

YORKE PENINSULA COUNCIL

ROADS BY-LAW 2013

BY-LAW NO. 3 OF 2013

A By-law to regulate certain activities on roads in the Council area.

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PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Roads By-law 2013* and is By-law No. 3 of the Yorke Peninsula Council.

2. Authorising law

This By-law is made under sections 239 and 246 of the Act, regulation 18A of the *Local Government (General) Regulations 1999* 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 roads in the Council 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 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 operation¹:

4.1.1 Yorke Peninsula Council By-law A - J²

4.2. This By-law will expire on 1 January 2021.³

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 2013*.
- 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. **animal** includes birds, insects and poultry but does not include a dog or a cat;
- 6.3. **camp** includes setting up a camp, or causing a tent, caravan, motor home or other vehicle to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 6.4. **Council** means Yorke Peninsula Council;
- 6.5. **effective control** means a person exercising effective control of an animal either:
- 6.5.1 by means of a physical restraint; or
- 6.5.2 by command, the animal being in close proximity to the person, and the person being able to see the animal at all times;
- 6.6. **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;
- 6.7. **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999*;
- 6.8. **road** has the same meaning as in the Act;
- 6.9. **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

Note-

Section 14 of the *Interpretation Act 1915* 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 do any of the following activities on a road without the permission of the Council:

7.1. Amplification

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

7.2. Animals

7.2.1 Cause or allow an animal to stray onto, move over, or graze on a road except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided the animal or animals are under effective control.

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

7.3. Camping and Tents

7.3.1 Erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

7.3.2 Camp or sleep overnight.

7.4. *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 or footway, water-channel, or watercourse in a road.

7.5. *Posting of Bills*

Subject to clause 11.2, post or allow or cause to be posted any bills, advertisements, or other papers or items on a building or structure on a road.

7.6. *Preaching*

Preach, harangue, solicit or canvass for religious purposes.

7.7. *Public Exhibitions and Displays*

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

7.7.2 Conduct or hold a concert, festival, show, circus, performance or a similar activity.

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

7.7.4 Cause any public exhibitions or displays.

7.8. *Soliciting*

Ask for or receive or indicate a desire for a donation of money or any other thing

7.9. *Vehicles*

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

7.10. *Waste*

Deposit in any Council rubbish bin or similar waste receptacle on a road, any household rubbish emanating from domestic premises unless a sign attached to the rubbish bin or waste receptacle permits such rubbish to be deposited therein.

Note-

Movable signs on roads are regulated by sections 226 and 227 of the Act and the Council's Moveable Signs By-law (if any).

PART 3 – ENFORCEMENT

8. Directions

A person 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 an 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 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;
- remove bills posted on a structure on a road;
- dismantle and remove a tent from a road.

10. Removal of animals and objects

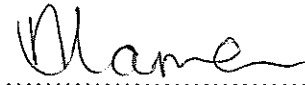
An authorised person may remove an animal or object that is on a road in breach of a By-law if no person is in charge, or apparently in charge, of the animal or object.

PART 4 – MISCELLANEOUS

11. Exemptions

- 11.1. The restrictions in this By-law do not apply to a police officer, emergency worker, 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 of a Council officer.
- 11.2. The restrictions in clause 7.5 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; or
 - 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.

This By-law was duly made and passed at a meeting of the Yorke Peninsula Council held on the 11 December 2013 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
Andrew Cameron
Chief Executive Officer

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:

Yorke Peninsula Council

By-law No 3 – Roads 2013

For the management of roads vested in or under the control of the Council.

and do certify that in my opinion:

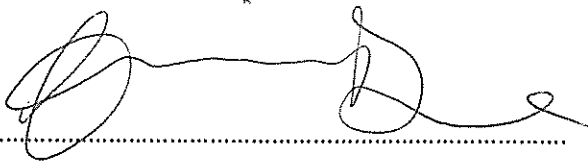
Yorke Peninsula Council

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

Local Government Act 1999: sections 239, 246(1)(a), 246(3)(a), 246(3)(c) and 246(3)(e); and Local Government Act 1934: sections 667(1) 4.1 and 9.XVI; Local Government (General) Regulations 1999: regulation 18A

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

DATED the 20 day of November 2013

A handwritten signature in black ink, appearing to read 'Cimon Burke', written over a horizontal dotted line.

Cimon Burke, Legal Practitioner