

**DISTRICT COUNCIL OF GRANT****ROADS BY-LAW 2014****By-law No. 3 of 2014**

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

PART 1 – PRELIMINARY**1. Title**

This By-law may be cited as the *Roads By-law 2014* and is By-law No. 3 of the District Council of Grant.

2. Authorising law

This By-law is made under sections 239 and 246 of the Act, regulation 28 of the *Local Government (General) Regulations 2013* and sections 667(1), 4.1, 5VII, 7II 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. Expiry

- 4.1 This By-law will expire on 1 January 2022.

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 2014*.
- 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 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.
- 6.4 **Council** means the District Council of Grant;
- 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 1985* provided that such electoral matter is not capable of causing physical damage or injury to any 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 **Stock on Roads Policy** is the policy adopted by the Council in August 2013 as may be amended from time to time that addresses the movement of stock across roads in the Council's area and the grazing of stock on roadsides.
- 6.9 **Road** has the same meaning as in the Local Government Act 1999.
- 6.10 **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 LAND

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 other than in accordance with the Council's *Stock on Roads Policy*, 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 on any road other than:

- (a) on an area of road which has been designated and set aside by resolution of the Council for that purpose; and
- (b) in accordance with any conditions determined by resolution of the Council and contained in the signage erected thereon.

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, 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.

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 District Council of Grant held on the 14 July 2014 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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TREVOR SMART
Chief Executive Officer