

SECTION 249 LOCAL GOVERNMENT ACT 1999

CERTIFICATE OF VALIDITY

I, CIMON ANGELA BURKE care 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:

THE DISTRICT COUNCIL OF ROBE

By-law No 6 – Cats By-Law 2023

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:

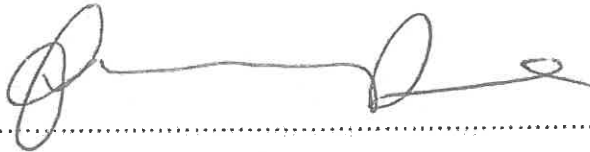
THE DISTRICT COUNCIL OF ROBE

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), 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 3 day of July 2023



.....
Cimon Burke, Legal Practitioner



DISTRICT COUNCIL OF ROBE

CATS BY-LAW 2023

By-law No. 6 of 2023

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

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Cats By-law 2023* and is By-law No. 6 of the District Council of Robe.

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'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:

*By-law No. 6 – Cats 2016*²

- 4.2 This By-law will expire on 1 January 2031.

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 2022*.
- 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 in 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 Robe;
- 6.4 **keep** includes the provision of food or shelter;
- 6.5 for the purposes of clause 8, a cat (or cats) causes a **nuisance** if it:

- 6.5.1 unreasonably interferes with the peace, comfort or convenience of a person, including but not limited to by displaying aggressive nature or creating unpleasant noise or odour;
 - 6.5.2 damages or otherwise has an adverse impact upon native flora or fauna;
 - 6.5.3 acts in a manner that causes damage to a person's real or personal property;
 - 6.5.4 wanders onto premises without the consent of the owner or occupier of the premises; or
 - 6.5.5 defecates or urinates on premises without the consent of the owner or occupier of the premises.
- 6.6 **owner** of a cat has the same meaning as in section 5 of the *Dog and Cat Management Act 1995*;
- 6.7 the **person responsible for the control of a cat** has the same meaning as in section 6 of the *Dog and Cat Management Act 1995*.
- 6.8 **premises** includes any land (whether used or occupied for domestic or non-domestic purposes) and any part of land; and

Note-

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

PART 2 – LIMITS ON CAT NUMBERS

7. Limits on Cat Numbers

- 7.1 Subject to this clause 7, a person must not, without the Council's permission, keep, or cause suffer or permit to be kept, more than two (2) cats on any premises.
- 7.2 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.
- 7.3 The Council may require that premises that are the subject of an application for permission to keep additional cats are inspected by an authorised person for the purpose of assessing the suitability of the premises for housing cats.
- 7.4 Permission under subclause 7.1 may be given if the Council is satisfied that:
 - 7.4.1 no insanitary condition exists or is likely to arise on the premises as a result of the keeping of cats; and
 - 7.4.2 a nuisance is not or is not likely to be caused to any neighbour as a result of the keeping of cats on the premises.

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 Without limiting liability under clause 8.1, the owner of or person responsible for the control of a cat is guilty of an offence under this By-law if the cat causes a nuisance.
- 8.3 For the purposes of this clause 8, cat means an animal of the species *felis catus* (of any age).

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 fourteen (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);
 - 9.2.2 be accompanied by the fee (if any) prescribed by the Council;
 - 9.2.3 nominate a person of or over sixteen (16) years of age who consents to the cat being registered in the person's name;
 - 9.2.4 identify with reference to an address the premises at which the cat is kept; and
 - 9.2.5 otherwise comply with any other requirements determined by the Council.
- 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.

PART 4 – EXEMPTIONS

10. Council May Grant Exemptions

- 10.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 10.2 An exemption—
 - 10.2.1 may be granted or refused at the discretion of the Council;
 - 10.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
 - 10.2.3 is subject to any conditions specified in the instrument of exemption.
- 10.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 10.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

PART 5 - ENFORCEMENT**11. Orders**

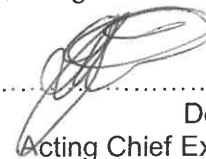
- 11.1 If a person engages in conduct that is a contravention of this By-law, an authorised person may, pursuant to section 262 of the Act, order that person:
- 11.1.1 if the conduct is still continuing – to stop the conduct; and
- 11.1.2 whether or not the conduct is still continuing - to take specified action to remedy the contravention.
- 11.2 A person must comply with an order of an authorised person made pursuant to section 262 of the Act.
- 11.3 If a person does not comply with an order of an authorised person, 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.
- 11.4 An authorised person may not use force against a person.

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 or wandering cats.

This By-law was duly made and passed at a meeting of the District Council of Robe held on **12 July 2023** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
Deb Brokenshire
Acting Chief Executive Officer

