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DISTRICT COUNCIL OF LOXTON WAIKERIE

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

By-law No. 1 of 2010—Permits and Penalties By-law

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

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Permits and Penalties By-law 2010 and is By-law No. 1 of the District Council of Loxton Waikerie.

2. *Authorising Law*

This by-law is made under section 246 of the Act and sections 667 (1) 3.LIV and 9.XVI of the Local Government Act 1934, as amended.

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 construction 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 operation¹:

4.1.1 By-law No. 1—Permits and Penalties 2003.²

4.2 This by-law will expire on 1 January 2018.³

Note:

¹ Generally a by-law comes into operation four 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 *gazetted* of the by-law.

5. *Application*

5.1 This by-law applies throughout the Council area.

6. *Interpretation*

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

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *Council* means District Council of Loxton Waikerie;
- 6.3 *person* includes a body corporate.

Note:

Section 14 of the 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.

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 of the Council, granted in writing prior to the act, event or activity to which it relates.

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 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 must comply with every such condition.
- 8.4 The Council may suspend or revoke a grant of permission 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 is liable to a maximum penalty being the maximum penalty referred to in the Act that may be fixed by a by-law 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 currently \$750, and the maximum penalty for every day in which a breach of a continuing nature continues is currently \$50—see section 246 (3) (g) of the Act.

This by-law was duly made and passed at a meeting of the District Council of Loxton Waikerie held on 20 August 2010, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. ACKLAND, Chief Executive Officer

DISTRICT COUNCIL OF LOXTON WAIKERIE

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

By-law No. 2 of 2010—Local Government Land By-Law

A by-law to regulate the access to and use of Local Government Land (other than roads), and certain public places.

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Local Government Land By-law 2010 and is By-law No. 2 of the District Council of Loxton Waikerie.

2. *Authorising Law*

This by-law is made under sections 238 and 246 of the Act and sections 667 (1) 4.1 and 9.XVI of the Local Government Act 1934, as amended.

3. *Purpose*

The objectives of this by-law are to regulate the access to and use of Local Government Land (other than roads), 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 operation¹:

4.1.1 By-law No. 3—Local Government Land 2003.²4.2 This by-law will expire on 1 January 2018.³

Note:

¹ Generally a by-law comes into operation four 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 *gazetted* of the by-law.

5. *Application*

- 5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.
- 5.2 Subject to Clause 5.3, this by-law applies throughout the Council area.
- 5.3 Clauses 9.3, 9.9.6, 9.24.3, 10.3 and 10.9.3 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. *Interpretation*

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;
- 6.3 *boat* includes a raft, pontoon, houseboat or personal watercraft or other similar device;
- 6.4 *camp* includes setting up a camp, or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 6.5 *children's playground* means an enclosed area in which there is equipment or other devices installed for the purpose of children's play (or within 3 m of such devices if there is no enclosed area);
- 6.6 *Council* means District Council of Loxton Waikerie;
- 6.7 *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;
- 6.8 *effective control* means a person exercising effective control of an animal either:
 - 6.8.1 by means of a physical restraint; or
 - 6.8.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.9 *emergency worker* has the same meaning as in the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999;
- 6.10 *foreshore* means land extending from the edge of any navigable waterway or body of water in the Council's area to the nearest road or section boundary or for a distance of 50 m (whichever is the lesser);
- 6.11 *funeral ceremony* means a ceremony only (i.e. a memorial service) and does not include a burial;
- 6.12 *liquor* has the same meaning as in the Liquor Licensing Act 1997;
- 6.13 *Local Government Land* means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.14 *offensive* includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.15 *open container* means a container which:
 - 6.15.1 after the contents of the container have been sealed at the time of manufacture:
 - (a) being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
 - (b) being a can, it has been opened or punctured;

- (c) being a cask, it has had its tap placed in a position to allow it to be used;
- (d) 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
- (e) is a flask, glass, mug or other container able to contain liquid.

6.16 *tobacco product* has the same meaning as in the Tobacco Products Regulation Act 1997;

6.17 *vehicle* has the same meaning as in the Road Traffic Act 1961;

6.18 *waters* includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council.

Note:

Section 14 of the Interpretation Act 1915, 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

Note:

Pursuant to section 238 (7) 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 must erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the by-law applies.

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 Clause 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.

PART 3—USE OF LOCAL GOVERNMENT LAND

9. Activities Requiring Permission

Note:

Pursuant to section 238 (7) 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 must 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 on Local Government Land:

9.1 Advertising

Subject to Clause 14.2, display, paint or erect any sign or hoarding for the purpose of commercial advertising or any other purpose.

9.2 Aircraft

Land any aircraft on, or take off any aircraft from the land.

9.3 Alcohol

9.3.1 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 determined this paragraph applies.

9.3.2 Carry or be in possession of any liquor in an open container of Local Government Land comprising parks and reserves to which the Council has determined this paragraph applies.

9.4 Amplification

Use an amplifier or other mechanical or electrical device for the purpose of broadcasting sound, or magnifying sound, to an audience.

9.5 Animals

9.5.1 On Local Government Land:

- (a) cause or allow an animal to stray onto, move over, graze or be left unattended on Local Government Land; or
- (b) cause or allow an animal to enter, swim, bathe or remain in any waters located on Local Government Land; or
- (c) lead, herd or exercise an 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, and provided that the animal or animals are under effective control.

9.6 Annoyance

Do anything likely to offend or unreasonably interfere with any other person:

- (a) using that land; or
 - (b) occupying nearby premises,
- by making a noise or creating a disturbance.

9.7 Attachments

Subject to Clause 14.2, attach anything to a tree, plant, equipment, fence, post, structure or fixture on Local Government Land.

9.8 Bees

Place a hive of bees on such land, or allow it to remain thereon.

9.9 Boats and Mooring

Subject to the provisions of the Harbors and Navigation Act 1993:

- 9.9.1 launch or retrieve a boat or other object in or from any waters except in an area Council has set aside for that purpose or, in an area identified for that purpose by any sign thereon and, in accordance with any conditions contained in such a sign;
- 9.9.2 launch or retrieve a boat other than from a boat ramp constructed for that purpose;
- 9.9.3 propel, float or otherwise use a boat on or in any waters;
- 9.9.4 hire out a boat or otherwise use a boat for commercial purposes;
- 9.9.5 moor a boat on any waters or to a pontoon attached to Local Government Land unless the boat is moored in an area that has been established and/or set aside by the Council for that purpose;
- 9.9.6 moor a boat on any waters or to Local Government Land to which Council has determined this clause applies; or
- 9.9.7 obstruct any boat or any mooring place on Local Government Land or access to any boat (whether that access be by water or land).

9.10 Bridge Jumping

Jump or dive from a bridge on Local Government Land.

9.11 Buildings

Use a building, or structure on Local Government Land for a purpose other than its intended purpose.

9.12 Burials and Memorials

- 9.12.1 Bury, inter or spread the ashes of any human or animal remains.
- 9.12.2 Erect any memorial.

9.13 *Camping and Tents*

- 9.13.1 Erect a tent, booth, marquee or other structure of calico, canvas, plastic or similar material as a place of habitation.
- 9.13.2 Subject to Clause 9.13.3, camp or sleep overnight on any Local Government Land for more than seven consecutive nights in a 21 day period commencing from the first night that the person camps or sleeps overnight.
- 9.13.3 A person who camps or sleeps overnight in a caravan park on Local Government Land, the proprietor of which has been given permission to operate the caravan park on that land is exempt from the application of Clause 9.13.2.

9.14 *Canvassing*

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

9.15 *Defacing Property*

Deface, paint, spray, write, cut names, letters or make marks on any tree, rock, gate, fence, building, sign, bridge or property of the Council.

9.16 *Distribution*

Subject to Clause 14.2, place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any hand bill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person.

9.17 *Donations*

Ask for or receive or indicate that he or she desires a donation of money or any other thing.

9.18 *Entertainment and Busking*

- 9.18.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.
- 9.18.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

9.19 *Equipment*

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.

9.20 *Fires*

Subject to the Fire and Emergency Services Act 2005 light a fire except:

- 9.20.1 in a place provided by the Council for that purpose; or
- 9.20.2 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 4 m.

9.21 *Fireworks*

Ignite or discharge any fireworks.

9.22 *Flora and Fauna*

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

- 9.22.1 damage, pick, disturb, interfere with or remove any plant or flower thereon;
- 9.22.2 cause or allow an animal to stand or walk on any flower bed or garden plot;
- 9.22.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 9.22.4 take, interfere with, tease, harm or disturb any animal, bird or marine creature or the eggs or young of any animal, bird or marine creature;
- 9.22.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;
- 9.22.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;

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

9.22.8 burn any timber or dead wood.

9.23 *Foreshore*

On Local Government Land comprising the foreshore:

- 9.23.1 drive or propel a vehicle onto or from the foreshore other than by a ramp or thoroughfare constructed or set aside by the Council for that purpose;
- 9.23.2 drive or propel a vehicle on the foreshore except on an area or road that is constructed or set aside by the Council for that purpose;
- 9.23.3 launch or retrieve a boat from the foreshore without using a boat ramp or thoroughfare constructed or set aside by the Council for that purpose;
- 9.23.4 allow a vehicle to remain stationary on a boat ramp longer than is necessary to launch or retrieve a boat; or
- 9.23.5 hire out a boat on or from the foreshore.

9.24 *Games*

- 9.24.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play.
- 9.24.2 Play or practise any game which involves kicking, hitting or throwing a ball or other object on Local Government Land which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.
- 9.24.3 Play or practise the game of golf on Local Government Land to which the Council has resolved this subclause applies.

9.25 *Litter*

- 9.25.1 Throw, cast, place, deposit or leave any rubbish, dirt or refuse of any kind whatsoever except in a garbage container provided for that purpose.
- 9.25.2 Deposit any soil, clay, stone, gravel, green waste or other putrescible waste or any other matter.

9.26 *Marine Life*

Introduce any marine life to any waters located on Local Government Land.

9.27 *Model Aircraft, Boats and Cars*

Fly or operate a model aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land.

9.28 *Overhanging Articles or Displaying Personal Items*

Suspend or hang an article or object from a building, verandah, pergola, post or other structure on Local Government Land where it might present a nuisance or danger to a person using the land or be of an unsightly nature.

9.29 *Playing Area*

Use or occupy a playing area:

- 9.29.1 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);
- 9.29.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 9.29.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area.

9.30 *Pontoons*

Install or maintain a pontoon or jetty in any waters.

- 9.31 *Posting of Bills*
Subject to Clause 14.2, post or allow or cause to be posted any bills, advertisements or other papers or items on a building or structure on Local Government Land or in a public place.
- 9.32 *Preaching*
Preach, harangue or solicit for religious purposes.
- 9.33 *Ropes*
Place a buoy, cable, chain, hawser, rope or net in or across any waters.
- 9.34 *Swimming*
Subject to the provisions of the Harbors and Navigation Act 1993, swim in, bathe or enter any waters except:
- 9.34.1 in an area which the Council has determined may be used for such purposes; and
- 9.34.2 in accordance with any conditions that the Council may have determined by resolution apply to such use.
- 9.35 *Trading*
Sell, buy, offer or display anything for sale.
- 9.36 *Vehicles*
- 9.36.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.
- 9.36.2 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.
- 9.36.3 Repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown.
- 9.37 *Weddings, Functions and Special Events*
- 9.37.1 Hold, conduct or participate in a marriage ceremony, funeral or special event.
- 9.37.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral or special event.
- 9.37.3 Hold or conduct any filming where the filming is for a commercial purpose.
10. *Prohibited Activities*
A person must not do any of the following on Local Government Land:
- 10.1 *Animals*
- 10.1.1 Cause or allow any animal to enter, swim, bathe or remain in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming.
- 10.1.2 Cause or allow an animal to damage a flowerbed, garden plot, tree, lawn or like thing or place.
- 10.1.3 Lead, herd or exercise a horse in such manner as to cause a nuisance or endanger the safety of a person.
- 10.2 *Equipment*
Use any item of equipment, facilities or property belonging to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.
- 10.3 *Fishing*
Fish in any waters to which the Council has determined this subclause applies.
- 10.4 *Glass*
Wilfully break any glass, china or other brittle material.
- 10.5 *Interference with Land*
Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:
- 10.5.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 10.5.2 erecting or installing a structure in, on, across, under or over the land;
- 10.5.3 changing or interfering with the construction, arrangement or materials of the land;
- 10.5.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 10.5.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.
- 10.6 *Interference with Permitted Use*
Interrupt, disrupt or interfere with any other person's use of Local Government Land which is permitted or for which permission has been granted.
- 10.7 *Nuisance*
Behave in such a manner as to cause discomfort, inconvenience, annoyance or offence to any other person.
- 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 *Rubbish*
- 10.9.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on Local Government Land.
- 10.9.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, glass, containers or packaging) that has been discarded in a Council rubbish bin on Local Government Land.
- 10.10 *Smoking*
Smoke, hold or otherwise have control over an ignited tobacco product:
- 10.10.1 in any building;
- 10.10.2 in any children's playground; or
- 10.10.3 on any land to which the Council has determined this subclause applies.
- 10.11 *Solicitation*
Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.
- 10.12 *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.
- 10.13 *Toilets*
In any public convenience on Local Government Land:
- 10.13.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;
- 10.13.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;
- 10.13.3 use it for a purpose for which it was not designed or constructed;
- 10.13.4 enter a toilet that is set aside for use of the opposite sex except:
- (a) where a child under the age of eight years is accompanied by an adult parent or guardian of that sex; or
- (b) to provide assistance to a disabled person; or
- (c) in the case of a genuine emergency.
- 10.14 *Waste*
- 10.14.1 Deposit or leave thereon:
- (a) anything obnoxious or offensive;

- (b) any offal, dead animal, dung or filth; or
 (c) any mineral, mineral waste, industrial waste or bi-products.
- 10.14.2 Foul or pollute any waters situated thereon.
- 10.14.3 Deposit any rubbish other than in receptacles provided by the Council for that purpose.
- 10.14.4 Deposit in a receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

PART 4—ENFORCEMENT

11. Directions

- 11.1 A person on Local Government Land must comply with a reasonable direction from an authorised person relating to:
- 11.1.1 that person's use of the land;
- 11.1.2 that person's conduct and behaviour on the land;
- 11.1.3 that person's safety on the land; or
- 11.1.4 the safety and enjoyment of other persons on the land.
- 11.2 A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this by-law must immediately comply with a direction of an authorised person to leave that part of Local Government Land.

12. 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 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.

13. 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 no person is in charge of, or apparently in charge of, the animal or object.

PART 5—MISCELLANEOUS

14. Exemptions

- 14.1 The restrictions in this by-law do not apply to a Police Officer, Emergency Worker, Council Officer or employee acting in the course 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.
- 14.2 The restrictions in Clauses 9.1, 9.7, 9.16 and 9.31 of this by-law do not apply to electoral matter authorised by a candidate and which is:
- 14.2.1 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

14.2.2 related to an election under the Act or the Local Government (Elections) Act 1999 and occurs 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

14.2.3 related to, and occurs during the course of and for the purpose of a referendum.

This by-law was duly made and passed at a meeting of the District Council of Loxton Waikerie held on 20 August 2010, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. ACKLAND, Chief Executive Officer

DISTRICT COUNCIL OF LOXTON WAIKERIE

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

By-law No. 3 of 2010—Roads By-Law

A by-law to regulate certain activities on roads in the Council area.

PART 1—PRELIMINARY

1. Title

This by-law may be cited as the Roads By-law 2010 and is By-law No. 3 of the District Council of Loxton Waikerie.

2. Authorising Law

This by-law is made under sections 239 and 246 of the Act, Regulation 13 (1) (c) of the Local Government (Implementation) Regulations 1999 and sections 667 (1), 4.I, 5.VII, 7.II and 9.XVI of the Local Government Act 1934, as amended.

3. Purpose

The objectives of this by-law are to manage and regulate the prescribed uses of roads in the Council 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 2003.²

4.2 This by-law will expire on 1 January 2018.³

Note:

¹ Generally a by-law comes into operation four 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 *gazetted* of the by-law.

5. Application

5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.

5.2 This by-law applies throughout the Council area.

6. Interpretation

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 or a cat;
- 6.3 *camp* includes setting up a camp, or causing a tent, caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;

- 6.4 *Council* means District Council of Loxton Waikerie;
- 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 *electoral matter* has the same meaning as in the Electoral Act 1995, provided that such electoral matter is not capable of causing physical damage or injury to a person within its immediate vicinity;
- 6.7 *emergency worker* has the same meaning as in the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 1999;
- 6.8 *vehicle* has the same meaning as in the Road Traffic Act 1961.

Note:

Section 14 of the 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 was made.

PART 2—USE OF ROADS

7. Activities Requiring Permission

A person must not do any of the following activities on a road without the permission of the Council:

7.1 Amplification

Use an amplifier or other device whether mechanical or electrical for the purpose of broadcasting announcements or advertisements.

7.2 Animals

7.2.1 Cause or allow an animal to stray onto, move over, or graze on a road except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided the animal or animals are under effective control.

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

7.3 Camping and Tents

7.3.1 Erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

7.3.2 Camp or sleep overnight.

7.4 Donations

Ask for or receive or indicate a desire for a donation of money or any other thing, or otherwise solicit for religious or charitable purposes.

7.5 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 or footway, water-channel, or watercourse in a road.

7.6 Posting of Bills

Subject to Clause 11.2, post or allow or cause to be posted any bills, advertisements, or other papers or items on a building or structure on a road.

7.7 Preaching

Preach, harangue or solicit for religious purposes.

7.8 Public Exhibitions and Displays

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

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

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

7.8.4 Cause any public exhibitions or displays.

7.9 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.

Note:

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

PART 3—ENFORCEMENT

8. 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 a direction of an authorised person to leave that part of the road.

9. 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 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;
- remove an object or structure blocking a footpath;
- remove bills posted on a structure on a road;
- dismantle and remove a tent from a road.

10. Removal of Animals and Objects

An authorised person may 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.

PART 4—MISCELLANEOUS

11. Exemptions

11.1 The restrictions in this by-law do not apply to a Police Officer, Emergency Worker, Council Officer or employee acting in the course 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.

11.2 The restrictions in Clause 7.6 of this by-law do not apply to electoral matter authorised by a candidate and which is:

- 11.2.1 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
- 11.2.2 related to an election under the Act or the Local Government (Elections) Act 1999 and occurs 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
- 11.2.3 related to, and occurs during the course of and for the purpose of a referendum.

This by-law was duly made and passed at a meeting of the District Council of Loxton Waikerie held on 20 August 2010, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. ACKLAND, Chief Executive Officer

DISTRICT COUNCIL OF LOXTON WAIKERIE

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

By-law No. 4 of 2010—Moveable Signs By-Law

A by-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs.

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Moveable Signs By-law 2010 and is By-law No. 4 of the District Council of Loxton Waikerie.

2. *Authorising Law*

This by-law is made under sections 239 and 246 of the Act, and sections 667 (1), 4.1 and 9.XVI of the Local Government Act 1934, as amended.

3. *Purpose*

The objectives of this by-law is to set standards for moveable signs on roads:

- 3.1 to protect the comfort and safety of road users and members of the public;
- 3.2 to enhance the amenity of roads and surrounding parts of the Council area;
- 3.3 to prevent nuisances occurring on roads;
- 3.4 to prevent unreasonable interference with the use of a road; 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 operation¹:

4.1.1 By-law No. 2—Moveable Signs 2003.²

4.2 This By-law will expire on 1 January 2018.³

Note:

¹ Generally a by-law comes into operation four 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 *gazetted* of the By-law.

5. *Application*

5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.

5.2 This by-law applies throughout the Council area.

6. *Interpretation*

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

- 6.1 *Act* means the Local Government Act 1999;
- 6.2 *business premises* means premises from which a business is being conducted;
- 6.3 *Council* means District Council of Loxton Waikerie;
- 6.4 *footpath area* means:
 - 6.4.1 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;
 - 6.4.2 a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles;
- 6.5 *vehicle* has the same meaning as in the Road Traffic Act 1961.

Note:

Section 14 of the 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 was made.

PART 2—MOVEABLE SIGNS

7. *Construction and Design*

A moveable sign placed on a footpath area must:

- 7.1 be of kind known as an 'A' frame or sandwich board sign, an inverted 'T' sign, or a flat sign or, with the permission of the Council, a sign of some other kind;
- 7.2 be designed, constructed and maintained in good quality and condition;
- 7.3 be of strong construction and sufficiently stable or securely fixed so as to keep its position in adverse weather conditions;
- 7.4 have no sharp or jagged edges or corners;
- 7.5 not be unsightly or offensive in appearance or content;
- 7.6 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;
- 7.7 not exceed 900 mm in height, 600 mm in width and 600 mm in depth;
- 7.8 in the case of an 'A' frame or sandwich board sign:
 - 7.8.1 be hinged or joined at the top;
 - 7.8.2 be of such construction that its sides are securely fixed or locked in position when erected; and
 - 7.8.3 not have a base area in excess of 0.6 m²;
- 7.9 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; or
- 7.10 not rotate or contain flashing parts.

8. *Placement*

A moveable sign must not be:

- 8.1 placed on any part of a road apart from the footpath area;
- 8.2 placed on a footpath that is less than 2.5 m wide;
- 8.3 placed closer than 2 m from another structure, fixed object, tree, bush or plant;
- 8.4 placed within 1 m of an entrance to any business premises;
- 8.5 placed on the sealed part of a footpath, if there is an unsealed part on which the sign can be placed in accordance with this by-law;
- 8.6 placed so as to interfere with the reasonable movement of persons or vehicles using the footpath or road in the vicinity of where the moveable sign is placed;
- 8.7 placed closer than 1.5 m to the kerb (or, if there is no kerb, to the edge of the carriageway of a road or the shoulder of the road, whichever is the greater);
- 8.8 placed on a landscaped area, other than landscaping that comprises only lawn;
- 8.9 placed within 6 m of an intersection of two or more roads;
- 8.10 placed on a footpath area with a minimum height clearance from a structure above it of less than 2 m;
- 8.11 placed on a designated parking area or within 1 m of an entrance to premises;
- 8.12 tied, fixed or attached to, or placed closer than 1 m to any other structure, object or thing (including another moveable sign);
- 8.13 displayed during the hours of darkness unless it is clearly lit; or
- 8.14 placed in such a position or in such circumstances that the safety of a user of the footpath area or road is at risk.

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 one moveable sign for each business premises to be displayed on the footpath area of a road at any time.
- 10.2 A person must not, without the Council's permission, display a moveable sign on or attached to or adjacent to a vehicle that is parked on Local Government Land (including roads) primarily for the purpose of advertising or offering for sale a product (including the vehicle) or business to which the sign relates.
- 10.3 A person must not cause or allow a moveable sign to be placed on a footpath area unless:
- 10.3.1 it only displays material which advertises a business being conducted on premises adjacent to the moveable sign or the goods and services available from that business (but no brand name of a product shall be displayed unless the name of the business is also displayed on the sign); and
- 10.3.2 the business premises to which it relates is open to the public.
- 10.4 If in the opinion of the Council a footpath area is unsafe for a moveable sign to be displayed, the Council may prohibit or restrict the display of a moveable sign on such conditions as the Council thinks fit.

11. *Exemptions*

- 11.1 Subclauses 11.1 and 11.3 of this by-law do not apply to a moveable sign which:
- 11.1.1 advertises a garage sale taking place from residential premises;
- 11.1.2 is a directional sign to an event run by a community organisation or charitable body;
- 11.2 Subclauses 11.1 and 11.3 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.
- 11.3 A requirement of this by-law will not apply where the Council has granted permission for the moveable sign to be displayed contrary to that requirement.

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;
- related to an election held under this Act or the Local Government (Elections) Act 1999 and is displayed 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
- the sign is of a prescribed class.

PART 3—ENFORCEMENT

12. *Removal of Moveable Signs*

- 12.1 A person must immediately comply with the order of an authorised person to remove a moveable sign made pursuant to section 227 (1) of the Act.
- 12.2 The owner of or other person entitled 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 any reasonable costs incurred by the Council in removing, storing, and/or disposing of the moveable sign before being entitled to recover the moveable sign.
- 12.3 The owner, or 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 opinion of an authorised person, and notwithstanding 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 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.

This by-law was duly made and passed at a meeting of the District Council of Loxton Waikerie held on 20 August 2010, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. ACKLAND, Chief Executive Officer

DISTRICT COUNCIL OF LOXTON WAIKERIE

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

By-law No. 5 of 2010—Dogs By-Law

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

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Dog By-law 2010 and is By-law No. 5 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, sections 238 and 246 of the Act and sections 667 (1), 9.XVI of the Local Government Act 1934, as amended.

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;
- 3.2 to promote responsible dog ownership;
- 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 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 2003.²

4.2 This by-law will expire on 1 January 2018.³

Note:

¹ Generally a by-law comes into operation four 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 *gazetted* of the by-law.

5. *Application*

- 5.1 This by-law operates subject to the Council's Permits and Penalties By-law 2010.
- 5.2 Subject to Clause 5.3, this by-law applies throughout the Council area.
- 5.3 Clauses 8.1, 9.1.1 and 10 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. Interpretation

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 *children's playground* means an enclosed area in which there is equipment or other installed devices for the purpose of children's play (or within 3 m of such devices if there is no enclosed area);
- 6.4 *Council* means District Council of Loxton Waikerie;
- 6.5 *detached dwelling*, *row dwelling* and *semi-detached dwelling* have the same meanings as in the Development Act 1993;
- 6.6 *dog* (except for in Clause 7.1) has the same meaning as in the Dog and Cat Management Act 1995;
- 6.7 *effective control* means a person exercising effective control of a dog either:
 - 6.7.1 by means of a physical restraint; or
 - 6.7.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;
- 6.8 *keep* includes the provision of food or shelter;
- 6.9 *premises* includes land, whether used or occupied for domestic or non-domestic purposes, except an approved kennel establishment;
- 6.10 *small dwelling* means a self-contained residence that is:
 - 6.10.1 a residential flat building;
 - 6.10.2 contained in a separate strata unit;
 - 6.10.3 on an allotment less than 400 m² in area; or
 - 6.10.4 without a secure yard of at least 60 m² in area;
- 6.11 *working dog* means a dog used principally for droving or tending livestock.

Note:

Section 14 of the 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 was made.

PART 2—LIMITS ON DOG NUMBERS

7. Limits on Dog Numbers in Private Premises

- 7.1 Subject to Clauses 7.3 and 7.5, a person must not, without the Council's permission keep:
 - 7.1.1 more than one dog (unless working dogs) in a small dwelling; or
 - 7.1.2 more than two dogs in premises other than a small dwelling.
- 7.2 For the purposes of Clause 7.1, 'dog' means a dog that is three months of age or older or, a dog that has lost its juvenile teeth.
- 7.3 Clause 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 business involving dogs provided that the business is registered in accordance with the Dog and Cat Management Act 1995.
- 7.4 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.
- 7.5 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—DOG CONTROLS

8. Dog Exercise Areas

- 8.1 A person may enter a public place or part of Local Government Land to which the Council has determined this Clause applies, for the purpose of exercising a dog under his or her effective control.
- 8.2 A person entering a dog exercise area designated by the Council must ensure that any dog under that person's control, charge or authority is under effective control at all times.

9. Dog on Leash Areas

- 9.1 A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an accredited guide dog, hearing dog or disability dog that is required to remain off-lead in order to fulfil its functions) to be or remain:
 - 9.1.1 on Local Government Land or public place to which the Council has resolved that this subclause applies; and
 - 9.1.2 on any park or reserve during times when organised sport is being played;

unless the dog is secured by a strong leash not exceeding 2 m in length which is either tethered securely to a fixed object capable of securing the dog or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

10. Dog Prohibited Areas

A person must not allow a dog under that person's control, charge or authority (except an accredited guide dog, hearing dog or disability dog) to enter or remain on Local Government Land or public place to which the Council has determined that this subclause 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—ENFORCEMENT

12. Orders

- 12.1 If a person engages in conduct that is in contravention of this by-law, an authorised person may order that person:
 - 12.1.1 if the conduct is still continuing—to stop the conduct; and
 - 12.1.2 whether or not the conduct is still continuing—to take specified action to remedy the contravention.
- 12.2 A person must comply with an order under this Clause.
- 12.3 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 recover its costs of any action so taken from the person to whom the order was directed.
- 12.4 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 District Council of Loxton Waikerie held on 20 August 2010, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. ACKLAND, Chief Executive Officer

DISTRICT COUNCIL OF LOXTON WAIKERIE
BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999

By-law No. 6 of 2010—Cats By-Law

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

PART 1—PRELIMINARY

1. *Title*

This by-law may be cited as the Cats By-law 2010 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, section 246 of the Act and sections 667 (1), 4.I and 9.XVI of the Local Government Act 1934, as amended.

3. *Purpose*

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

- 3.1 to promote responsible cat ownership;
- 3.2 to reduce the incidence of the 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. *Expiry*

- 4.1 This by-law will expire on 1 January 2018.¹

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 2010.
- 5.2 This by-law applies throughout the Council area.

6. *Interpretation*

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 by a relevant authority, pursuant to the Development Act 1993, for the keeping of cats on a temporary or permanent basis;
- 6.3 *cat* means an animal of the species *felis cactus* which is three months of age or has lost its juvenile canine teeth;
- 6.4 *Council* means District Council of Loxton Waikerie;
- 6.5 *identified cat* means a cat identified in the manner set out in Regulation 8 of the Dog and Cat Management Regulations 1995.
- 6.6 *keep* includes the provision of food or shelter;
- 6.7 *nuisance* means:
 - 6.7.1 unreasonably interfering with the peace, comfort or convenience of a person;
 - 6.7.2 injurious to a person's real or personal property; or
 - 6.7.3 obnoxious, offensive or hazardous to health;

- 6.8 *premises* includes land whether used or occupied for domestic or non-domestic purposes except an approved cattery.

Note:

Section 14 of the 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 Clause 7.2, a person must not, without the Council's permission keep in any premises:

- 7.1.1 more than two cats; or
- 7.1.2 a cat of or over the age of three months, or which has lost its juvenile canine teeth, unless the cat is an identified cat.

- 7.2 Clause 7.1 does not apply to approved catteries operating in accordance with all required approvals and consents.

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 by reason of:

- 8.1.1 noise or odour created by the cat or cats; or
- 8.1.2 wandering from the land; or
- 8.1.3 the aggressive nature of the cat or cats.

PART 3—ENFORCEMENT

9. *Orders*

- 9.1 If a person engages in conduct that is a contravention of this by-law, an authorised person may order that person:

- 9.1.1 if the conduct is still continuing—to stop the conduct; and
- 9.1.2 whether or not the conduct is still continuing—to take specified action to remedy the contravention.

- 9.2 A person must comply with an order under this clause.

- 9.3 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 recover its costs of any action so taken from the person to whom the order was directed.

- 9.4 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 20 August 2010, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. ACKLAND, Chief Executive Officer