 26 of the Act to protect natural reserves yet these orders required substantial resources for cat control and enforcement.

## **Yarra Ranges Shire Council**

- Have extensive fringe environmentally significant areas.
- Section 173 Planning agreements in some new residential estates for the restriction of cats where area abuts environmentally sensitive areas.
- Section 26 Orders — council has designated 10 Prohibited Areas where cats are banned from public areas. These are areas of significant flora and fauna.
- Will be reviewing the need for further orders under Section 25 to provide buffer zones near environmentally sensitive areas.
- This review will also involve considering making a local law under Section 42(b).
- Have a night curfew covering the entire municipality (Section 25 Order). This is in response to preventing cats endangering native fauna.

At the time of my initial research the cat restrictions did not reflect the status of the Yarra Ranges natural reserve areas and habitats.

## **Additional View**

Bureau of Animal Welfare, Department of Natural Resources and Environment believe it is appropriate to promote keeping cats in at night yet believe the introduction of official night curfew can be difficult to justify as they can raise public expectations for enforcement and will not necessarily obtain desired result. The Department is supportive of Councils making Orders which reflect the specific needs of their individual environments.

Again they reinforce the need to find ways to educate, educate, educate!!

## **OPTIONS**

1. Allow cats to be kept within The Waterways Estate with no further official regulations.
2. Section 173 Agreement be entered into between the Council and property owner as per the provisions of the Planning and Environment Act 1987, to restrict cats from being kept within The Waterways.
3. Section 26 Order — Public Areas. Council make an order prohibiting and restricting cats within all public areas of The Waterways.
4. Section 25 Order — Council make an order which allows residents to keep cats yet restricts cats to the owner's property, making it an offence if a cat is found at large outside the premises of its owner. This will also make it an offence if a cat is found outside its owner's property or on other private property.
5. Section 25 Order — Introduce a night curfew which restricts cats to their owner's property at night time only. Cats tend to carry out more predatory behaviour between dusk to dawn.
6. Section 42(b) — Make a Local Law. Council make a Local Law prohibiting or regulating cats within the entire 'Waterways' estate, should it be proven threatened native fauna are at risk of attack by cats.

## **DISCUSSIONS OF OPTIONS**

If Council was to implement any of the control options, it would be easier and fairer to prospective purchasers to do so quickly before the Waterways Development is fully sold.

Based on the advice received from Parks Victoria that a number of species of wildlife would be threatened by residential development to the south of the park, it seems warranted that Council should take some action to minimise the impact. Thus Option 1 is not considered appropriate.

There was a long and exhaustive planning process undertaken with the developers and all planning permits and development guidelines had been finalised prior to my involvement and consideration of options.

Any further changes to the planning restrictions excluding cats would need to be done in co-operation with the developer. The developer is known to be opposed to any further planning restrictions although had expressed general support for controls on pets as evidenced by the wording already contained in the development agreement. Option 2 was therefore not seen as practical.

Option 3 does not deal with private land and is therefore seen as ineffective.

Options 4 and 5 could be considered but would be difficult and expensive to enforce. Significant additional resources would be required, particularly if night curfews are introduced, for these options to be successful.

Option 6, is the most effective and easiest to enforce and is therefore recommended. Day time patrols would be sufficient and the controls are clear and easy to understand.

In time, as the area habitat and ecosystem develops, consideration may need to be given to cat controls within the areas immediately abutting 'The Waterways'.

## **CONCLUSION**

In accordance with Section 42(b) of the Domestic (Feral & Nuisance ) Animals Act 1994 Council gave notice of its intention to amend Local Law 6 in order to protect The Waterways and Braeside Park environments and the threatened Native Species which would be at risk of attack by cats, by designating The Waterways Estate as a No-Cat Zone.

Local Law 6 Clause 11 was amended by adding an additional sub-clause 3 which states:

*“The owner or occupier of any property within the boundaries of Governor Road south to the Mordialloc Main Drain and Springvale Road west to the Proposed Mornington Peninsula Freeway to be known as ‘The Waterways’ must not keep or permit or allow or cause to be kept any cat/s on any property within this area”.*

### **Maximum Penalty: 5 Penalty Units**

The City of Kingston took the opportunity to adopt controls which would provide the optimum protection for the native species residing in an environmentally sensitive situation. This option has been welcomed by those people selecting to reside in ‘The Waterways Estate’ and their views compliment the philosophy of the development and/or they appreciate what Council and the developer are striving to achieve.

Council acknowledges that it was preferable to have more restrictive controls prior to human habitation, rather than the traditional struggle of changing peoples existing views and behaviours which are present in an established residential area.

Through these controls, we hope to provide a protective habitat to help ensure the survival of the twelve protected bird species and four other species that are listed as ‘rare, vulnerable and endangered in Victoria’.

## **REFERENCES**

Portland House Group of Companies, ‘*The Waterways - Guidelines for Housing Design and Landscaping*’. [www.Waterways.com.au](http://www.Waterways.com.au)

## **ABOUT THE AUTHOR**

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Robyn has been in the Local Government field of urban animal management and local laws for the past 10 years. She currently holds the position of Team Leader — Local Laws with the City of Kingston. Robyn commenced her career worked in research for 4 years then moved into animal welfare as the General Manager for The Cat Protection society of Victoria. Here she was instrumental in upgrading the shelters facilities and educating the broader community on responsible pet ownership. During this time she graduated from her studies and is a qualified Animal Technician. Her education and experience have also lead to here involvement as a lecturer, presenting to Municipal Law Enforcement Officers and Animal Control Officers in Victoria and enjoys presenting to schools and community groups.

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