



## CERTIFICATE OF VALIDITY

### UNDER SECTION 249(4) OF THE LOCAL GOVERNMENT ACT 1999

I, KATE EMILY OLIVER of Norman Waterhouse Lawyers, Level 15, 45 Pirie Street, Adelaide SA 5000, being a legal practitioner within the meaning of the Legal Practitioners Act 1981, declare that I have examined the following by-law which the District Council of Tumby Bay intends to make, and do certify that in my opinion:

- (a) the said Council has the power to make the by-law by virtue of the following statutory provisions:

Dog and Cat Management Act 1995, Sections 90(1) and 90(3);

Local Government Act 1999, Sections 246(1)(a), 246(3)(a), 246(3)(c) and 246(3)(e);

- (b) the by-law is not in conflict with the Local Government Act 1999.

DATED the *6th* day of *January* 2011

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Kate Emily Oliver, Legal Practitioner

## DISTRICT COUNCIL OF TUMBY BAY

### *By-law made under the Local Government Act 1999 and Dog and Cat Management Act 1995*

#### **By-law No. 2 - Dogs**

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.

#### **PART 1 – PRELIMINARY**

##### **1. Interpretation**

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

- 1.1. **Approved Kennel Establishment** means a building, structure, premises or area approved by the relevant authority, pursuant to the *Development Act 1993* for the keeping of dogs on a temporary or permanent basis;
- 1.2. **Assistant Dog** means a hearing dog, a guide dog or a disability dog as defined in Section 4 of the *Dog and Cat Management Act 1995*;

- 1.3. **Children's Playground** means any enclosed area in which there is equipment or other installed devices for the purpose of children's play (or within 3 metres of such devices if there is no enclosed area);
- 1.4. **Dog** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 1.5. **Dog Management Officer** is a person appointed by the Council as such, pursuant to the *Dog and Cat Management Act 1995*;
- 1.6. **Keep** includes the provision of food or shelter;
- 1.7. **Local Government Land** means all land owned by the Council or under the Council's care, control and management;
- 1.8. **Park** means land reserved or delineated as a park or designated by the Council as a park;
- 1.9. **Premises** includes land and a part of any premises or land whether used or occupied for domestic or non-domestic purposes except an approved kennel establishment
- 1.10. **Public Place** has the same meaning as in the Local Government Act, 1999;
- 1.11. **Reserve** means land reserved or dedicated as a reserve or designated by the Council as a reserve;
- 1.12. **Small Dwelling** means a self-contained residence that is:
  - 1.12.1 a residential flat building; or
  - 1.12.2 contained in a separate strata unit; or
  - 1.12.3 on an allotment less than 500 square metres in area; or
  - 1.12.4 without a secure yard of at least 100 square metres in area;
- 1.13. **Township** has the same meaning as in the Local Government Act 1999;
- 1.14. **Working Dog** means a dog primarily used for the purposes of herding stock.

## **PART 2 – LIMITS ON DOG NUMBERS**

### **2. Limits on dog numbers in private premises**

- 2.1. Subject to clauses 2.2 and 2.4, a person must not, without the Council's permission Keep:
  - 2.1.1 in a Township, more than one (1) Dog in a Small Dwelling;
  - 2.1.2 in a Township, more than two (2) Dogs in Premises other than a Small Dwelling;
  - 2.1.3 outside of a Township, more than four (4) Dogs;
- 2.2. Clause 2.1 does not apply to:
  - 2.2.1 approved Kennel Establishments operating in accordance with all required approvals and consents, provided any business involving

Dogs operating from those premises is also registered in accordance with the *Dog and Cat Management Act 1995*; or

- 2.2.2 any dogs which are Working Dogs, provided that the number of Working Dogs on any Premises shall not exceed five (5) unless permission of the Council is obtained.
- 2.3. The Council may require that Premises which are the subject of an application for permission to keep additional dogs, must be inspected by a Dog Management Officer for the purpose of assessing the suitability of the Premises for housing Dogs.
- 2.4. No Dog is to be kept on any Premises where in the opinion of a Dog Management Officer, there is no secure area where a Dog may be effectively confined.

### **PART 3 – DOG CONTROLS**

#### **3. Dog exercise areas**

- 3.1 A person must not without the Council's permission enter a public place or any part of Local Government Land to exercise a Dog under that person's control except a Public Place or Local Government Land to which this paragraph applies.
- 3.2 Where a person enters upon such Public Place or Local Government Land for the purpose of exercising a Dog under that person's control, that person must ensure that the Dog or Dogs remain under effective control either by means of a physical restraint or by command, the Dog being in close proximity to the person and the person being able to see the Dog at all times while on that land.

#### **4. Dog on leash areas**

- 4.1. A person must not, without the Council's permission, cause, suffer or permit a Dog under that persons control, charge or authority (except an Assistant Dog) to be or remain:
  - 4.1.1 on Local Government Land or Public Place to which this subparagraph applies; and
  - 4.1.2 on any Park or Reserve during times when organised entertainment or sport is being played;

unless the Dog is secured by a strong leash not exceeding 2 metres 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.

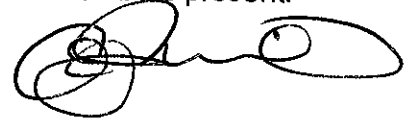
#### **5. Dog prohibited areas**

- 5.1. A person must not allow a Dog under that persons control, charge or authority (except Assistant Dog) to enter or remain:
  - 5.1.1 on any Children's Playground on Local Government Land;
  - 5.1.2 on any other Local Government Land or Public Place to which this subparagraph applies.

6. **Application of paragraphs**

Any of the paragraphs 3, 4 or 5 of this by-law shall apply only in such portion or portions of the area as the Council may determine from time to time in accordance with section 246 (3) (e) of the Local Government Act 1999.

This by-law was duly made and passed at a meeting of the District Council of Tumby Bay held on the *14<sup>th</sup> FEBRUARY 2011* by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



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*Anthony J Irvine* ~~Dion Watson~~  
~~Acting~~ Chief Executive Officer