



PERMITS AND PENALTIES BY-LAW 2024

By-law No. 1 of 2024

A By-law to create a permit system for Council By-laws, to fix maximum and continuing penalties for offences, and to clarify the construction of Council By-laws.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Permits and Penalties By-law 2024* and is By-law No. 1 of the Kangaroo Island Council.

2. Authorising law

This By-law is made under section 246 of the *Local Government Act 1999*.

3. Purpose

The objectives of this By-law are to provide for the good rule and government of the Council area, and for the convenience, comfort and safety of its inhabitants by:

- 3.1 creating a permit system for Council By-laws;
- 3.2 providing for the enforcement of breaches of Council By-laws and fixing penalties; and
- 3.3 clarifying the operation of Council By-laws.

4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

*By-law No. 1 – Permits and Penalties 2017.*²

4.2 This By-law will expire on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

This By-law applies throughout the Council's area.

6. Definitions

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **Council** means Kangaroo Island Council;
- 6.3 **person** includes a natural person, or a body corporate.

Note-

Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act.

7. Construction of By-laws generally

- 7.1 Every By-law of the Council is subject to any Act of Parliament and Regulations made thereunder.
- 7.2 In any By-law of the Council, unless the contrary intention appears, **permission** means permission granted by the Council (or its delegate) prior to the act, event or activity to which it relates and includes:
- 7.2.1 permission granted specifically to an applicant; or
- 7.2.2 permission of general application granted by way of the Council adopting a policy of general application for that purpose.

PART 2 – PERMITS AND PENALTIES

8. Permits

- 8.1 Where a By-law requires that permission be obtained, any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 8.2 The Council (or such other person as may be authorised by the Council) may attach such conditions as it thinks fit to a grant of permission, and may vary or revoke such conditions or impose new conditions by notice in writing to the person granted permission.
- 8.3 A person granted permission under a By-law must comply with every condition attaching to the permission. Failure to do so is an offence (to the extent that it gives rise to a contravention of a By-law).
- 8.4 The Council (or such other person as may be authorised by the Council) may suspend or revoke a grant of permission under a By-law at any time by notice in writing to the person granted permission.

9. Offences and Penalties

- 9.1 A person who commits a breach of any By-law of the Council is guilty of an offence and may be liable to pay:
- 9.1.1 the maximum penalty, being the maximum penalty referred to in the Act that may be fixed for any breach of a By-law; or
- 9.1.2 subject to any resolution of the Council to the contrary, the expiation fee fixed by the Act for alleged offences against By-laws, being a fee equivalent to 25 per cent of the maximum penalty fixed for any breach of a By-law.
- 9.2 A person who commits a breach of a By-law of the Council of a continuing nature is guilty of an offence and, in addition to any other penalty that may be imposed, is liable to a further penalty for every day on which the offence continues, such penalty being the maximum amount referred to in the Act that may be fixed by a By-law for a breach of a By-law of a continuing nature.

Note-

The maximum penalty for a breach of a By-law is prescribed by section 246(3)(g) of the Act.

Pursuant to section 246(5) of the Act expiation fees may be fixed for alleged offences against By-laws either by a By-law or by resolution of the Council. However, an expiation fee fixed by the Council cannot exceed 25 per cent of the maximum penalty for the offence to which it relates.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on **11 June 2024** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
DARYL BUCKINGHAM
Chief Executive Officer



MOVEABLE SIGNS BY-LAW 2024

By-law No. 2 of 2024

A By-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs for the purpose of protecting visual amenity and public safety.

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Note-

This By-law applies to moveable signs as defined. It does not capture fixed advertisements and/or other displays. The display of such signage is subject to the *Planning, Development and Infrastructure Act 2016*.

PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Moveable Signs By-law 2024* and is By-law No. 2 of the Kangaroo Island Council.

2. Authorising law

This By-law is made under sections 226, 238, 239 and 246 of the Act.

3. Purpose

3.1 The objectives of this By-law are to set standards for moveable signs on roads:

3.2 to protect the comfort and safety of road users and members of the public;

3.3 to enhance the amenity of roads and surrounding parts of the Council area;

3.4 to provide businesses with a fair and equitable opportunity to advertise their goods and services by way of moveable signs in a manner that does not adversely impact upon public safety or amenity;

3.5 to prevent nuisances occurring on roads and the unreasonable interference with the use of a road; and

3.6 for the good rule and government of the Council's area.

4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

*By-law No.2 – Moveable Signs 2017.*²

4.2 This By-law will expire on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.

2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.

3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2024*.

5.2 Subject to subclause 5.3, this By-law applies throughout the Council area subject to:

5.3 the exemptions set out in clause 11; and

- 5.4 the *Planning, Development and Infrastructure Act 2016*.
- 5.5 Subclause 10.2.1 of this By-law applies to such parts of the Council's area that comprise a township as defined under subclause 6.12.

6. Definitions

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **amenity** means any quality, condition or factor that contributes to making an area harmonious, pleasant or enjoyable;
- 6.3 **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.4 **banner** means a slip of cloth, plastic or other material hung up or carried on or attached to a pole, fence or other structure but does not include a 'feather sign';
- 6.5 **business premises** means premises from which a business, trade or calling is being conducted;
- 6.6 **Council** means Kangaroo Island Council;
- 6.7 **edge of the carriageway** means, as the case may be, either the edge of the kerb or gutter, the edge of the sealed surface of the road, or the graded edge embankment of an unsealed road;
- 6.8 **footpath area** means:
- 6.8.1 that part of a road between the property boundary of the road and the edge of the carriageway on the same side as that boundary;
- 6.8.2 a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles;
- 6.9 **Local Government land** has the same meaning as in the Act, being land owned by the Council or under the Council's care, control and management;
- 6.10 **moveable sign** has the same meaning as in the Act, being a moveable advertisement or sign but excludes a banner;
- 6.11 **road** has the same meaning as in the Act, being a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes:
- 6.11.1 a bridge, viaduct or subway; or
- 6.11.2 an alley, laneway or walkway;
- 6.12 **township** has the same meaning as in the Act or as may otherwise be resolved by the Council exclusively for the purposes of this By-law.
- 6.13 **traffic control device** has the same meaning as in the Road Traffic Act 1961.

- 6.14 **vegetation line** means the threshold where clear open or semi open road gives way to substantial vegetation such that it would not be feasible to place a moveable sign within or behind that vegetation;
- 6.15 **vehicle** has the same meaning as in the *Road Traffic Act 1961* and includes:
- 6.15.1 a motor vehicle trailer and a tram;
 - 6.15.2 a bicycle;
 - 6.15.3 an animal-drawn vehicle, and an animal that is being ridden or drawing a vehicle;
 - 6.15.4 a combination; and
 - 6.15.5 a motorised wheelchair that can travel at over 10 kilometres per hour (on level ground), but does not include another kind of wheelchair, a train, or a wheeled recreational device or wheeled toy.

Note-

Section 12 of the *Legislation Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act under which the By-law was made.

PART 2 – MOVEABLE SIGNS

7. Construction and design

A moveable sign must:

- 7.1 be of kind known as:
 - 7.1.1 an 'A' frame or sandwich board sign;
 - 7.1.2 an 'inverted T' sign,
 - 7.1.3 a flat sign;
 - 7.1.4 a feather sign or,
 - 7.1.5 with the permission of the Council (including as may be set out in a Council policy of general application from time to time), be a sign of some other kind;
- 7.2 in the reasonable opinion of an authorised person, be designed, constructed and maintained:
 - 7.2.1 in good quality and condition; and
 - 7.2.2 so as not to present a hazard to any member of the public;
- 7.3 be of strong construction and sufficiently stable when in position so as to keep its position in any weather conditions;
- 7.4 not contain sharp or jagged edges or corners;

- 7.5 not, in the reasonable opinion of an authorised person, be unsightly or offensive in appearance or content;
- 7.6 not contain flashing or rotating parts;
- 7.7 not be connected to a vehicle that is located on a road;
- 7.8 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 7.9 not exceed 900mm in perpendicular height or have a base with any side exceeding 600mm in length; either:
 - 7.9.1 on roads within a township; or
 - 7.9.2 on any roads outside of a township to which a speed limit of 60km/hr or less applies
- 7.10 in the case of an 'A' frame or sandwich board sign:
 - 7.10.1 be hinged or joined at the top; and
 - 7.10.2 be of such construction that its sides are securely fixed or locked in position when erected; and
- 7.11 In the case of an inverted 'T' sign, not contain struts or members that run between the display area and the base of the sign.

8. Placement

A moveable sign must not be:

- 8.1 placed on any part of a road other than the footpath area;
- 8.2 placed other than against the vegetation line if the location of the vegetation line on the road means the placement of the moveable sign in accordance with a requirement of this subclause 8 would result in the sign being obscured by vegetation;
- 8.3 placed closer than:
 - 8.3.1 1.5 metres from the edge of the carriageway where there is a kerb; or
 - 8.3.2 in any other case, 3.5 metres from the edge of the carriageway;
- 8.4 placed on a sealed part of any footpath area:
 - 8.4.1 if there is an unsealed part on which the sign can be placed in accordance with this By-law; or
 - 8.4.2 unless the sealed part is wide enough to contain the sign and leave a clear thoroughfare for pedestrians of a width of at least 1.2 metres;
- 8.5 placed less than 2 metres from any driveway, access way, clear way or no-standing zone;

- 8.6 placed on or adjacent to the Playford Highway, Birchmore Highway, South Coast Road or West End Highway (or any part(s) thereof) that are under the control of the Council;

Note-

Placement of moveable signs on highways is subject to approval by the Commissioner of Highways.

- 8.7 placed on a landscaped area;
- 8.8 placed on a designated parking area or within 1 metre of an entrance to or exit from any business or other premises;
- 8.9 placed within 10 metres of an intersection of roads;
- 8.10 placed on a median strip, traffic island, roundabout or on any other traffic control device;
- 8.11 displayed during the hours of darkness unless it is in a clearly lit area and is clearly visible;
- 8.12 placed in such a position or in such circumstances that, in the reasonable opinion of an authorised person:
- 8.12.1 the safety of a user of the footpath area or road is at risk; or
 - 8.12.2 the moveable sign unreasonably interferes with the lawful movement of persons or vehicles using the road in the vicinity of where the moveable sign is placed.
- 8.13 in the case of a flat sign and notwithstanding anything in this clause 8 to the contrary, placed other than in line with and against the property boundary of the road and not less than one metre from the corner of the road.

9. Banners

A person must not erect or display a banner on a building or structure on a road without the Council's permission.

Note-

A person must not erect or display a banner on a public road for a business purpose without a permit from the Council issued under section 222 of the *Local Government Act 1999*.

10. Restrictions

- 10.1 The owner or operator of a business must not cause or allow more than two moveable signs for each business premises to be displayed at any time.
- 10.2 A person must not cause or allow a moveable sign to be placed on a footpath area unless:
- 10.2.1 in the case of a moveable sign displayed within a township, it only displays material which advertises a business being conducted on premises adjacent to the moveable sign or the goods and/or services available from that business; and

10.2.2 in any case, it is only displayed during the hours that the business premises to which it relates is open to the public.

10.3 If in the opinion of the Council a footpath area is unsafe for a moveable sign to be displayed, the Council (or its delegate) may prohibit or restrict the display of a moveable sign on such conditions as the Council thinks fit.

11. Exemptions

Subclause 10.2 of this By-law does not apply to a moveable sign which:

- 11.1 advertises a garage sale taking place from residential premises or a farming property; or
- 11.2 is a directional sign to or advertises an event run by an incorporated association, a community or government organisation or a charitable body.
- 11.3 Subclauses 10.1 and 10.2 of this By-law do not apply to a flat sign which only contains a newspaper headline and the name of a newspaper or magazine.
- 11.4 The requirements of this By-law, with the exception of subclauses 7.1, 7.3 and 8.10 – 8.12, do not apply to a moveable sign that is displayed for the purposes of warning road users of the presence of livestock on a road.
- 11.5 A requirement of this By-law will not apply where the Council has granted permission for a moveable sign (or class of moveable signs) to be displayed contrary to that requirement.
- 11.6 This By-law does not apply to signage locations as designated by the Council (or its delegate) specifically for the display of Council permitted banners or signs for events.

Note-

This By-law does not apply to moveable signs placed and maintained on a road in accordance with section 226(3) of the Act, which includes any sign:

- placed there pursuant to an authorisation under another Act;
- designed to direct people to the open inspection of any land or building that is available for purchase or lease;
- related to a State or Commonwealth election and is displayed during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day;
- the sign is of a prescribed class.

PART 3 – ENFORCEMENT

12. Removal of moveable signs

12.1 A person must immediately comply with an order of an authorised person to remove a moveable sign that is made pursuant to section 227(1) of the Act.

Note-

pursuant to section 227(1) of the Act, an authorised person may order the owner of a moveable sign to remove the sign from the road if:

- the design, construction or positioning of a moveable sign does not comply with a requirement of this By-law; or
- any other requirement of this By-law is not complied with; or
- the moveable sign unreasonably restricts the use of the road, or endangers the safety of other persons.

- 12.2 The owner of, or any other person seeking to recover a moveable sign removed by an authorised person pursuant to section 227(2) of the Act, may be required to pay to the Council the reasonable costs incurred by the Council in removing, storing, and/or disposing of the moveable sign (if any) before being entitled to recover the moveable sign.
- 12.3 The owner of, or any other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:
- 12.3.1 if, in the reasonable opinion of an authorised person, and not withstanding compliance with this By-law, there is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the moveable sign; or
- 12.3.2 for the purpose of special events, parades, roadworks or in any other circumstances which, in the reasonable opinion of the authorised person, require relocation or removal of the moveable sign to protect public safety or to protect or enhance the amenity of a particular locality.

13. Liability of vehicle owners

- 13.1 For the purposes of this clause 13, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 13.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this by-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on 11 June 2024 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
DARYL BUCKINGHAM
Chief Executive Officer



LOCAL GOVERNMENT LAND BY-LAW 2024

By-law No. 3 of 2024

A By-law to manage and regulate the access to and use of Local Government land and certain public places.

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PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Local Government Land By-law 2024* and is By-law No. 3 of the Kangaroo Island Council.

2. Authorising law

This By-law is made under sections 238, 239 and 246 of the Act and section 18A of the *Harbors and Navigation Act 1993*.

3. Purpose

The objectives of this By-law are to regulate the access to and use of Local Government land and certain public places:

- 3.1. to prevent and mitigate nuisances;
- 3.2. to prevent damage to Local Government land;
- 3.3. to protect the convenience, comfort and safety of members of the public;
- 3.4. to enhance the amenity of the Council area; and
- 3.5. for the good rule and government of the area.

4. Commencement, revocation and expiry

4.1. The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

4.1.1 *By-law No. 3 – Local Government Land 2017; and*

4.1.2 *By-law No. 8 – Foreshore & Boat Facilities By-Law 2017.*²

4.2. This By-law will expire on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

5.1. This By-law operates subject to the Council's *Permits and Penalties By-law 2024*.

5.2. Subject to subclauses 5.3 & 5.4, this By-law applies throughout the Council area.

5.3. Subclauses 9.2, 9.4.2, 9.18.1, 9.18.4, 9.18.5, 9.21.2, 9.28.5, 9.30, 10.4, 10.9 and 13.5 of this By-law only apply in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

5.4. Subclauses 9.1, 9.3, 9.9.2, 9.18.2, 11.2, 12.1 and 13.3 of this By-law apply throughout the Council area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Definitions

In this By-law, unless the contrary intention appears:

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **animal or animals** includes birds and insects but does not include a dog unless otherwise stated;
- 6.3. **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.4. **boat** includes a raft, pontoon, personal watercraft or other similar device;
- 6.5. **boat mooring** means a facility constructed, maintained and operated by the Council for the mooring of a boat;
- 6.6. **boat ramp** means a facility constructed, maintained and operated for the launching and retrieval of a boat or other vessel from land or adjacent waters;
- 6.7. **camp includes** setting up a camp or causing
 - 6.7.1 a tent or other structure of calico, canvas, plastic or other similar material;
 - 6.7.2 a swag or similar bedding; or
 - 6.7.3 subject to the *Road Traffic Act 1961*, a caravan, tent trailer, motor home or other vehicle;

to remain on a road overnight, whether or not any person is in attendance or sleeps on the road;

Note-

To avoid doubt, setting up a calico, canvas, plastic or other tent, marquee or similar structure for recreation purposes to provide shade during daylight hours only (and not overnight) is not within the meaning of 'camp'.

- 6.8. **coastal waters** means ocean waters extending offshore from the low water mark but excluding any waters overlying land between the low water mark and the high water mark;
- 6.9. **Council** means Kangaroo Island Council;
- 6.10. **effective control** means a person exercising effective control of an animal either:
 - 6.10.1 by means of physical restraint; or
 - 6.10.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.11. **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 6.12. **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.13. **foreshore** means land (which may or may not be Local Government land) extending:

- 6.13.1 from the low water mark on the seashore in the Council's area to the nearest road or section boundary; or
- 6.13.2 for a distance of 50 metres from the high water mark -
- (whichever is the lesser) and to avoid doubt, includes the foreshore within the Harbor of American River, the Harbor of Kingscote, the Harbor of Penneshaw and the Harbor of Vivonne Bay;
- 6.14. **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;
- 6.15. **Harbor of American River** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.16. **Harbor of Kingscote** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.17. **Harbor of Penneshaw** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.18. **Harbor of Vivonne Bay** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.19. **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 6.20. **Local Government land** means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.21. **low water mark** means the lowest astronomical tide;
- 6.22. **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.23. **open container** means a container which, after the contents of the container have been sealed at the time of manufacture:
- 6.23.1 being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
- 6.23.2 being a can, it has been opened or punctured;
- 6.23.3 being a cask, it has had its tap placed in a position to allow it to be used;
- 6.23.4 being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or
- 6.23.5 is a flask, glass, mug or other container able to contain liquid;
- 6.24. **personal watercraft** means a device that –
- 6.24.1 is propelled by a motor; and
- 6.24.2 has a fully enclosed hull; and
- 6.24.3 is designed not to retain water if capsized; and

- 6.24.4 is designed to be operated by a person who sits astride, stands, or kneels on the device;
- and includes the device commonly referred to as a jet ski;
- 6.25. **road** has the same meaning as in the Act;
- 6.26. **sand dune** or **coastal slope or cliff** means the sand dunes, coastal slopes, cliffs or other geomorphologic coastal forms under the care, control and management of the Council;
- 6.27. **special event** means an organised gathering of more than fifty (50) persons for any social, sporting or cultural purposes;
- 6.28. **tobacco product** has the same meaning as in the *Tobacco Tobacco and E-Cigarette Products Act 1997*;
- 6.29. **vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 6.30. **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council but does not include coastal waters; and
- 6.31. **wheeled Recreational Device** has the same meaning as in the *Road Traffic Act 1961*.

Note-

Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in a By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

PART 2 – ACCESS TO LOCAL GOVERNMENT LAND**7. Access**

The Council may:

- 7.1. close or regulate or restrict access to any part of Local Government land to the public for specified times and days; and
- 7.2. fix charges or fees payable for entry onto any part of Local Government land.

8. Closed lands

A person must not without permission, enter or remain on any Local Government land:

- 8.1. which has been closed or in respect of which access by the public is regulated or restricted in accordance with subclause 7.1;
- 8.2. where entry fees or charges are payable, without paying those fees or charges; or
- 8.3. where the land has been enclosed by fences and/or walls and gates that have been closed and locked or, where a sign is displayed at or near the entrance of the land notifying that the land has been closed.

PART 3 – USE OF LOCAL GOVERNMENT LAND

9. Activities requiring permission

Note-

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

A person must not, without the permission of the Council, do any of the following activities on Local Government land or the foreshore or where indicated, on a road.

9.1. Advertising

Except on any Local Government land determined by resolution of the Council, display, paint or erect or cause to be displayed, painted or erected, on Local Government land or on a structure, building or fixture on Local Government Land any sign, advertising or hoarding for any purpose.

9.2. Alcohol

Consume, carry or be in possession or in charge of any liquor on Local Government land comprising parks or reserves to which the Council has resolved this subclause applies.

9.3. Amplification

Use an amplifier or other mechanical or electrical device for the purpose of amplifying, broadcasting or magnifying sound except on Local Government land to which the Council has resolved this clause applies (if any).

9.4. Animals

9.4.1 On Local Government land excluding the foreshore, lead, herd, drive or exercise any horse, cattle, sheep or similar animal except where the Council has set aside a track or other area for use by or in connection with an animal of that kind as indicated by signage, and provided that the animal or animals are under effective control;

9.4.2 On the foreshore, take, lead, herd or drive any animal onto or allow any animal to remain on any foreshore to which the Council has resolved this subclause applies and other than in accordance with any conditions determined by the Council;

9.4.3 Allow any animal to enter or leave the foreshore other than by the access ramps constructed or provided by the Council for provision of access onto the beach.

9.5. Annoyance

Do anything that, in the reasonable opinion of an authorised person, offends or is likely to offend or unreasonably interfere with any other person:

9.5.1 using that land; or

9.5.2 occupying nearby premises;

by making a noise or creating a disturbance.

9.6. *Attachments*

Subject to subclause 9.1, attach or cause to be attached, hang or fix anything to a tree, plant, equipment, fence, post, structure or fixture, or any other object.

9.7. *Buildings*

Use a building or structure on Local Government land for a purpose other than its intended purpose or other than in accordance with any conditions of use contained on signage in or on the building or structure.

9.8. *Burials, Memorials & Cemeteries*

9.8.1 Bury, inter or spread the ashes of any human or animal remains including the remains of a dog.

9.8.2 Erect any memorial.

9.8.3 On Local Government land comprising a cemetery, drive or propel any vehicle except where the Council has constructed and set aside an area for that purpose as indicated by signage on the land.

9.9. *Camping and Tents*

9.9.1 Subject to this clause 9.9, erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation.

9.9.2 Camp or remain overnight except:

- (a) on any Local Government land, road or foreshore to which the Council has resolved this subclause applies (and thereby designates as a camping area); and
- (b) in accordance with any conditions determined by the Council and displayed on any signage on or near the Local Government land or foreshore.

9.9.3 Subject to this clause 9.9, use or occupy or cause, suffer or permit to be used or occupied, any caravan, motorhome or other vehicle on Local Government land, on the foreshore or on a road for or in connection with undertaking camping activities, including washing, cooking or sleeping.

9.10. *Canvassing*

Subject to subclause 17.2, convey any advertising or other message to any bystander, passer-by or other person.

9.11. *Distribution*

Subject to subclause 17.2 and the *Local Nuisance and Litter Control Act 2016*, give out or distribute any book, leaflet or other printed matter to any bystander, passer-by or other person.

9.12. *Donations*

Ask for or receive or indicate a desire for a donation of money or any other thing.

9.13. *Encroachment*

Erect or cause to be erected or placed any fencing, post or other structures or any other items so as to encroach onto the land.

9.14. *Entertainment and Busking*

9.14.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.

9.14.2 Conduct or hold a concert, festival, show, public gathering, circus, performance or any other similar activity.

9.15. *Fires*

Subject to the *Fire and Emergency Services Act 2005*, light any fire except:

9.15.1 in a place provided by the Council for that purpose; or

9.15.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least four (4) metres.

9.16. *Fireworks*

Ignite, explode or use any fireworks.

9.17. *Flora and Fauna*

Subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

9.17.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon (excluding weeds);

9.17.2 cause or allow an animal (including a dog) to stand or walk on any flower bed or garden plot;

9.17.3 deposit, dig, damage, disturb, interfere with, clear or remove any sand, soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;

9.17.4 take, interfere with, tease, harm, hunt or disturb any animal, bird or marine creature or the eggs or young of any animal, bird or marine creature;

9.17.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;

9.17.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;

9.17.7 use, possess or have control of any device for the purpose of killing or capturing any animal bird or marine creature –

with the exception that subclauses 9.17.4 and 9.17.7 do not apply to lawful fishing activities.

9.18. *Games & Sport*

- 9.18.1 Participate in, promote or organise any organised competition or sport as distinct from organised social play on Local Government land or foreshore to which the Council has resolved this clause applies (if any).
- 9.18.2 Except on any Local Government land or foreshore to which the Council has resolved this clause applies, play or practise any game which involves kicking, hitting or throwing a ball or other object that may, in the reasonable opinion of an authorised person:
- (a) unreasonably cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that land; or
 - (b) unreasonably detract from or be likely to detract from another person's lawful use and enjoyment of that land.
- 9.18.3 Play or practise the game of golf except on a fairway or other land constructed and set aside for that purpose.
- 9.18.4 Engage or participate in or conduct any organised group fitness activity or training on any Local Government land to which the Council has resolved this subclause applies.
- 9.18.5 Play or practise any game or sport on any Local Government land to which the Council has resolved this subclause applies and other than in accordance with any conditions indicated on any sign on or in the vicinity of the land.

9.19. *Interference with Land*

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 9.19.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.19.2 erecting, placing or installing a structure or any object in, on, across, under or over the land;
- 9.19.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.19.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 9.19.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

9.20. *Jetties*

Jump or dive from a jetty or other structure.

9.21. *Model Aircraft, Boats and Cars*

Subject to the *Civil Aviation Safety Regulations 1998*:

- 9.21.1 fly or operate a model or drone aircraft, boat or model or remote control vehicle in a manner which may, in the reasonable opinion of an authorised person:
- (a) cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land;
 - (b) or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or
- 9.21.2 fly or operate a model or drone aircraft, boat or model or remote control car on any Local Government Land or foreshore to which the Council has resolved this subclause applies.

9.22. *Overhanging Articles*

Suspend or hang an article or object from a building, verandah, pergola, post or other structure where it might, in the reasonable opinion of an authorised person:

- 9.22.1 present a nuisance or danger to a person using the land; or
- 9.22.2 cause an unsightly condition.

9.23. *Playing Area*

Use or occupy a playing area:

- 9.23.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);
- 9.23.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 9.23.3 contrary to any conditions indicated on a sign displayed on or near the playing area.

9.24. *Preaching*

Preach, harangue or solicit for religious purposes.

9.25. *Rubbish Dumps and Rubbish Bins*

- 9.25.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on Local Government land.
- 9.25.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a bin on Local Government land for collection by the Council (or its agent).

9.26. *Sand dunes, coastal slopes and cliffs*

Subject to the *Coastal Protection Act 1972* and the *Native Vegetation Act 1991*:

- 9.26.1 destabilise sand on a sand dune by any means so as to cause it to unnecessarily mass waste down slope;
- 9.26.2 destroy, remove or interfere with live or dead vegetation upon a sand dune, coastal slope or cliff;

- 9.26.3 introduce non-indigenous flora or fauna to, or dump any materials on a sand dune;
- 9.26.4 use a sandboard or other item to slide down a sand dune, coastal slope or cliff;
- 9.26.5 drive or propel a vehicle over or on any sand dunes; or
- 9.26.6 carry out any other activity that may damage or threaten the integrity of sand dunes, coastal slopes or cliffs.

9.27. *Trading*

- 9.27.1 Sell, buy, offer or display anything for sale, or hire or lease any goods, merchandise, commodity, article or thing.
- 9.27.2 Set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing.

9.28. *Vehicles*

- 9.28.1 Drive or propel a vehicle on any Local Government land or foreshore except on land constructed or set aside by the Council for that purpose as indicated by signs on or in the vicinity of the land.
- 9.28.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose as indicated by signage on the land.
- 9.28.3 Repair, wash, paint, panel beat or carry out any other work to a vehicle, except for running repairs in the case of a breakdown.
- 9.28.4 Drive or propel a vehicle onto or from the foreshore other than by a ramp or thoroughfare constructed or provided by the Council for that purpose.
- 9.28.5 Use any ramp or thoroughfare to which the Council has resolved this clause applies to drive or propel a vehicle onto or from the foreshore without having paid the applicable fee (if any) in the manner determined by the Council.

9.29. *Weddings, Functions and Special events*

- 9.29.1 Hold, conduct or participate in a marriage ceremony, funeral ceremony or special event.
- 9.29.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral ceremony or special event.
- 9.29.3 Hold or conduct any filming where the filming is for a commercial purpose.

9.30. *Wheeled Recreational Devices*

Subject to the *Road Traffic Act 1961*, ride a wheeled recreational device on Local Government land to which the Council has determined this subclause applies.

10. Prohibited activities

A person must not do any of the following activities on Local Government land or on the foreshore.

10.1. *Climbing*

Climb on or over any fixture, fitting, plant, object or building other than a playground or similar area that the Council has set aside for that purpose.

10.2. *Defacing Property*

Subject to any permission of the Council given under clause 9, deface, paint, write, cut names, letters or make marks on any tree, rock, gate, fence, building, sign or property of the Council.

10.3. *Equipment*

10.3.1 Use any item of equipment, facilities or property belonging to the Council:

- (a) other than in the manner and for the purpose for which it was designed, constructed or intended to be used;
- (b) where any nearby sign states the conditions of use, except in accordance with such conditions; or
- (c) in such a manner as is likely to damage or destroy it.

10.3.2 Use an item of equipment, facilities or property belonging to the Council if that person is of or over the age indicated by a sign or notice as the age limit for using such equipment, facility or property.

10.4. *Fishing*

Fish in any waters to which the Council has resolved this subclause applies.

10.5. *Glass*

Willfully break any glass, china or other brittle material.

10.6. *Interference with Permitted Use*

Interrupt, or unreasonably interfere with any other person's use of Local Government land where the person is using the land in a manner permitted by the Council or in accordance with any permission that has been granted by the Council.

10.7. *Obstruction*

Obstruct:

- 10.7.1 any path or track;
- 10.7.2 any door, entrance, stairway or aisle in any building; or
- 10.7.3 any gate or entrance to or on Local Government land.

10.8. *Playing games*

Play or practise a game:

10.8.1 which is likely to cause damage to the land or anything on it; or

10.8.2 in any area where a sign indicates that the game is prohibited.

10.9. *Smoking*

Subject to the *Tobacco Products and E-Cigarette Products Act 1997*, smoke, hold or otherwise have control over an ignited tobacco product or vape on any Local Government land or foreshore to which the Council has resolved this subclause applies.

10.10. *Solicitation*

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

10.11. *Throwing objects*

Throw, roll, project or discharge a stone, substance or other missile, excluding sport and recreational equipment designed to be used in that way.

10.12. *Toilets*

In any public convenience on Local Government land (including showers, changerooms, toilets and hand washing facilities):

10.12.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

10.12.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage or damage to the facility, or any drain, pipe or property associated with the facility;

10.12.3 use the facilities for a purpose for which it was not designed or constructed.

10.13. *Waste*

10.13.1 Deposit or leave thereon anything obnoxious or offensive.

10.13.2 Deposit any rubbish or waste other than in receptacles provided by the Council for that purpose; or

10.13.3 Deposit in any rubbish bin:

(a) any waste or rubbish emanating from a domestic, trade or commercial source; or

(b) any waste or rubbish contrary to any information on signs on the bin or in its vicinity.

PART 4 – BOATS & BOAT FACILITIES

A person must not, without the permission of the Council, do any of the following activities on Local Government land or the foreshore or where indicated, on a road.

11. Boats

Subject to the provisions of the *Harbors and Navigation Act 1993* and, the *Marine Safety (Domestic Commercial Vessel) National Law*:

- 11.1. hire out a boat; or
- 11.2. subject to subclause 11.3, except on any Local Government land, foreshore or road to which the Council has resolved this clause applies, launch or retrieve a boat; or
- 11.3. launch or retrieve a boat from or to any Local Government land, foreshore or road other than in accordance with any conditions specified on signage on or in the vicinity of that land.

12. Boat Ramps

- 12.1. Except on any Local Government land, road or foreshore that the Council has resolved to apply this subclause to, a person must not use a boat ramp to launch or retrieve a boat without first having purchased a ticket in the form determined by the Council.
- 12.2. A person must not use a boat ramp other than in accordance with any conditions stipulated on the ticket purchased in compliance with subclause 12.1.
- 12.3. A person must not allow any vehicle or boat to remain stationary on any boat ramp longer than is necessary to launch or retrieve a boat.

13. Boat Moorings

- 13.1. A person must not moor a boat at any place within Christmas Cove other than:
 - 13.1.1 at the boat moorings designated and clearly marked as such by the Council; and
 - 13.1.2 in accordance with the terms and conditions determined by the Council and set out on any signage erected on or in the vicinity of the boat moorings.
- 13.2. For the purposes of subclause 13.1, **Christmas Cove** means the area outlined in the plan displayed on the Council's website and marked as the plan that applies for the purpose of this subclause.
- 13.3. Subject to this clause 13, a person must not moor or tether a boat to any foreshore or Local Government land except for any foreshore or Local Government land to which the Council has resolved this subclause applies (and thereby designates as a mooring area).
- 13.4. A person must not moor a boat to any foreshore or Local Government land in a manner that obstructs any boat or access to any boat or object (either floating or sunk) or any boat facility.
- 13.5. A person must not use a boat mooring on any foreshore or Local Government land to which the Council has resolved this clause applies unless the person:
 - 13.5.1 first obtains a permit from the Council or purchases a mooring ticket in the form determined by the Council; and
 - 13.5.2 complies with any conditions regarding that use as specified either on the permit or mooring ticket or on any signs in the vicinity of the boat mooring.

PART 5– ENFORCEMENT

14. Directions

14.1. A person on Local Government land or the foreshore must comply with a reasonable direction from an authorised person relating to:

14.1.1 that person's use of the land;

14.1.2 that person's conduct and behaviour on the land;

14.1.3 that person's safety on the land; or

14.1.4 the safety and enjoyment of other persons on the land.

14.2. A person who, in the reasonable opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with an order of an authorised person made pursuant to section 262 of the Act which may include an order to leave that part of Local Government land or the foreshore.

15. Orders

If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

Note-

Section 262(1) of the Act states:

- (1) If a person (*the offender*) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-
- (a) if the conduct is still continuing – to stop the conduct; and
 - (b) whether or not the conduct is still continuing – to take specified action to remedy the contravention.

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease smoking on Local Government land;
- remove an object or structure encroaching on Local Government land;
- dismantle and remove a structure erected on Local Government land without permission.

16. Removal of animals and objects

An authorised person may remove an animal or object that is on Local Government land in breach of a By-law if the authorised officer reasonably believes that no person is in charge of the animal or object.

PART 6 – MISCELLANEOUS

17. Exemptions

17.1. The restrictions in this By-law do not apply to a police officer, emergency worker, Council officer or Council employee acting in the course of and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council officer.

17.2. The restrictions in subclauses 9.10 and 9.11 of this By-law do not apply to:

- 17.2.1 electoral matter authorised by a candidate and which is related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
- 17.2.2 authorised electoral material relating to an election under the Act or the *Local Government (Elections) Act 1999* displayed or occurring during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- 17.2.3 electoral matter related to, and occurs during the course of and for the purpose of a referendum.
- 17.3. The Council may otherwise, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 17.4. An exemption:
- 17.4.1 may be granted or refused at the discretion of the Council;
- 17.4.2 may operate indefinitely or for a period specified in the instrument of exemption; and
- 17.4.3 is subject to any conditions specified in the instrument of exemption.
- 17.5. The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 17.6. The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.
18. **Liability of vehicle owners**
- 18.1. For the purposes of this clause 18, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 18.2. The owner and the driver of a vehicle driven, parked or standing in contravention of this by-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on **11 June 2024** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
DARYL BUCKINGHAM
Chief Executive Officer



ROADS BY-LAW 2024

By-law No. 4 of 2024

A By-law to manage, control and regulate certain activities on roads in the Council's area and to specify requirements for waste management services on roads and other public places.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Roads By-law 2024* and is By-law No. 4 of the Kangaroo Island Council.

2. Authorising law

This By-law is made under sections 239 and 246 of the Act and regulation 28 of the *Local Government (General) Regulations 2013*.

3. Purpose

The objectives of this By-law are to manage, control and regulate certain uses of roads in the Council's area:

- 3.1. to protect the convenience, comfort and safety of road users and members of the public;
- 3.2. to prevent damage to buildings and structures on roads;
- 3.3. to prevent certain nuisances occurring on roads; and
- 3.4. for the good rule and government of the Council area.

4. Commencement, revocation and expiry

4.1. The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹:

4.1.1 *By-law No. 4 – Roads 2017*.²

4.2. This By-law will expire on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

5.1. This By-law operates subject to the Council's *Permits and Penalties By-law 2024*.

5.2. Subject to subclause 5.3, this By-law applies throughout the Council's area.

5.3. Subclause 7.3.2 of this By-law only applies in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Definitions

In this By-law, unless the contrary intention appears:

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **animal** includes birds, insects and poultry but does not include a dog;

- 6.3. **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.4. **Council** means Kangaroo Island Council;
- 6.5. **effective control** means a person exercising effective control of an animal either:
- 6.5.1 by means of a physical restraint; or
- 6.5.2 by command, the animal being in close proximity to the person, and the person being able to see the animal at all times;
- 6.6. **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.7. **moveable sign** has the same meaning as in the Act;
- 6.8. **premises** means premises to which the Council's domestic waste collection service is made available;
- 6.9. **road** has the same meaning as in the Act, being, a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes:
- 6.9.1 a bridge, viaduct or subway; or
- 6.9.2 an alley, laneway or walkway;
- 6.10. **vehicle** has the same meaning as in the *Road Traffic Act 1961*; and
- 6.11. **waste container** means a container for the disposal of domestic waste, recyclables or green organics that is used to facilitate the kerbside collection of waste from premises by the Council or its agents or contractors.

Note-

Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

PART 2 – USE OF ROADS**7. Activities requiring permission**

A person must not engage in or undertake any of the following activities on a road (or where otherwise indicated, on other land) without the permission of the Council.

7.1. Advertising

Display or cause to be displayed on a road or on a structure on a road, any poster, advertising or sign for the purpose of advertising goods or services, or for any other purpose and except for a moveable sign that is displayed in accordance with the Council's *Moveable Signs By-law 2024*.

Note-

Moveable signs on roads are regulated by sections 226 and 227 of the Act and the Council's Moveable Signs By-law.

7.2. *Amplification*

Use an amplifier or other device (whether mechanical or electrical) for the purpose of amplifying or magnifying sound including for the broadcasting of announcements or advertisements.

7.3. *Animals*

7.3.1 Cause or allow an animal to be left unattended on any road.

7.3.2 Cause or allow an animal to stray onto, move over, or graze on a road to which the Council has resolved this clause applies.

7.3.3 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

7.4. *Obstructions*

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road, footway, water-channel, or watercourse in a road.

7.5. *Preaching and Canvassing*

7.5.1 Preach, harangue, or canvass for religious or charitable purposes.

7.5.2 Convey any religious or other message to any bystander, passer-by or other person.

7.6. *Public Exhibitions and Displays*

7.6.1 Sing, busk, play a recording or use a music instrument, or perform similar activities.

7.6.2 Conduct or hold a concert, festival, show, circus, performance or a similar activity.

7.6.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.

7.6.4 Cause or conduct any public exhibitions or displays.

7.7. *Repairs to Vehicles*

Repair, wash, paint, panel beat or perform other work of a similar nature to a vehicle, except for running repairs in the case of a vehicle breakdown.

7.8. *Rubbish Bins*

Deposit in any Council bin on a road any rubbish:

7.8.1 emanating from a domestic, commercial or trade source; or

7.8.2 that is not rubbish of the type permitted to be placed in the bin, as indicated on signs on the bin or in its vicinity.

7.9. *Soliciting*

Ask for or receive or do anything to indicate a desire for a donation of money or any other thing.

8. Waste Management Services

- 8.1. A person must not place or cause or allow to be placed, waste containers out on a road or on another public place to facilitate the collection by the Council its agents or contractors of waste generated on premises unless the waste containers:
- 8.1.1 are waste containers of the type that are approved by the Council for the collection of waste by the Council its agents or contractors;
 - 8.1.2 are placed out:
 - 8.1.2.1 on the day nominated by the Council for the collection of waste in that area or after 4pm the preceding day (and not before these times);
 - 8.1.2.2 in a position that is adjacent to the kerb (not on the carriageway) so that the front of the bin faces the road, or as may otherwise be directed by the Council; and
 - 8.1.2.3 for a period that does not extend beyond 11:59pm on the day after the date that waste has been collected from the waste container; and
 - 8.1.3 contain only the type of waste approved by the Council to be in that type of waste container.

Note-

To avoid doubt:

- clause 8.1.2.3 operates such that a waste container that is placed on a road for collection must be removed from the road before 11.59pm on the day following the date of collection; and
- clause 8.1.3 requires only approved:
 - recyclables to be placed in a recyclable waste container placed out on a road/public place for collection;
 - organic waste to be in a green organics waste container placed out on a road/public place for collection; and
 - general waste to be in a general waste container placed out on a road/public place for collection.

Note-

Camping on roads is regulated under the Council's *Local Government Land By-law 2024*.

PART 3 – ENFORCEMENT

9. Directions

A person who, in the opinion of an authorised person, is committing or has committed a breach of this By-law, must immediately comply with an order of the authorised person made pursuant to section 262 of the Act, which may include an order to leave that part of the road.

10. Orders

If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

Note-

Section 262(1) of the Act states:

- 1) *If a person (**the offender**) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*
 - a. *if the conduct is still continuing – to stop the conduct; and*
 - b. *whether or not the conduct is still continuing – to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease busking on a road; or
- remove an object or structure blocking a footpath;
- remove advertising displayed on a structure on a road.

11. Removal of animals and objects

- 11.1. The Council (or its delegate) may, pursuant to section 234 of the Act, remove an animal or object that is on a road in breach of a By-law if no person is in charge, or apparently in charge, of the animal or object.
- 11.2. The Council may recover from the owner or apparent owner of an object, removed under subclause 11.1, the costs it incurs in removing that object.

PART 4 – MISCELLANEOUS**12. Exemptions**

- 12.1. The restrictions in this By-law do not apply to a police officer, emergency worker, Council officer or employee acting in the course of and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council officer.
- 12.2. The Council may otherwise, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 12.3. An exemption:
 - 12.3.1 may be granted or refused at the discretion of the Council;
 - 12.3.2 may operate indefinitely or for a period specified in the instrument of exemption; and
 - 12.3.3 is subject to any conditions specified in the instrument of exemption.
- 12.4. The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.5. The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

13. Liability of vehicle owners

- 13.1. For the purposes of this clause¹³, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.

- 13.2. The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on **11 June 2024** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
DARRYL BUCKINGHAM
Chief Executive Officer



DOGS BY-LAW 2024

By-law No. 5 OF 2024

A By-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council's area.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Dogs By-law 2024* and is By-law No. 5 of the Kangaroo Island Council.

2. Authorising law

This By-law is made under section 90 of the *Dog and Cat Management Act 1995*, sections 238 and 246 of the Act and section 18A of the *Harbors and Navigation Act 1993*.

3. Purpose

The objectives of this By-law are to control and manage dogs in the Council area:

- 3.1. to reduce the incidence of environmental nuisance caused by dogs; and
- 3.2. to promote responsible dog ownership; and
- 3.3. to protect the convenience, comfort and safety of members of the public; and
- 3.4. for the good rule and government of the Council's area.

4. Commencement, revocation and expiry

4.1. The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

4.1.1 *By-law No. 5 – Dogs 2017*.²

4.2. This By-law expires on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Interpretation

5.1. This By-law operates subject to the Council's *Permits and Penalties By-law 2024*.

5.2. Subject to subclause 5.3, this By-law applies throughout the Council area.

5.3. Clauses 10 and 11 of this By-law only apply in such part or parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Definitions

In this By-law, unless the contrary intention appears:

6.1. **Act** means the *Local Government Act 1999*;

- 6.2. **approved kennel establishment** means a building, structure premises or area approved under the *Planning, Development and Infrastructure Act 2016* for the keeping of dogs on a temporary or permanent basis;
- 6.3. **assistance dog** means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled;
- 6.4. **Council** means Kangaroo Island Council;
- 6.5. **Dog** (except for in clause 7.1) has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.6. **effective control** means a person exercising effective control of a dog either:
- 6.6.1 by means of a physical restraint (as defined under the *Dog and Cat Management Act 1995*); or
- 6.6.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;
- 6.7. **foreshore** means land extending:
- 6.7.1 from the low water mark on the seashore in the Council's area to the nearest road or section boundary; or
- 6.7.2 for a distance of 50 metres from the high water mark; -
- (whichever is the lesser) and to avoid doubt, includes the foreshore within the Harbor of American River, the Harbor of Kingscote, the Harbor of Penneshaw and the Harbor of Vivonne Bay;
- 6.8. **Harbor of American River** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.9. **Harbor of Kingscote** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.10. **Harbor of Penneshaw** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.11. **Harbor of Vivonne Bay** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2023*;
- 6.12. **keep** includes the provision of food or shelter;
- 6.13. **park** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.14. **premises** includes land, whether used or occupied for domestic or non-domestic purposes;
- 6.15. **small dwelling** means a self-contained residence that is:
- 6.15.1 a residential flat building; or
- 6.15.2 contained in a separate strata unit or community title; or
- 6.15.3 on an allotment less than 450 square metres in area; and
- 6.15.4 without a secure yard of at least 100 square metres in area; and

includes any vehicle in which a dog is kept;

6.16. **working livestock dog** means a dog:

6.16.1 usually kept, proposed to be kept or worked on rural land by a person who is:

- (a) a primary producer; or
- (b) engaged or employed by a primary producer; and

6.16.2 kept primarily for the purpose of herding, droving, protecting, tending or working stock, or training for herding, droving, protecting, tending or working stock;

6.17. for the purposes of clause 9 of this By-law, a dog is under **effective control by means of a leash** if the dog is secured to a leash, chain or cord that does not exceed 2 metres in length and:

6.17.1 the leash, chain or cord is either tethered securely to a fixed object; or

6.17.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

Note-

Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-laws was made.

PART 2 – LIMITS ON DOG NUMBERS

7. Limits on dog numbers in private premises

7.1. Subject to subclauses 7.3 and 7.5, a person must not, without the Council's permission, keep, or cause, suffer or permit to be kept:

7.1.1 more than one dog in a small dwelling; or

7.1.2 on any premises other than a small dwelling, more than:

- (a) two (2) dogs (other than working livestock dogs);
- (b) six (6) working livestock dogs.

7.2. For the purposes of subclause 7.1, **dog** means a dog that is three (3) months of age or older or, a dog that has lost its juvenile teeth.

7.3. Subclause 7.1 does not apply to:

7.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or

7.3.2 any other business involving the keeping of dogs provided that the business is registered in accordance with the *Dog and Cat Management Act 1995* and operating in accordance with all required approvals and consents.

7.4. The Council may require that premises that are the subject of an application for permission to keep additional dogs are inspected by an authorised person for the purpose of assessing the suitability of the premises for housing dogs.

- 7.5. No dog is to be kept on any premises where, in the reasonable opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

PART 3 – DOG CONTROLS

8. Dog exercise areas

Subject to clauses 9 and 10 of this By-law, a person may enter a park on Local Government land for the purpose of exercising a dog under that person's effective control.

Note –

If a person is exercising a dog in a park and the dog is not under effective control, this gives rise to a dog wandering at large offence under section 43(1) of the *Dog and Cat Management Act 1995*, for which the owner of, or person responsible for, the dog may be liable.

9. Dog on leash areas

A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an assistance dog that is required to remain off-lead in order to fulfil its functions) to be or remain on:

- 9.1. any Local Government land or foreshore; or
9.2. any other public place -

to which the Council has resolved this clause applies unless the dog is under effective control by means of a leash.

10. Dog prohibited areas

A person must not allow a dog under that person's control, charge or authority (except an assistance dog) to enter or remain on any Local Government land, foreshore or other public place to which the Council has resolved this clause applies.

11. Dog faeces

No person is to allow a dog under that person's control, charge or authority to be in a public place or on Local Government land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit (for the purpose of complying with their obligation under section 45A(6) of the *Dog and Cat Management Act 1995*).

PART 4 – EXEMPTIONS

12. Council May Grant Exemptions

- 12.1. The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 12.2. An exemption:
- 12.2.1 may be granted or refused at the discretion of the Council;
- 12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and

- 12.2.3 is subject to any conditions specified in the instrument of exemption.
- 12.3. The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.4. The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

PART 5 – ENFORCEMENT

13. Orders

- 13.1. If a person engages in conduct that is in contravention of this By-law, an authorised person may, pursuant to section 262 of the Act, order that person:
- 13.1.1 if the conduct is still continuing – to stop the conduct; and
- 13.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 13.2. A person must comply with an order made by an authorised person pursuant to section 262 of the Act.
- 13.3. If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.

Note-

For example, an authorised person may order a person to :

- cease keeping more than the permitted number of dogs on that person's premises; or
- remove a dog from a dog prohibited area.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on the **11 June 2024** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
DARYL BUCKINGHAM
Chief Executive Officer



CATS BY-LAW 2024

By-law No. 6 of 2024

A By-law to limit the number of cats kept on premises and for the responsible management and control of cats in the Council’s area, including for conservation purposes and to protect Kangaroo Island’s unique biodiversity and to reduce adverse economic impacts to the islands primary production sector.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Cats By-law 2024* and is By-law No. 6 of the Kangaroo Island Council.

2. Authorising Law

This By-law is made under section 90 of the *Dog and Cat Management Act 1995* and section 246 of the Act.

3. Purpose

The objectives of this By-law are to control and manage cats in the Council's area:

- 3.1 to promote responsible cat ownership;
- 3.2 to work towards achieving the Council's vision of eradicating feral cats from Kangaroo Island to eliminate their adverse impacts upon wildlife, primary production and human health;
- 3.3 to reduce the incidence of public and environmental nuisance caused by cats;
- 3.4 to protect the comfort and safety of members of the public; and
- 3.5 for the good rule and government of the Council area.

4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

4.1.1 *By-law No. 6 – Cats 2017*.²

4.2 This By-law expires on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

5.1 This By-law operates subject to the Council's Permits and Penalties By-law 2024.

5.2 This By-law applies throughout the Council's area subject to any declaration of the Minister responsible for the *Landscape South Australia Act 2019* that is made under Part 9 of that Act.

6. Definitions

In this By-law, unless the contrary intention appears;

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **approved cattery** means a building, structure or area approved pursuant to the *Planning, Development and Infrastructure Act 2016*, for the keeping of multiple cats on a temporary or permanent basis;
- 6.3 **breeding cat** means a cat that is reproductively intact (un-spayed or neutered) and is being kept with the capacity to breed;
- 6.4 **cat** means an animal of the species *felis catus* that is three (3) months of age, or has lost its juvenile canine teeth;
- 6.5 **Council** means Kangaroo Island Council;
- 6.6 **effective control by means of physical restraint means:**
- 6.6.1 a person is exercising effective control of a cat by means of a cord or leash that does not exceed 2 metres in length restraining the cat; or
- 6.6.2 a person has effectively secured the cat by placing it in a cage, vehicle or other enclosed object or structure;
- 6.7 **keep** includes the provision of food or shelter;
- 6.8 for the purposes of clause 8, a cat (or cats) causes a **nuisance** if it:
- 6.8.1 unreasonably interferes with the peace, comfort or convenience of a person, including but not limited to by displaying aggressive nature or creating unpleasant noise, or odour;
- 6.8.2 damages, kills or otherwise has an adverse impact upon native flora or fauna;
- 6.8.3 acts in a manner that is injurious or causes damage to a person's real or personal property;
- 6.8.4 wanders onto premises without the consent of the owner or occupier of the premises; or
- 6.8.5 defecates or urinates on premises without the consent of the owner or occupier of the premises;
- 6.9 **owner** of a cat has the same meaning as in section 5 of the *Dog and Cat Management Act 1995*;
- 6.10 the **person responsible for the control of a cat** has the same meaning as in section 6 of the *Dog and Cat Management Act 1995*;
- 6.11 **public place** has the same meaning as in the Act and, for the avoidance of doubt, includes a road;

- 6.12 **premises** includes land whether used or occupied for domestic or non-domestic purposes and any part thereof;
- 6.13 **road** has the same meaning as in the Act;
- 6.14 **un-spayed cat** means a female cat that has not been desexed and is reproductively intact;
- 6.15 **un-neutered cat** means a male cat that has not been desexed and is reproductively intact.

Note-

Section 12 of the *Legislation Interpretation Act 2021* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law is made.

PART 2 – CAT CONTROLS

7. Limits on cat numbers

- 7.1 Subject to subclause 7.2, a person must not, without the Council's permission, keep or cause, suffer or permit to be kept, more than two (2) cats on any premises.
- 7.2 Subclause 7.1 does not apply to premises comprising a business involving the keeping of cats (including not limited to the operation of an approved cattery) provided that the business is operating in accordance with all required approvals and consents.
- 7.3 The Council may require that premises that are the subject of an application for permission to keep additional cats are to be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing cats.
- 7.4 Permission under subclause 7.1 may be given if the Council is satisfied that:
- 7.4.1 no insanitary condition exists or is likely to arise on the premises as a result of the keeping of cats; and
- 7.4.2 a nuisance is not or is not likely to be caused to any neighbour as a result of the keeping of cats on the premises.
- 7.5 No cat is to be kept outdoors on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a cat may be effectively confined.

8. Cats not to be a nuisance

- 8.1 An owner or occupier of premises must ensure that any cat (or cats) kept or allowed to remain on the premises does not cause a nuisance.
- 8.2 Without limiting liability under subclause 8.1 the owner of or person responsible for the control of a cat is in contravention of this By-law if the cat causes a nuisance.

- 8.3 For the purposes of this subclause 8, cat means an animal of the species *felis catus* (of any age).

9. Effective Confinement of Cats

- 9.1 The owner or person responsible for the control of a cat must take steps to ensure that the cat is effectively confined to the premises occupied by that person unless the cat is under effective control by means of physical restraint.
- 9.2 For the purposes of this subclause 9, cat means an animal of the species *felis catus* (of any age).

PART 3 –NOTICE OF CATS BROUGHT ONTO THE ISLAND & REGISTRATION OF CATS

10. Cats Brought onto the Island

- 10.1 A person must not, in any circumstances, bring or cause, suffer or permit to be brought onto Kangaroo Island an un-spayed cat that is not registered as a breeding cat.
- 10.2 A person must not bring a desexed cat that is not registered with the Council onto Kangaroo Island unless that person has notified the Council, either before the cat is brought onto Kangaroo Island or within 12 hours of the cat being brought onto Kangaroo Island:
- 10.2.1 that the cat has been brought onto Kangaroo Island or (as the case may be) of the person's intention to bring the cat onto Kangaroo Island; and
- 10.2.2 of the premises at which the cat will be kept for so long as it remains on Kangaroo Island.

Note-

The owner of or person responsible for a cat that has been brought onto Kangaroo Island must comply with his/her obligations under the Act and this By-law.

11. Registration of cats

- 11.1 Subject to subclause 11.4, a person must not keep a cat on any premises in the Council's area for more than 14 days unless the cat is registered in accordance with this By-law.
- 11.2 An application for registration of a cat must:
- 11.2.1 be made in the manner and form prescribed by Council (if any); and
- 11.2.2 be accompanied by the fee (if any) prescribed by the Council; and
- 11.2.3 nominate a person of or over sixteen (16) years of age who consents to the cat being registered in his or her name; and
- 11.2.4 identify with reference to an address the premises at which the cat is kept; and

- 11.2.5 contain or be accompanied by any other information required by the Council.
- 11.3 Registration of a cat under this By-law:
- 11.3.1 remains in force until 30 June next following the grant of registration and may be renewed from time to time for further periods of up to twelve (12) months; and
- 11.3.2 is subject to any conditions of registration that the Council (or its delegate) may see fit to impose from time to time by notice in writing to the registered owner of the cat.
- 11.4 Subclause 11.1 does not apply to premises comprising a business involving the keeping of cats (including not limited to the operation of an approved cattery) provided that the business is operating in accordance with all required approvals and consents.
- 11.5 If there is any change in ownership of a cat kept in the Council's area then the person taking ownership of the cat must notify the Council of the change in ownership within 14 days of that change occurring.
- 11.6 If the premises at which a registered cat is kept changes or, a registered cat dies or is relocated outside of Kangaroo Island, the registered owner of the cat must notify the Council of the new premises where the cat is to be kept or the fact that the cat has died or been relocated (as the case may be).

PART 4 – EXEMPTIONS

12. Council May Grant Exemptions

- 12.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 12.2 An exemption:
- 12.2.1 may be granted or refused at the discretion of the Council;
- 12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
- 12.2.3 is subject to any conditions specified in the instrument of exemption.
- 12.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

PART 5 – ENFORCEMENT

13. Orders

13.1 If a person engages in conduct that is a contravention of this By-law, an authorised person may, pursuant to section 262 of the Act, order that person:

13.1.1 if the conduct is still continuing – to stop the conduct; and

13.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.

13.2 A person must comply with an order of an authorised person made pursuant to section 262 of the Act.

13.3 If a person does not comply with an order made by an authorised person pursuant to section 262 of the Act, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.

Note-

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of cats on that person's premises; or
- take the necessary steps to mitigate a nuisance caused by cats.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on the **11 June 2024** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
DARYL BUCKINGHAM
Chief Executive Officer



KEEPING OF LIVESTOCK, FOWL AND BEES 2024

By-law No. 7 of 2024

A By-law to regulate the keeping of livestock, fowl and bees within urban areas in the interests of the community and to conserve the unique biodiversity and ecosystems on Kangaroo Island.

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Note: Persons keeping livestock must comply with their obligations under the *Livestock Act 1997*, including (where applicable) the requirement to obtain a Property Identification Code.

PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Keeping of Livestock, Fowl and Bees By-law of 2024* and is By-law No. 7 of Kangaroo Island Council.

2. Authorising law

This By-law is made under section 246 of the *Local Government Act 1999*.

3. Purpose

The objectives of this By-law are to regulate and control the keeping of livestock, fowl and bees in urban areas:

- 3.1. to prevent and mitigate nuisances to the community;
- 3.2. to preserve the amenity of Kangaroo Island and to conserve its unique biodiversity and ecosystems;
- 3.3. to protect the convenience, comfort and safety of members of the public;
- 3.4. to enhance the amenity of the Council area; and
- 3.5. for the good rule and government of the area.

4. Commencement, revocation and expiry

4.1. The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:¹

4.1.1 *Keeping of Livestock, Fowl and Bees By-law 2017*.²

4.2. This By-law expires on 1 January 2032.³

Note-

1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

5.1. This By-law operates subject to the Council's *Permits and Penalties By-law 2024*.

5.2. This By-law applies throughout the Council's area subject to the operation of State legislation including but not limited to:

- 5.2.1 the *Landscape South Australia Act 2019*; and
- 5.2.2 the *Planning, Development and Infrastructure Act 2016*; and
- 5.2.3 the *Livestock Act 1997*.

6. Definitions

In this By-law, unless the contrary intention appears:

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **Authorised person** means a person appointed as an authorised person pursuant to Section 260 of the Act;
- 6.3. **bee keeping** means bees kept in the course of undertaking apiary activities, but does not include the use of a hive to collect swarming bees from any premises provided that the hive is not on the relevant premises for more than 4 weeks;
- 6.4. **fowl** includes guineafowl and prescribed fowl;
- 6.5. **guineafowl** means birds of the family *Numidae* in the order *Galliformes*;
- 6.6. **keep** includes possessing and/or providing food or shelter, but does not include the possession of any livestock or prescribed fowl on land where a carnival, circus, petting zoo or similar function or event is taking place;
- 6.7. **livestock** means mammalian species kept or usually kept in a domestic or captive state including:
 - 6.7.1 *Camelidae* (alpacas, camel, dromedary, llama);
 - 6.7.2 *Bovidae* (buffalo, cattle);
 - 6.7.3 *Caprinae* (not limited to goats, sheep, dall),
 - 6.7.4 *Suidae* (pigs);but excludes dogs, cats and animals of the order *Equus* (horse, donkey);
- 6.8. **premises** includes land whether used or occupied for domestic or non-domestic purposes and any part thereof;
- 6.9. **prescribed fowl** means any bird of the families in the order *Galliformes* including:
 - 6.9.1 *Anatidae* (geese);
 - 6.9.2 *Phasianidae* (chickens, roosters, partridges, pheasants, turkeys, peafowl, grouse);
 - 6.9.3 *Odontophoridae* (quails);
 - 6.9.4 *Cracidae* (chachalacas, guans, curassows); and
 - 6.9.5 *Megapodidae* (brush turkeys, malleefowl);but excludes guineafowl;
- 6.10. **secure enclosure** means an enclosure that is designed and constructed to adequately confine the animals therein so that they cannot escape from it and, in the case of prescribed fowl, it must be fully enclosed with a roof; and
- 6.11. **urban area** means, subject to any resolution of the Council to the contrary, any land within the Council's area within the Township, Township Activity Centre,

Township Main Street, Tourism Development, Infrastructure (Ferry and Marina Facilities), Rural Shack Settlement or Neighbourhood zones established under the *Planning, Development and Infrastructure Act 2016*.

PART 2 – BEE KEEPING

7. Bee Keeping in urban areas

- 7.1. Subject to part 6 of the *Livestock Act 1997*, a person must not undertake bee keeping on premises in an urban area without permission of the Council.
- 7.2. Clause 7.1 does not apply where hives are in the process of being transported to premises in an urban area.

PART 3 – KEEPING FOWL

8. Keeping Fowl in Urban Areas

- 8.1. A person must not, without permission of the Council, keep or cause, suffer or permit to be kept, guineafowl on premises within an urban area.
- 8.2. Subject to clause 9, a person must not keep or cause, suffer or permit to be kept, any prescribed fowl on premises within an urban area other than:
 - 8.2.1 in the circumstances prescribed by subclause 8.3; or
 - 8.2.2 without permission of the Council.
- 8.3. A person may, keep prescribed fowl on premises in an urban area that are:
 - 8.3.1 female (i.e. a hen); or
 - 8.3.2 a male hatchling bred or hatched at the premises provided that it is not kept on the premises for a period greater than three (3) months or after the point the hatchling reaches sexual maturity and begins to crow (whichever occurs first).
- 8.4. Any person who keeps fowl on premises in an urban area must ensure the fowl are securely contained on the premises on which they are kept and not permitted to roam onto other premises without permission of the occupier of those premises.

9. Maximum Number of Fowl to be Kept on Premises

- 9.1. Subject to clause 8 and subclause 9.2, a person must not, without the Council's permission, keep or cause, suffer or permit to be kept, more than six (6) fowl on premises in an urban area (whether or not of a mixture of fowl species).
- 9.2. Hatchlings of any fowl species bred or hatched at premises within an urban area may be kept on the premises in addition to the prescribed maximum number of fowl specified in subclause 9.1 for a maximum period of up to three (3) months before all fowl on the premises must be reduced to six (6) fowl in total (subject to any permission from Council to the contrary).

PART 4 – KEEPING LIVESTOCK

10. Keeping Livestock in Urban Areas

- 10.1. A person must not keep or cause, suffer or permit to be kept, livestock on premises within an urban area, other than;
- 10.1.1 on premises with a total area in excess of 700m², the keeping of not more than one (1) animal of the *Caprinae* family (sheep, goat); or
- 10.1.2 on premises with a total area in excess of 2000m², the keeping of:
- (a) not more than two (2) animals of the *Caprinae* family (sheep, goat), or
 - (b) not more than one (1) animal of the *Suidae* family (pig); and
 - (c) no more than 2 of the animals described in 10.1.2(a) and (b) in total; or
- 10.1.3 with permission of the Council.
- 10.2. Any person who keeps livestock on premises in an urban area must ensure the livestock are confined to those premises and are not permitted to roam onto other premises without permission of the occupier of those premises.

PART 5 – MISCELLANEOUS

11. Orders

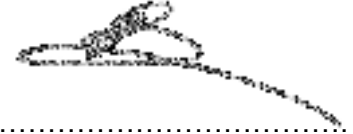
- 11.1. If a person engages in conduct that is a contravention of this By-law, an authorised person may, pursuant to section 262 of the Act, order that person:
- 11.1.1 if the conduct is still continuing – to stop the conduct; and
- 11.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 11.2. A person must comply with an order of an authorised person made pursuant to section 262 of the Act.
- 11.3. If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.

12. Council May Grant Exemptions

- 12.1. The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 12.2. An exemption:
- 12.2.1 may be granted or refused at the discretion of the Council;
- 12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and

- 12.2.3 is subject to any conditions specified in the instrument of exemption.
- 12.3. The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.4. The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

This By-law was duly made and passed at a meeting of the Kangaroo Island Council held on the **11 June 2024** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



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DARYL BUCKINGHAM
Chief Executive Officer