



CITY OF
Port Adelaide Enfield

CITY OF PORT ADELAIDE ENFIELD

DOGS BY-LAW 2022

By-law No. 5 of 2022

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.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Dogs By-law 2022* and is By-law No. 5 of the City of Port Adelaide Enfield.

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 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 protect the convenience, comfort and safety of members of the public;
- 3.2 to reduce the incidence of environmental nuisance caused by dogs;
- 3.3 to promote responsible dog ownership; 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:

*By-law No. 5 – Dogs 2015.*²

- 4.2 This By-law will expire on 1 January 2030.³

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 2022*.
- 5.2 Subject to clause 5.3, this By-law applies throughout the Council's area and to foreshore areas within the Harbor of Port Adelaide.
- 5.3 Clauses 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 approved by a relevant authority, pursuant to the *Planning, Development and Infrastructure Act 2016* 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 **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 five (5) metres of such devices if there is no enclosed area);
- 6.5 **Council** means the City of Port Adelaide Enfield;
- 6.6 **dog** (except as indicated in clause 7.2) 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 **foreshore** means land extending:
 - 6.8.1 from the low water mark on the seashore in the Council's area to the nearest road or section boundary, or
 - 6.8.2 for a distance of 50 metres from the high water mark,(whichever is the lesser) and to avoid doubt, includes the foreshore within the Harbor of Port Adelaide;
- 6.9 **Harbor of Port Adelaide** has the same meaning as in Schedule 3 of the *Harbors and Navigation Regulations 2009*;
- 6.10 **keep** includes the provision of food or shelter;
- 6.11 **organised sport** means an organised sporting competition including any related training session or match but does not include social play;
- 6.12 **park** means the foreshore, or a park, garden, reserve or other similar public open space within the area of the Council;
- 6.13 **premises** includes land, whether used or occupied for domestic or non-domestic purposes; and

6.14 for the purposes of clause 9 of the 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 the leash, chain or cord is either:

6.14.1 secured to a fixed object; or

6.14.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

Note-

Section 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-laws was made.

PART 2 – LIMITS ON DOG NUMBERS

7. Limits on dog numbers in private premises

7.1 Subject to clauses 7.2 and 7.3, a person must not, without Council permission, keep or cause, suffer or permit to be kept, more than two (2) dogs on any premises.

7.2 For the purposes of clause 7.1, **dog** means a dog that is three (3) 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 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.

7.4 An application for permission to keep an additional dog must be in the form determined by the Council and be accompanied by any information that the Council requires to ensure proper consideration of the application.

7.5 Any premises which is the subject of an application for permission to keep additional dogs may be inspected by an authorised person (before the application is determined) for the purpose of assessing the suitability of the premises for housing dogs.

7.6 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

Subject to clauses 9 and 10 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 as that term is defined by the *Dog and Cat Management Act 1995*, 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.

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 assistance 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 foreshore, or public place to which the Council has resolved that this subclause applies (including in accordance with any times specified in any resolution for this purpose); and

9.1.2 on any park or reserve during times when organised sport is being played—
unless the dog is under effective control by means of a leash.

10. 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, foreshore, or public place to which the Council has resolved this subclause applies (including in accordance with any times specified in any resolution for this purpose).

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 – EXEMPTIONS**12. Council may grant exemptions**

12.1 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.

12.2 An exemption:

12.2.1 may be granted or refused at the discretion of the Council;

12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and

12.2.3 is subject to any conditions specified in the instrument of exemption.

12.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.

- 12.4 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

13. Orders

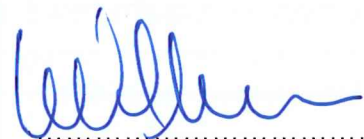
- 13.1 If a person engages in conduct that is in contravention of this By-law, an authorised person may order that person:
- 13.1.1 if the conduct is still continuing – to stop the conduct; and
 - 13.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 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 (however, 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 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 City of Port Adelaide Enfield held on the **12 July 2022** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



MARK WITHERS
Chief Executive Officer

12.2.2 By-law Review

Cr. Osborn moved that Council resolves that:

1. The report of the Director Community Development titled "By-law Review" be received and noted.
2. The Council is satisfied that proposed By-law No. 9 adequately addresses the feedback provided by the Legislative Review Committee in respect of the Council's Local Government Land By-law 2022 and endorses proposed By-law No. 9 as provided in Attachment 4 for consultation in accordance with Section 249 of the Local Government Act 1999.
3. A further report be presented to Council in June 2023 with the outcome of the public consultation.

Cr. Tulloch seconded

CARRIED

12.2.3 Dogs By-law No. 5 - Children's Playground

Cr. Mitchell moved that Council resolves that:

 8/9/2023

1. The report of the Director Community Development titled "Dogs By-law No. 5 - Children's Playground" be received and noted.
2. Pursuant to the power contained in Section 246(3)(e) of the *Local Government Act 1999*, the Council resolves to apply Clause 10 of the *Dogs By-law 2022* to all children's playgrounds (as that term is defined in clause 6.4 of the *Dogs By-law 2022*) that are located on Local Government land or a public place, with the effect that these children's playgrounds are 'Dog Prohibited Areas'.

Cr. Wotton seconded

CARRIED

12.2.4 Companion Animal Project

Cr. Wilkins moved that Council resolves that:

1. The report of the Director Community Development titled "Companion Animal Project" be received and noted.
2. A Companion Animal Project be established for an initial 12-month trial period, followed by an evaluation and subsequent recommendations to Council on the future of the project.
3. A budget allocation of \$40,000 be provided as part of the 2023-2024 budget for the delivery of the trial.

Cr. Evans seconded

CARRIED