



DOGS BY-LAW 2017

By-law No. 5 OF 2017

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.

CONTENTS

PART 1 – PRELIMINARY	3
1. Title.....	3
2. Authorising law	3
3. Purpose.....	3
4. Commencement, revocation and expiry	3
5. Application.....	3
6. Definitions.....	4
PART 2 – LIMITS ON DOG NUMBERS.....	5
7. Limits on dog numbers in private premises.....	5
PART 3 – IDENTIFICATION OF DOGS.....	5
8. Dogs to be Microchipped.....	5
PART 4 – DOG CONTROLS.....	6
9. Dog exercise areas.....	6
10. Dog on leash areas.....	6
11. Dog prohibited areas.....	6
12. Dog faeces	6
13. Notification of Dogs Brought onto Kangaroo Island.....	6
PART 4 – ENFORCEMENT	6
14. Orders	6

PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Dog By-law 2017* 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 operation¹:

4.1.1 *By-law No. 5 – Dogs 2010*.²

4.2. With the exception of clause 8 of this By-law, which clause expires as set out in subclause 8.1, this By-law expires on 1 January 2025.³

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 2017*.

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 or area approved by a relevant authority, pursuant to the *Development Act 1993* 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** 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. **keep** includes the provision of food or shelter;
- 6.8. **park** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.9. **premises** includes land, whether used or occupied for domestic or non-domestic purposes;
- 6.10. **Registrar** means the person appointed by the Council as Registrar under the *Dog and Cat Management Act 1995*.
- 6.11. **small dwelling** means a self-contained residence that is:
 - 6.11.1 a residential flat building; or
 - 6.11.2 contained in a separate strata unit or community title; or
 - 6.11.3 on an allotment less than 450 square metres in area; and
 - 6.11.4 without a secure yard of at least 100 square metres in area;
- 6.12. **working dog** means a dog principally used for the purposes of droving, mustering, tending or protecting livestock in the genuine conduct of commercial primary production and farming activities, or as may be specifically permitted for other genuine animal management work at the discretion of the Registrar;
- 6.13. for the purposes of clause 10 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:
 - 6.13.1 the leash, chain or cord is either tethered securely to a fixed object; or
 - 6.13.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

Note-

Section 14 of the *Acts Interpretation Act 1915* 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 7.2 and 7.4, 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:
 - (a) two dogs (other than working dogs);
 - (b) more than 6 working dogs.
- 7.2. Subclause 7.1 does not apply:
- 7.2.1 to premises that comprise an approved kennel establishment operating in accordance with all required approvals and consents; or
 - 7.2.2 to any 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; or
 - 7.2.3 in circumstances where the Council has granted permission to a person to keep dogs over and above the limits prescribed by subclause 7.1
- 7.3. The Council may require that premises which are the subject of an application for permission to keep additional dogs must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing dogs.
- 7.4. No dog is to be kept on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

PART 3 – IDENTIFICATION OF DOGS**8. Dogs to be Microchipped**

- 8.1. This clause 8 expires and ceases operation immediately on the date that Part 4A as contained in section 26 of the *Dog and Cat Management (Miscellaneous) Amendment Act 2016*, commences operation.
- 8.2. Subject to subclause 8.3, a person must not without Council's permission, keep on any premise a dog over the age of three months or that has lost its juvenile teeth unless that dog is identified by means of having a microchip implanted in its body containing information that may be used to obtain the current address or telephone number of the owner or other person entitled to possession of the dog.
- 8.3. Subclause 8.2 does not apply to premises comprising an approved kennel establishment.

- 8.4. The owner of a dog that is identified as required under subclause 8.2 must provide the microchip details to the Registrar.

Note-

As and from the date that this clause 8 ceases operation, dogs must be microchipped in accordance with Part 4A of the Dog and Cat Management Act 1995.

PART 4 – DOG CONTROLS

9. Dog exercise areas

Subject to clauses 10 and 11 of this By-law, a person may enter a park in the Council's area for the purpose of exercising a dog under his or her effective control.

Note –

If a person is exercising a dog in a park as permitted under this clause 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.

10. 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 any Local Government land or public place to which the Council has resolved this clause applies unless the dog is under effective control by means of a leash.

11. 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 or public place to which the Council has determined this clause applies.

12. 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*).

13. Notification of Dogs Brought onto Kangaroo Island

Any person who brings a dog or dogs onto Kangaroo Island that is/are not registered with the Council must immediately (within 24 hours) notify the Council of this fact and provide microchip or registration details for the dog or dogs to the Council.

Note-

The owner of or person responsible for a dog that has been brought onto the Island that is not registered with the Council must comply with his/her obligations under the Act and this By-law.

PART 4 – ENFORCEMENT

14. Orders

- 14.1. If a person engages in conduct that is in contravention of this By-law, an authorised person may order that person:

- 14.1.1 if the conduct is still continuing – to stop the conduct; and
- 14.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 14.2. A person must comply with an order under this clause.
- 14.3. If a person does not comply with an order, 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.
- 14.4. However, an authorised person may not use force against a person under this section.

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 **13 June 2017** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
Andrew Boardman
Chief Executive Officer