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:

BERRI BARMERA COUNCIL

By-law No 5 – Dogs By-law 2025

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

and do certify that in my opinion:

BERRI BARMERA 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);
Dog and Cat Management Act 1995: section 90; and
Harbors and Navigation Act 1993: section 18A.

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

DATED the 11 day of July 2025

.....

Cimon Burke, Legal Practitioner

BERRI BARMERA COUNCIL

DOGS BY-LAW 2025

By-law No. 5 of 2025

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 2025* and is By-law No. 5 of the Council.

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 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'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 operation[1]:

By-law No. 5 – Dogs 2020.[2]

4.2 This By-law will expire on 1 January 2033.[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 2025.*

5.2 Subject to subclause 5.3, this By-law applies throughout the Council's area.

5.3 Clauses 9 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, premises or area approved under 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 ***Council*** means the Berri Barmera Council;

6.5 ***dog*** (except for in subclause 7.1) has the same meaning as in the *Dog and Cat Management Act 1995*;

6.6 ***effective control*** means a person exercising effective control of a dog either:

6.6.1 by means of a physical restraint (as defined under the *Dog and Cat Management Act 1995*); or

6.6.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;

6.7 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:

6.7.1 the leash, chain or cord is either tethered securely to a fixed object; or

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

6.8 ***keep*** includes the provision of food or shelter;

6.9 ***park*** has the same meaning as in the *Dog and Cat Management Act 1995*;

6.10 ***premises*** includes land and part of land whether used or occupied for domestic or non-domestic purposes;

6.11 ***small dwelling*** means a self-contained dwelling that is:

6.11.1 a residential flat building; or

6.11.2 contained in a separate strata unit or community title; or

6.11.3 on an allotment less than 400 square metres in area; or

6.11.4 without a secure yard of at least 100 square metres in area;

6.12 ***township*** has the same meaning as in the Act;

6.13 ***working livestock dog*** means a dog:

6.13.1 usually kept, proposed to be kept or worked on rural land by a person who is:

6.13.1.1 a primary producer; or

6.13.1.2 engaged or employed by a primary producer; and

6.13.2 kept primarily for the purpose of herding, droving, protecting, tending or working stock, or training for herding, droving, protecting, tending or working stock.

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 subclauses 7.3 and 7.5, a person must not, without the Council's permission, keep, or cause, suffer or permit to be kept:

7.1.1 in a township, more than one dog in a small dwelling; or

7.1.2 in a township, more than two dogs on any premises other than a small dwelling; or

7.1.3 outside of a township more than five dogs (including any working livestock dog):

7.2 For the purposes of subclause 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 Subclause 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 other 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 The Council may require that premises that are the subject of an application for permission to keep additional dogs are 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 reasonable 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 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, 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

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 on Local Government land or in a public place to which the Council has resolved that this subclause applies 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 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 – 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, pursuant to section 262 of the Act, 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 made by an authorised person pursuant to section 262 of the Act.

13.3 If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act, 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 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 Berri Barmera Council held on **22 July 2025** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

TIM PFEIFFER
Chief Executive Officer