



KEEPING OF LIVESTOCK, FOWL AND BEES 2017

By-law No. 7 of 2017

A By-law to control the conditions for keeping livestock, fowl and bees within urban areas in the interests of the community and to limit the number of livestock and fowl kept in urban areas.

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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 2017* 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 and harm to public health;
- 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. Expiry

This By-law will expire on 1 January 2025¹.

Note-

1. 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. This By-law applies throughout the Council's area subject to the operation of:
 - 5.2.1 the *Natural Resources Management Act 2004*; and
 - 5.2.2 the *Development Act 1993*; 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. **certificate of dispensation** means a certificate issued at the absolute discretion of Council under this By-law for the keeping of livestock, fowl or bees (as the case may be) in an urban area, which may be subject to any conditions the Council sees fit to impose;
- 6.5. **fowl** includes guineafowl and prescribed fowl.
- 6.6. **guineafowl** means birds of the family *Numidae* in the order *Galliformes*;
- 6.7. **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;
- 6.8. **livestock** means mammalian species kept or usually kept in a domestic or captive state including:
- 6.8.1 *Camelidae* (alpacas, camel, dromedary, llama);
 - 6.8.2 *Bovidae* (buffalo, cattle);
 - 6.8.3 *Caprinae* (goats, sheep, dall),
 - 6.8.4 *Suidae* (pigs);
 - 6.8.5 *Cervinae* (deer) –
- but excludes dogs, cats and animals of the order *Equus* (horse, donkey);
- 6.9. **premises** includes land whether used or occupied for domestic or non-domestic purposes and any part thereof;
- 6.10. **'prescribed fowl'** means any bird of the families in the order *Galliformes* including:
- 6.10.1 *Anatidae* (geese);
 - 6.10.2 *Phasianidae* (chickens, partridges, pheasants, turkeys, peafowl, grouse);
 - 6.10.3 *Odontophoridae* (quails);
 - 6.10.4 *Cracidae* (chachalacas, guans, curassows); and
 - 6.10.5 *Megapodidae* (brush turkeys, malleefowl);
- but excludes guineafowl.
- 6.11. **secure enclosure** means an enclosure that is designed and constructed to adequately confine the animals therein so that they cannot escape by way of jumping, digging, burrowing or climbing, including escaping through openings, breaking down walls or fences and, in the case of prescribed fowl, must be fully enclosed with a roof; and

- 6.12. **urban area** means, subject to any resolution of the Council to the contrary, any land within the Council district that is outside of the *Rural Living, Primary Production* or *Deferred Urban* zones as delineated within the *Kangaroo Island Development Plan* (as amended).

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 unless that person has been issued with a certificate of dispensation for bee keeping and is keeping the bees in accordance with any conditions attached to that certificate.
- 7.2. For the avoidance of doubt, a certificate of dispensation is not required for transporting hives to premises in an urban area.

PART 3 – KEEPING FOWL

8. Keeping Fowl in Urban Areas

- 8.1. A person must not, without a certificate of dispensation, keep or cause, suffer or permit to be kept, guineafowl on premises within an urban area.
- 8.2. 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 where the person has been issued with a certificate of dispensation for keeping prescribed fowl on the premises and is keeping the prescribed fowl in accordance with any conditions attaching to that certificate.
- 8.3. A person may, without a certificate of dispensation, 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:
- 8.3.3 in the case of a male hatchling, it is not kept on the premises for a period greater than 4 months or after the point the hatchling reaches sexual maturity and begins to crow (whichever occurs first); and
- 8.3.4 the number of prescribed fowl kept on the premises is in accordance with clause 9 of this By-law.
- 8.4. Any person who keeps fowl on premises in an urban area must ensure the fowl are confined to the premises and are not permitted to roam freely from the premises.
- 8.5. For the purpose of complying with the obligations under subclause 8.4, all fowl kept on premises in an urban area must be contained in a secure enclosure that

complies with the requirements under subclause 8.6 at all times except for when the fowl are being permitted to free-range on the premises in the presence of the owner.

8.6. A secure enclosure for fowl must:

8.6.1 comprise:

- (a) secure walls or fencing to prevent the fowl from escaping; and
- (b) secure wall to floor connection, or walls embedded into the ground that will withstand burrowing and digging and prevent the entry of vermin; and
- (c) secure roof or covering to prevent the escape of fowl and ingress of predators; and
- (d) shelter and roosting areas for the fowl; and

8.6.2 not be located closer than twelve (12) metres from any dwelling, other than the dwelling on the premises on which the fowl is being kept.

9. **Maximum Number of Fowl to be Kept on Premises**

9.1. Subject to 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 four (4) months before the population of the flock 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 where the person has been issued with a certificate of dispensation for keeping livestock on the premises and is keeping the livestock in accordance with any conditions attaching to that certificate.
- 10.2. Any person who keeps livestock on premises in an urban area must ensure the livestock are confined to the premises and are not permitted to roam freely from the premises.
- 10.3. For the purpose of complying with the obligations under subclause 10.2, all livestock kept on premises in an urban area must be contained in a secure enclosure that complies with the requirements under subclause 10.4.
- 10.4. A secure enclosure for livestock must:
- 10.4.1 comprise:
- (a) fencing of an appropriate height that is adequate to prevent the livestock from escaping;
 - (b) a shelter area for the livestock; and
 - (c) secure wall to floor connection, or walls embedded into the ground that will withstand burrowing and digging and prevent the entry of vermin; and
- 10.4.2 not be located closer than twelve (12) metres from any dwelling, other than the dwelling on the premises on which the livestock is being kept.

PART 5 – ADDITIONAL REQUIREMENT FOR KEEPING LIVESTOCK & FOWL

11. Additional Management Requirements for Livestock and Fowl

A person who is keeping or causing, suffering or permitting to be kept, livestock or fowl on premises in an urban area must ensure that at all times:

- 11.1. the enclosure in which the livestock or fowl is kept is cleaned at least weekly and as otherwise necessary to prevent the omission of offensive odours;
- 11.2. manure and other wastes generated by the livestock or fowl is collected at least weekly and otherwise as regularly as necessary to prevent the omission of offensive odours from the premises and/or the breeding of flies thereon and, that until such time as the manure or waste is otherwise disposed of from the premises, that it is kept in a receptacle or composter that is impervious to flies;
- 11.3. feed is stored in vermin proof metal or plastic containers with close fitting lids; and
- 11.4. any deceased livestock or fowl are removed from the premises and disposed of in a lawful manner as soon as practicable after death.

PART 6 – MISCELLANEOUS

12. Certificate of Dispensation

- 12.1. Any person seeking a certificate of dispensation must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 12.2. An application under subclause 12.1 must include:
- 12.2.1 details of the premises upon which the bees, livestock or fowl are to be kept; and
 - 12.2.2 in the case of livestock and/or fowl, a description of each animal proposed to be kept, including:
 - (a) the type of animal;
 - (b) the sex of the animal; and
 - (c) a description of the animal including any distinctive markings or features; and
 - 12.2.3 the number of fowl and/or livestock proposed to be kept on the premises; and
 - 12.2.4 the person(s) responsible for the livestock and/or fowl.
- 12.3. The Council may vary or revoke any conditions imposed on a certificate of dispensation or impose new conditions by notice in writing to the person to whom the certificate was issued.
- 12.4. Failure to keep livestock, bees or fowl in accordance with the conditions that attach to a certificate of dispensation is an offence under this By-law.

13. Orders

- 13.1. If a person engages in conduct that is a contravention of this By-law, an authorised person may 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 under this clause.
- 13.3. 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.
- 13.4. However, an authorised person may not use force against a person under this section.

14. Exemptions

A requirement of this By-law will not apply to the keeping of livestock or fowl where the Council has granted permission to a person (or class of persons) to keep that livestock or fowl contrary to that requirement.

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.



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Andrew Boardman
Chief Executive Officer