

**DISTRICT COUNCIL OF LOXTON WAIKERIE****CATS BY-LAW 2017****By-law No. 6 of 2017**

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

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PART 1 - PRELIMINARY

1. Title

This By-law may be cited as the *Cats By-law 2017* and is By-law No. 6 of the District Council of Loxton Waikerie.

2. Authorising law

This By-law is made under section 90(5) 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 reduce the incidence of public and environmental nuisance caused by cats;
- 3.3. to protect the comfort and safety of members of the public; 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. Cats By-law No. 6 - 2010.²
- 4.2. This By-law will expire 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. This By-law applies throughout the Council's area.

6. Interpretation

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

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. except for the purposes of clause 8, **cat** means an animal of the species *felis catus* which is three months of age or has lost its juvenile canine teeth;

- 6.3. **Council** means the District Council of Loxton Waikerie;
- 6.4. **keep** includes the provision of food or shelter;
- 6.5. **nuisance** means:
- 6.5.1. unreasonably interfering with the peace, comfort or convenience of a person, including but not limited to a cat(s) displaying aggressive nature or creating unpleasant noise or odour;
 - 6.5.2. acting in a manner that is injurious to a person's real or personal property;
 - 6.5.3. obnoxious, offensive or hazardous to health; or
 - 6.5.4. wandering and/or defecating onto land without the consent of the owner or occupier of the land.
- 6.6. **premises** includes land whether used or occupied for domestic or non-domestic purposes and any part thereof.

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-law is made.

PART 2 – LIMITS ON CAT NUMBERS

7. Limits on cat numbers

- 7.1. Subject to this clause 7, the limit on the number of cats to be kept on any premises is 2 cats.
- 7.2. Subject to this clause 7, no person shall, without the permission of the Council, keep or cause suffer or permit to be kept any cat on any premises where the number of cats thereon exceeds the limit prescribed by subclause 7.1 of this By-law unless the Council has exempted the premises from compliance with those clauses by granting them an exemption in writing.
- 7.3. The Limit prescribed by subclause 7.1 does not apply to premises comprising a business involving the keeping of cats provided that the business is operating in accordance with all required approvals and consents.
- 7.4. Permission under subclause 7.3 may be given if the Council is satisfied that:
- 7.4.1. no insanitary condition exists on the premises as a result of the keeping of cats; and
 - 7.4.2. a nuisance is not caused to any neighbour as a result of the keeping of cats on the premises.
- 7.5. No cats shall be kept on any premises where:
- 7.5.1. an insanitary condition exists on the premises as a result of the keeping of a cat; and

- 7.5.2. a nuisance is caused to any neighbour as a result of the keeping of a cat on the premises.

PART 3 –CAT CONTROLS

8. Cats not to be a nuisance

- 8.1. An owner or occupier of premises is guilty of an offence if a cat (or cats) kept or allowed to remain on the premises causes a nuisance.
- 8.2. For the purposes of subclause 8.1, **cat** means an animal of the species *felis catus*.

9. Registration of cats

- 9.1. Where the Council has resolved to adopt a registration scheme for cats, a person must not keep a cat in the Council's area for more than 14 days unless the cat is registered in accordance with this By-law.
- 9.2. An application for registration of a cat must:
- 9.2.1. be made to the Council in the manner and form prescribed by Council (if any); and
 - 9.2.2. be accompanied by the fee (if any) prescribed by the Council; and
 - 9.2.3. nominate a person of or over sixteen (16) years of age who consents to the cat being registered in his or her name; and
 - 9.2.4. identify with reference to an address the premises at which the cat is kept.
- 9.3. Registration under this By-law 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.
- 9.4. Subclause 9.1 does not apply to the operators of a business comprising a cattery provided that the business is operating in accordance with all required approvals and consents.

PART 4 - ENFORCEMENT

10. Orders

- 10.1. If a person engages in conduct that is a contravention of this By-law, an authorised person may order that person:
- 10.1.1. if the conduct is still continuing – to stop the conduct; and
 - 10.1.2. whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 10.2. A person must comply with an order under this clause.

- 10.3. 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.

- 10.4. 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 cats on that person's premises; or
- take the necessary steps to mitigate a nuisance caused by howling cats.

This by-law was duly made and passed at a meeting of the District Council of Loxton Waikerie held on the 21 July 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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PETER ACKLAND
Chief Executive Officer

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE of Level 6, 19 Gilles Street, Adelaide in the State of South Australia, being a legal practitioner within the meaning of the *Legal Practitioners Act 1981*, declare that I have examined the following by-law:

District Council of Loxton Waikerie Council

By-law No 6 – Cats By-Law 2017

A By-law to limit the number of cats kept on premises and for the management and control of cats in the Council area;

and do certify that in my opinion:

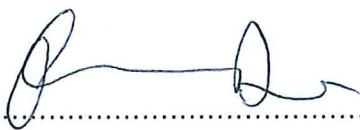
District Council of Loxton Waikerie Council

has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999: sections 238, 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(e) and 246(3)(f); and
Dog and Cat Management Act 1995: section 90;*

and the by-law is not in conflict with the *Local Government Act 1999*.

DATED the 7th day of July 2017



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Cimon Burke, Legal Practitioner