



ROADS BY-LAW 2024

By-law No. 4 of 2024

A By-law to manage, control and regulate certain activities on roads in the Council's area and to specify requirements for waste management services on roads and other public places.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Roads By-law 2024* and is By-law No. 4 of the Kangaroo Island Council.

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 certain 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 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:

*By-law No. 4 – Roads 2017*²

4.2. This By-law will expire on 1 January 2032.³

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 2024*.
- 5.2. Subject to subclause 5.3, this By-law applies throughout the Council's area.
- 5.3. Subclause 7.3.2 of this By-law only applies in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Definitions

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** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.4. **Council** means Kangaroo Island Council;
- 6.5. **DIT Guidelines** means the guidelines entitled “Guidelines for using Traffic Warning Devices Stock on Road” that are published and made available by the Department of Infrastructure and Transport (as may be amended from time to time)
- 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. **emergency worker** has the same meaning as in the *Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.8. **moveable sign** has the same meaning as in the Act;
- 6.9. **premises** means premises to which the Council’s domestic waste collection service is made available;
- 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;
- 6.11. **vehicle** has the same meaning as in the *Road Traffic Act 1961*; and
- 6.12. **waste container** means a container for the disposal of domestic waste, recyclables or green organics that is used to facilitate the kerbside collection of waste from premises by the Council or its agents or contractors.

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 engage in or undertake any of the following activities on a road (or where otherwise indicated, on other land) 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 except for a moveable sign that is displayed in accordance with the Council’s *Moveable Signs By-law 2024*.

Note-

Moveable signs on roads are regulated by sections 226 and 227 of the Act and 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 or magnifying sound including for the broadcasting of announcements or advertisements.

7.3. *Animals*

7.3.1 Cause or allow an animal to be left unattended on any road.

7.3.2 Cause or allow an animal to stray onto, move over, or graze on a road to which the Council has resolved this clause applies.

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

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. *Preaching and Canvassing*

7.5.1 Preach, harangue, or canvass for religious or charitable purposes; or

7.5.2 Convey any religious or other message to any bystander, passer-by or other person.

7.6. *Public Exhibitions and Displays*

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

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

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

7.6.4 Cause or conduct any public exhibitions or displays.

7.7. *Repairs to 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.

7.8. *Rubbish Bins*

Deposit in any Council bin on a road any rubbish:

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

7.8.2 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.

7.9. *Soliciting*

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

8. Waste Management Services

8.1. A person must not place or cause or allow to be placed, waste containers out on a road or on another public place to facilitate collection by the Council its agents or contractors of waste generated on premises unless the waste containers:

8.1.1 are waste containers of the type that are approved by the Council for the collection of waste by the Council its agents or contractors;

8.1.2 are placed out:

8.1.2.1 on the day nominated by the Council for the collection of waste in that area or after 4pm the preceding day (and not before these times);

8.1.2.2 in a position that is adjacent to the kerb (not on the carriageway) so that the front of the bin faces the road, or as may otherwise be directed by the Council; and

8.1.2.3 for a period that does not extend beyond 11:59pm on the day after the date that waste has been collected from the waste container; and

8.1.3 contain only the type of waste approved by the Council to be in that type of waste container.

Note-

To avoid doubt:

- clause 8.1.2.3 operates such that a waste container that is placed on a road for collection must be removed from the road before 11.59pm on the day following the date of collection; and
- clause 8.1.3 requires only approved:
 - recyclables to be placed in a recyclable waste container placed out on a road/public place for collection;
 - organic waste to be in a green organics waste container placed out on a road/public place for collection; and
 - general waste to be in a general waste container placed out on a road/public place for collection.

Note-

camping on roads is regulated under the Council's *Local Government Land By-law 2024*.

PART 3 – ENFORCEMENT

9. 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 an order of the authorised person made pursuant to section 262 of the Act, which may include an order to leave that part of the road.

10. 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; or
- remove an object or structure blocking a footpath;
- remove advertising displayed on a structure on a road.

11. Removal of animals and objects

11.1. 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, or apparently in charge, of the animal or object.

11.2. The Council may recover from the owner or apparent owner of an object, removed under subclause 11.1, the costs it incurs in removing that object.

PART 4 – MISCELLANEOUS**12. Exemptions**

12.1. The restrictions in this By-law do not apply to a police officer, emergency worker, Council officer or employee acting in the course of 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.

12.2. The Council may otherwise, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.

12.3. An exemption:

12.3.1 may be granted or refused at the discretion of the Council;

12.3.2 may operate indefinitely or for a period specified in the instrument of exemption; and

12.3.3 is subject to any conditions specified in the instrument of exemption.

12.4. The Council may, by notice in writing, vary, revoke or add a condition of an exemption.

12.5. The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

13. Liability of vehicle owners

13.1. For the purposes of this clause 13, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.

- 13.2. 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 Kangaroo Island Council held on **INSERT DATE** 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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DARRYL BUCKINGHAM
Chief Executive Officer

PROPOSED