



ADELAIDE HILLS COUNCIL

BIRD SCARERS' BY-LAW 2011

By-law No. 7 of 2011

This By-law is to regulate the use of bird scaring devices for the prevention of nuisances and to encourage land owners to use a wide range of bird control techniques.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Bird Scarers By-Law 2011* and is By-law No. 7 of the Adelaide Hills Council.

2. Authorising law

This By-law is made under section 246 of the Act, and sections 667(1), 4.I and 9.XVI of the *Local Government Act 1934*.

3. Purpose

The objectives of this By-law are to manage and regulate the prescribed uses of Bird Scarers in the Council area:

- 3.1. to protect the convenience, comfort and safety of residents and members of the public;
- 3.2. to prevent certain nuisances occurring in the Council area; and
- 3.3. 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 operation:

4.1.1 By-Law No 16 – Bird Scarers.

4.2. This By-law will expire on 1st January 2019.

5. Application

5.1. This By-law operates subject to the Council's *Permits and Penalties By-law 2011*.

5.2. This By-law applies throughout the Council area.

6. Interpretation

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

- 6.1. **Act** means the *Local Government Act 1999*;
- 6.2. **device** means any noise generating device designed and used for the purpose of scaring birds from land.
- 6.3. **Council** means Adelaide Hills Council;
- 6.4. **flammable undergrowth** means grass, weeds and other flammable or potentially flammable growth
- 6.5. **land** means any piece or section of land or any aggregation of contiguous land subject to the same ownership or occupation.

PART 2 – USE OF BIRD SCARERS

7. Activities requiring permission

- 7.1. No person being the owner or occupier of land shall, without permission, activate a device:
- 7.1.1 other than between the hours of 7:00 am and 8:00 pm:
 - 7.1.2 at frequencies greater than six (6) per hour;
 - 7.1.3 within 200 metres of a dwelling that does not form part of the land on which the device is located:
 - 7.1.4 within 200 metres of a hospital or school building that does not form part of the land on which the device is located:
 - 7.1.5 in a building or structure.
- 7.2. Direct a device towards a dwelling other than that person's dwelling.
- 7.3. Activate more than one device per 4.2 hectares of land.
- 7.4. For the purposes of clauses 7.1 and 7.3, 'activate' in relation to a device means:
- 7.4.1 for a gas powered device, one detonation producing a single emission; and
 - 7.4.2 for an electric powered device, a single noise emission or one which produces a continuous sequence of noise emissions but which does not exceed 30 seconds in duration.

8. Prohibited Activities

- 8.1. No person being the owner or occupier of land, shall use or employ any device:
- 8.1.1 in such a manner as to be a nuisance or danger to any other person; or
 - 8.1.2 on Christmas Day or Good Friday: or
 - 8.1.3 where the device is gas powered:
 - (a) unless all flammable undergrowth within a four (4) metre radius of the device is destroyed by cutting, slashing or utilising other means;
 - (b) unless all other flammable material within a four (4) metre radius of the device is removed.

PART 3 – ENFORCEMENT

9. Directions

- 9.1. Where there is a breach of any provision of this By-Law, an authorised person may serve notice in writing on the owner or occupier of any land requiring that person to reduce the number of activations or disarm or remove a device.

- 9.2. Any person on whom a notice is served shall comply with the notice.
- 9.3. If the notice is not complied with an authorised person may carry out or cause to be carried out the measures required by the notice.

10. **Exemption**

If an Environment Protection Order issued under Part 7 of the Environment Protection (Noise) Policy 2007 regulates any activities that are the subject of a permit granted by the Council pursuant to clause 7 of this by-law, the Order prevails to the extent of any inconsistency.

This By-law was duly made and passed at a meeting of the Adelaide Hills Council held on the 23rd day of August 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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PETER PEPPIN
Chief Executive Officer