

# **CLUTHA DISTRICT COUNCIL ROADING BYLAW**

## **PART I**

### **INTRODUCTION**

#### **100 TITLE AND COMMENCEMENT**

- 100.1. This Bylaw is the Clutha District Council Roding Bylaw 2008.
- 100.2. This Bylaw comes into force on 1 July 2008.
- 100.3. On 1 July 2008 the Bylaws listed in Schedule 1 are revoked.

#### **101 SCOPE**

- 101.1. The purpose of this Bylaw is to promote public safety and effectively regulate pedestrian, animal and traffic movements on roads, footpaths and public places within the Clutha District.
- 101.2. This Bylaw is made pursuant to and in accordance with the powers contained in the Local Government Act 2002, the Local Government Act 1974, the Land Transport Act 1998, the Land Transport Rule: Setting of Speed Limits 2003.
- 101.3. The reference in this Bylaw to any statute, regulation, or bylaw (unless the context otherwise requires) includes reference to all subsequent statutes, regulations or bylaws made in amendment or in substitution and for the time being in force.
- 101.4. Part 1 of this Bylaw applies to all subsequent parts of this Roding Bylaw.

#### **102 DELEGATIONS**

- 102.1. Except where this Bylaw states that a resolution is required, all actions required to be done by the Council under this Bylaw may be undertaken by any officer or employee or agent of the Council to whom the authority for undertaking such action has been lawfully delegated.
- 102.2. Proof of such authority may be established by:
  - (a) Reference to the Delegations Register; or
  - (b) Production of a Council Identity Card indicating in general terms the holders' area of delegated authority; or
  - (c) Any other reasonable means.

#### **103 EXEMPTIONS**

- 103.1. A person is not in breach of this Bylaw if that person proves that the act or omission complained of took place in response to a situation on a road; and the situation was not of the person's own making; and the act or omission was taken-

- (a) To avoid the death or injury of a person; or
- (b) If the act of omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.

- 103.2. A person is not in breach of this Bylaw if that person proves that the act or omission complained of-
- (a) Took place in compliance with the directions of an enforcement officer, or a traffic sign; or
  - (b) In the case of an act or omission done by an enforcement officer, was necessary in the execution of the person's duty.

## 104 DEFINITIONS AND INTERPRETATION

104.1 Subject to clause 104.2 below, the definitions in the Local Government Act 2002, the Transport Act 1962, the Land Transport Rule: Setting of Speed Limits 2003, the Land Transport (Road User) Rule 2004, and the Land Transport Act 1998 apply unless otherwise provided in this Bylaw.

104.2 For the purposes, of this Bylaw, and unless inconsistent with the context, the following definitions apply:

<b>Berm</b>	means an area of footpath laid out in grass.
<b>Boundary fence</b>	means a fence, as defined in Section 2 of the Fencing Act 1978, which separates a road from adjoining property.
<b>Carriageway</b>	means that part of the road reasonably useable for the time being for vehicular traffic in general.
<b>Cattle</b>	includes dairy cows.
<b>Chief Executive</b>	means the Chief Executive of the Council.
<b>Council</b>	means the Clutha District Council.
<b>Council authorised officer/ staff</b>	means officers or staff with delegations as set out in the Council Delegation Manual.
<b>Dairy unit</b>	means a farm used for milk production.
<b>Driver</b>	means the person controlling an animal or operating a vehicle or conveyance device and drive has a corresponding meaning.
<b>Drover</b>	means a person controlling the movement of an animal or group of animals.
<b>Drove</b>	means to drive or to move stock in mobs or herds along or across a road and includes the leading of stock either singly or in small groups, but does not include:

- Transportation of stock in a vehicle
- Riding a horse or leading a horse on foot
- The drive of a horse drawn vehicle and "**driven**" has a corresponding meaning.

**Enforcement officer**

Either a person appointed by Council to exercise powers of an enforcement officer in relation to offences against and infringement offences under this Bylaw, or a Police Officer.

**Footpath**

has that meaning which is attributed to it by section 315 of the Local Government Act 1974.

**Gateway**

means any entrance in a boundary fence which allows entry to or exit from a road.

**Grass Verge, Road Verge or Verge** means that part of a road which is not the carriageway or the footpath, but which is laid out in grass.

**Hours of darkness**

means a period of time between half an hour after sunset on one day and half an hour before sunrise on the next day or any other time where there is not sufficient daylight to render clearly visible a person or vehicle at a distance of 100m.

**Livestock or stock**

means any animal that is not a pet and is farmed or controlled by a person for benefit of personal consumption or profit or financial exchange.

**Milking purposes**

means the movement of milking stock to or from a shed for milking, but does not extend to the movement of dry cattle or milking stock for any other purpose.

**Private way**

has that meaning which is attributed to it by section 315 of the Local Government Act 1974.

**Race**

a confined area for moving stock from one location to another location.

**Regular movement of stock**

means the movement of stock over the same route involving the road or road reserve on more than three occasions on a weekly basis.

**Road**

has that meaning which is attributed to it by section 315 of the Local Government Act 1974.

**Service lane**

has that meaning which is attributed to it by section 315 of the Local Government Act 1974.

**Speed Limit**

has the meaning which is attributed to it in *Land Transport Rule: Setting of Speed Limits 2003*.

<b>State Highway</b>	has the meaning attributed to it by Section 2 of the Transit New Zealand Act 1989.
<b>Urban Traffic Area</b>	has the meaning attributed to it by <i>Land Transport Rule: Setting of Speed Limits 2003</i> .
<b>Vehicle</b>	has that meaning attributed to it by section 2(1) of the Land Transport Act 1998.

## **105 GENERAL PROVISIONS**

- 105.1. This Bylaw applies to all roads or parts of roads or other land which are under the control of the Council.
- 105.2. Enforcement of the provisions of this Bylaw will be carried out by the Police or the Council's enforcement officers, including parking officers.
- 105.3. Any person who acts so as to cause damage to any road, footpath, signage, pavement marking or other road-related asset commits a breach of this Bylaw. Without prejudice to any other remedy, where such a breach of this Bylaw takes place which causes damage, Council may undertake repairs and recover the associated costs from the person or persons who committed a breach of the Bylaw in connection with the damage.

## **106 OFFENCES AND PENALTIES**

- 106.1. Every person commits an offence against this part of the Bylaw who:
- Contravenes or permits a contravention of any of the provisions of the Bylaw;
  - Contravenes or permits a contravention, of any permit, licence or consent granted under this Bylaw;
  - Fails to comply with any direction authorised under this Bylaw and served by either a police officer or lawfully delegated agent or Officer of the Council.
- 106.2. Any party identified as causing damage to any part of the road commits an offence under Part 3 (Damage to Roads) part of this Bylaw and will be liable for the costs of remedial action or works, in accordance with Section 175 of the Local Government Act 2002.
- 106.3. Every person who operates a vehicle in excess of the speed limits set by Part 4 (Speed Limits) of this Bylaw commits an offence and is liable for the penalties and fees provided for in the relevant provisions of the Land Transport Act 1998 or Land Transport (Offences and Penalties) Regulations.
- 106.4. Any person who commits an offence against any part of this Bylaw is liable for fines as provided for in section 242(4) of the Local Government Act 2002. The maximum penalty for a breach is \$20,000.

## **107 NOTICE OF OFFENCE**

- 107.1. Any person who commits an offence against this Bylaw may be served with a written notice from Council that requires that person to take such action, within a reasonable time period, as Council considers is necessary to comply with this Bylaw or any permit, licence or consent granted under the Bylaw. Note this clause does not apply to Part 4 – Speed Limits.
- 107.2. Where any person fails to carry out any action required by a notice served pursuant to Clause 107.1 the Council may undertake the action required by the notice and recover the cost from that person.

## **108 SERVICE OF NOTICE**

- 108.1. Except as otherwise expressly provided for in any statute, notice given under this Bylaw must be delivered either personally or by registered post to the intended recipient's last known address.
- 108.2. Where the intended recipient is absent from New Zealand the notice may be served on the agent of that person, in the manner prescribed in 108.1.

## **109 APPEALS**

- 109.1. In any case where the issue of a licence has been refused or is revoked, the applicant or holder of the licence, as the case may be, is entitled to appeal Council's decision to Council's Hearings Committee and shall have the right to be heard and present such evidence in support of such an appeal as is considered necessary.
- 109.2. Notice of an appeal under Clause 109.1 must -
- (a) state the reasons for the appeal and the relief sought; and
  - (b) be lodged with Council within 10 working days of notice of the decision being received.

For the purposes of clause 109:

- i. 'licence' means any licence, permit, consent, approval or dispensation under this Bylaw.
- ii. 'working day' has the same meaning as in Section 2 of the Resource Management Act 1991.

## **110 POWER TO GRANT DISPENSATIONS**

- 110.1. Any person may apply to Council for a dispensation from compliance with any clause of this Bylaw.
- 110.2. Any such application shall be in writing and shall state the reasons for requiring a dispensation.

- 110.3. Upon giving due consideration to any application received under this clause, Council may grant a dispensation where it is of the opinion that full compliance would;
- (a) create serious hardship for that person and/or the operation of that persons business, or
  - (b) cause that person needless loss or inconvenience without any corresponding gain or benefit to the community.

Dispensation under this clause will not be unreasonably withheld.