

COMMUNITY CONSULTATION

Draft By-laws of 2020

Background

The Yorke Peninsula Council currently has 7 By-laws to assist us to manage any activities undertaken on Local Government Land, roads and the Port Vincent Marina. The By-laws also assists in matters such as the management of dogs and cats in the Council area. Council's current By-laws expire on 1 January 2021. Any new By-laws come into operation four months after the day on which it is published in the Gazette.

On 11 March 2020 Council endorsed the draft By-laws of 2020 for the purpose of Public Consultation. Pursuant to Section 249 of the Local Government Act 1999, Council is seeking public feedback in responses to the draft By-laws.

Discussion

By-Laws are supplementary legislation set by local governments to manage, control and regulate activities within the boundaries of a Council. By-laws are designed to provide good governance and assist to provide a convenient, safe, and comfortable space for our community. The majority of Councils have very similar content in their By-laws, but are tailored to address any local issues. The draft By-laws of 2020 have been written taking into consideration any activity or situation that may arise, effectively, the By-Laws will assist Council in managing certain activities in the district.

In relation to the current By-laws, please note that By-Law No 6 "Nuisances Caused by Building Sites" introduced in 2013 to deal with the nuisance caused by rubbish on building sites will no longer be in use. In 2016 the Local Nuisance and Litter Control Act was introduced and as this legislation now adequately deals with the intent of By-law No 6, it is no longer required.

Draft By-law No 1 of 2020 - Permits and Penalties

Provides for a permit system, sets penalties for breaches of By-laws, provides for certain matters pertaining to liability and evidence, sets regulatory requirements, and clarifies the construction of council's By-laws and related purposes. This By-law gives the legal status for the issuing of permits pursuant to all the by-laws and also allows Council to set an expiation fee for any breach of a By-law.

Draft By-law No 2 of 2020 - Local Government Land

Covers the management and regulation of the use of and access to all land vested in or under the control of the Council including the prohibition and regulation of particular activities on local government land. It is this By-law that Council uses to manage our bush camping locations and the issuing of boat ramp launching permits at designated boat ramps.

Draft By-law No 3 of 2020 - Roads

Covers the management of public roads. The Local Government Act also includes legislation to assist councils with the management of roads. This By-law assists with the management of wandering stock on roads and also the campers that set up in various locations, especially within car parks and townships.

Draft By-Law No 4 of 2020 - Moveable Signs

Sets a standard for movable signs on roads, to provide conditions for and the placement of such signs, to protect public safety and so protect or enhance the amenity of the area of the Council. Owners of moveable signs are often asked to remove them as a result complaints of them being a nuisance and a hazard to road users.

Draft By-law No 5 of 2020 - Dogs

Assists in the management of dogs within the Council area, which works in line with the Dog and Cat Management Act (the Act). This By-law restricts the number of dogs allowed on a property and also allows Council to designate certain areas where a dog must be on a leash and a place where dogs are not allowed to assist with public safety.

Draft By-law No 6 of 2020 - Cats

Works in conjunction with the Dog and Cat Management Act and assists with the management of cats within the Council area. A Council must, at least 42 days before resolving to make a Dogs or Cats By-law, refer the draft By-laws to the Dog and Cat Management Board (the Board) with a report. This report must outline the objects of the proposed By-laws, how they are going to implement or enforce the by-laws and generally explain why they are making the By-laws. The Council must then consider any recommendations of the Board in relation to the By-laws.

In September 2018, Council adopted a Plan of Management Relating to Dogs and Cats. Objectives of this plan included:

- The microchipping of all cats.
- Reduction of nuisance caused by domestically owned cats.
- Education of cat owners to ensure they are being a responsible cat owner.
- Ensuring Council's By-law effectively assisted in the management of cats.

The Act currently states that cats must be microchipped and any cat born after 1 July 2018 must be desexed. There are exemptions to the compulsory desexing and microchipping of cats. Any cat that has been recently microchipped, has details entered into dogs and cats online (DACO), which acts like a free registration. Currently, our Council has approximately 160 cats registered in the DACO system. Any cat can be entered into the DACO system.

The Board has released a document "A guide to preparing a cat by-law" This documents suggests 5 key areas that Councils can address in that By-law, namely:

- Registration of cats;
- Limit on the number of cats;
- Curfews
- Confinement and/or control

- Nuisance and wandering at large.

Whilst considering the review of the cat By-law consideration has been given to the key areas raised by the Board.

The mandatory registration of cats is recommended by the Board as it is a source of revenue to respond to cat issues. Anecdotally we do not have an issue with owned cats, but as is the case for most councils our complaints arise from the unowned or semi owned cats. A semi-owned cat is a cat that is fed and cared for by people who do not consider they own the cat. These cats are of varying sociability and are often associated with more than one household. These semi-owned cats become a nuisance especially when people believe they are doing the right thing by the “stray” cats and feed them, which can result in numerous number of cats being fed at one location. As a very high proportion of the time consumed by Council’s Rangers in relation to cat management is spent on these semi-owned and unowned cats, any monies derived from cat registration would not be of benefit to those paying the registration fee. The registration of cats will have a marginal impact on the problem associated with existing semi-owned and feral cat populations.

As previously mentioned, it is mandatory that all cats are microchipped, but anecdotally it appears that the uptake of this legislation is low. The registration of cats would give Council the ability to work with cat owners to assist in their education as a responsible cat owner, encourage compliance with mandatory microchipping of their cat and also meet the objectives of Council’s Plan of Management Relating to Dogs and Cats. In relation to cat registration, Council would need to set a fee for registration and renewal in their fees and charges register. It is legislated in the Act that if councils set a fee for the registration of cats, they must set a fee for a standard cat (desexed and microchipped) that is a reduced fee of a non-standard cat (not desexed or microchipped). When considering the introduction of cat registrations, a long term phase in approach could be adopted so that registrations fees are very low to encourage cat owners to be responsible and legislatively compliant so that all cats become microchipped. The microchipping and identification of all owned cats will assist in the returning of any owned cats found wandering at large.

Currently there are eleven councils that have introduced cat registrations in their By-laws. Nine of the councils that have introduced cat registration are rural councils. The fees charged for a standard cat vary from \$5 to \$40 for a standard cat and from \$10 to \$95 for a non-standard cat (excludes the \$350 fee for Kangaroo Island Council). As is the situation for dogs, most councils also give a rebate for concession card holders for cat registration.

The draft By-law also limits the number of cats kept on a property to two (2). Permits can be given to responsible cat owners to keep more than two cats. Feral cats are an issue in our rural communities. By limiting the cat numbers to all households, including those outside of townships may assist with the reduction of feral cats in our rural areas. Cats have been identified as a major threat to conservation as they can roam great distances. Reducing roaming cat numbers would help towards reducing species loss across Yorke Peninsula including on Council land parcels. Managing feral species is part of actively managing this land, which is also part of Council’s Strategic Plan. 3.1.6 Increased area of conservation significance (under Council’s control) that is proactively managed.

Many rural properties are in close proximity to our coastline or remnant woodlands, which is habitat for native birds and reptiles, both are preyed on by cats. With the Southern Ark reintroduction program taking place on Southern Yorke Peninsula, it is important all agencies are working together and sending out a consistent message. (Strategy 3.3 Partnership and advocacy with NRM to secure environmental projects). By putting a limit on cat numbers, we have the opportunity to encourage responsible cat ownership and reduce the number of roaming cats. The limiting of cat numbers per premises will be a handy tool for staff to deal with the nuisance value caused by excessive cats on premises.

The Board also recommends that Council consider curfews, confinement, nuisance and wandering at large of cats when reviewing the cat By-law. Again, anecdotally Council does not receive many complaints regarding owned cats wandering at large and generally causing

a nuisance. On the few occasions where a nuisance complaint was ongoing, the Local Nuisance and Litter Control Act has been used to remedy the complaint. It is very difficult for Authorised Officers to observe and prove any offence associated with a cat wandering at large, being a nuisance or not meeting the times of a curfew. It is almost impossible from an observation to be 100% certain that a cat observed is a particular cat owned by a certain person. Many of these type of complaints will arise as a result of situations occurring after hours, Council does not have the resources to address the complaints at these times. This will make it very difficult to enact any such By-Law provisions so that they are enforced, either through lack of resources or inability to identify the offender, (owner) which may lead to frustration on the part of the community at large and staff.

As a result of taking into consideration the enforcement issues, the lack of resources and the low number of complaints now received in relation to curfews, confinement, nuisance and wandering at large of cats, there is nothing included in the draft By-law to address these issues. As mentioned previously the Local Nuisance and Litter Control Act can adequately address any such issues.

Draft By-law No 7 of 2020 - Port Vincent Marina

Covers the regulation of certain activities undertaken in the Port Vincent Marina to ensure the safety and convenience of persons in the Marina. Very few complaints are received in relation to activities within the Marina, but this By-law is a handy tool to deal with any complaint as they arises.

Council must receive the approval from the Minister of Transport prior to making any by-law relating to the use of adjacent land pursuant to Section 18A of the Harbours and Navigations Act 1993. This refers to Local Government Land By-law and the Port Vincent Marina By-law.

The Council must, at least 21 days before resolving to make the By-laws, by notice in a newspaper circulating in the area of Council inform the public of the availability of the proposed by-laws and set out the terms of the By-laws, or describe in general terms the By-laws' nature and effect. At the conclusion of the public consultation period, the Council must give reasonable consideration to any submissions made in respect of the By-laws.

Timeline

The consultation period will begin on Tuesday 5th May 2020 and close at 5pm Friday 5th June 2020.

How do I provide my feedback?

This report is available for viewing at Yorke Peninsula Council offices at Maitland, Minlaton & Yorketown and on Council's website, www.yorke.sa.gov.au

Written Submissions

All written Submissions must be received by 5pm Friday 5th June 2020, and should be addressed to:

Community Consultation

By-laws 2020

PO Box 57

Maitland SA 5573

What happens to my feedback?

At the conclusion of the public consultation period Council will give reasonable consideration to any submission made in respect to the By-laws.

How do I know my feedback has been received?

All feedback (submissions or correspondence) will be acknowledged.

Contact Person

For more information, please contact

Name: Phil Herrmann
Title: Senior Compliance Officer
Phone: 8832 0000
Email: admin@yorke.sa.gov.au

Attachments

Attachment 1 (By-Laws)

