

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:

**The District Council of Karoonda East Murray**

**By-law No 4 – Roads By-Law 2022**

*A By-law to manage, control and regulate certain activities on roads in the Council's area;*

and do certify that in my opinion:

The District Council of Karoonda East Murray

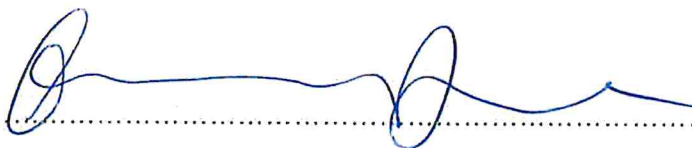
has the power to make the by-law by virtue of the following statutory provisions:

*Local Government Act 1999*: sections 239, 246(1), 246(2), 246(3)(a), 246(3)(c), 246(3)(e), 246(3)(f) and 246(3)(h)(iii); and

*Local Government (General) Regulations 2013*: regulation 28.

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

DATED the 28<sup>th</sup> day of January 2022



Cimon Burke, Legal Practitioner

**THE DISTRICT COUNCIL OF KAROONDA EAST MURRAY****ROADS BY-LAW 2022****By-law No. 4 of 2022**

*This By-law is for the management, control and regulation of activities on roads in the Council's area.*

**PART 1 – PRELIMINARY****1. Title**

This By-law may be cited as the *Roads By-law 2022* and is By-law No. 4 of the District Council of Karoonda East Murray.

**2. Authorising Law**

This By-law is made under sections 239 and 246 of the Act and regulation 28 of the *Local Government (General) Regulations 2013*.

**3. Purpose**

The objectives of this By-law are to manage, control and regulate the prescribed uses of roads in the Council's area:

- 3.1 to protect the convenience, comfort and safety of road users and members of the public;
- 3.2 to prevent damage to buildings and structures on roads;
- 3.3 to prevent certain nuisances occurring on roads; and
- 3.4 for the good rule and government of the Council's area.

**4. Commencement and Expiry**

This By-law will commence in accordance with the Act<sup>1</sup> and will expire on 1 January 2030<sup>2</sup>.

**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. 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 subclause 5.3, this By-law applies throughout the Council's area.

- 5.3 Subclause 7.4.2.1 of this By-law applies throughout the Council's area except 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 **animal** includes birds, insects and poultry but does not include a dog;
- 6.3 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.4 **camp** includes setting up a camp, or causing:
- 6.4.1 a tent (including a tent trailer) or other structure of calico, canvas, plastic or other similar material;
  - 6.4.2 a swag or similar bedding; or
  - 6.4.3 subject to the *Road Traffic Act 1961*, a caravan or motor home;
- to remain on a road for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the road;
- 6.5 **Council** means the District Council of Karoonda East Murray;
- 6.6 **effective control** means a person exercising effective control of an animal either:
- 6.6.1 by means of a physical restraint; or
  - 6.6.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.7 **electoral matter** has the same meaning as in the *Electoral Act 1995* provided that such electoral matter is not capable of causing physical damage or injury to a person within its immediate vicinity;
- 6.8 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.9 **moveable sign** has the same meaning as in the Act;
- 6.10 **road** has the same meaning as in the Act being, a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes—
- 6.10.1 a bridge, viaduct or subway; or
  - 6.10.2 an alley, laneway or walkway; and

6.11 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

**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-law was made.

## **PART 2 – USE OF ROADS**

### **7. Activities Requiring Permission**

A person must not undertake any of the following activities on a road without the permission of the Council.

#### **7.1 Advertising**

Display or cause to be displayed on a road or on a structure on a road, any poster, advertising or sign for the purpose of advertising goods or services or for any other purpose, other than a moveable sign that is displayed in accordance with the Council's Moveable Signs By-law.

#### **7.2 Amplification**

Use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound or magnifying sound including the broadcasting of announcements or advertisements.

#### **7.3 Animals**

7.3.1 Subject to this clause 7.3, lead or drive any horse, cattle, sheep or other animal onto any road or cause or allow any such animal to stray onto, graze, wander on or be left unattended on any road.

7.3.2 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

#### **7.4 Camping and Tents**

7.4.1 Subject to this subclause 7.4, erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

7.4.2 Camp or undertake any camping activities including, but not limited to, cooking, washing or sleeping overnight except:

7.4.2.1 on a road to which the Council has resolved this subclause applies (if any); and

7.4.2.2 in accordance with any conditions determined by the Council and displayed on any signage on or near the road.

**7.5 Donations and Soliciting**

Ask for or receive or do anything to indicate a desire for a donation of money or any other thing.

**7.6 Obstructions**

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road, footway, water-channel, or watercourse in a road.

**7.7 Preaching and Canvassing**

7.7.1 Preach, harangue, solicit or canvass for religious or charitable purposes.

7.7.2 Subject to subclause 11.2, convey any religious or other message to any bystander, passerby or other person.

**7.8 Public Exhibitions and Displays**

7.8.1 Sing, busk, play a recording or use a music instrument, or perform similar activities.

7.8.2 Conduct, cause or hold a concert, festival, show, display public gathering, circus, performance or a similar activity.

7.8.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.

7.8.4 Cause any public exhibition or displays.

**7.9 Rubbish Bins**

Deposit in any Council bin on a road any rubbish:

7.9.1 emanating from a domestic, commercial or trade source; or

7.9.2 that is not rubbish of the type permitted to be placed in the bin, as indicated on signs on the bin or in its vicinity.

**7.10 Repairs to Vehicles**

Repair, wash, paint, panel beat or perform other work of any nature on or to any vehicle, except for running repairs in the case of a vehicle breakdown.

**Note-**

Moveable signs on roads are regulated by sections 226 and 227 of the Act and the Council's *Moveable Signs By-law*.

## **PART 3 – ENFORCEMENT**

### **8. Directions**

A person on a road who, in the opinion of an authorised person is committing or has committed a breach of this By-law, must immediately comply with a direction of the authorised person to leave that part of the road.

### **9. Orders**

If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

#### **Note-**

*Section 262(1) of the Act states:*

- 1) *If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*
  - a) *if the conduct is still continuing – to stop the conduct; and*
  - b) *whether or not the conduct is still continuing – to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease busking on a road;
- remove an object or structure blocking a footpath; or
- dismantle and remove a tent from a road.

### **10. Removal of Animals and Objects**

10.1 The Council (or its delegate) may, pursuant to section 234 of the Act, remove an animal or object that is on a road in breach of a By-law if no person is in charge of the animal or object.

10.2 The Council may recover from the owner of an object removed under subclause 10.1, the costs it incurs in removing that object.

## **PART 4 – MISCELLANEOUS**

### **11. Exemptions**

11.1 The restrictions in this By-law do not apply to any emergency worker, Police Officer, Council Officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision or in accordance with a direction of a Council officer.

11.2 The restrictions in subclauses 7.7.2 of this By-law do not apply to electoral matter authorised by a candidate and which is:

- 11.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day;
- 11.2.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- 11.2.3 related to, and occurs during the course of and for the purpose of a referendum.

## 12. Liability of Vehicle Owners

- 12.1 For the purposes of this clause 12, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 12.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of The District Council of Karoonda East Murray held on **8 February 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.



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MARTIN BORGAS  
Chief Executive Officer