



**GISBORNE
DISTRICT COUNCIL**

**Gisborne District Stock
Control Bylaw 2008**



GISBORNE DISTRICT COUNCIL POLICY

Stock Movement on Roads

THE POLICY

It is Gisborne District Council Policy to ensure the controlled movement of stock on or across any road controlled by the Gisborne District Council and/or State Highways under formal delegation from Transit New Zealand and to enforce this via a Bylaw.

This Policy only provides general reference information and does NOT represent the actual Bylaw.

BACKGROUND

The Gisborne District Council has adopted a Stock Movement on Roads Bylaw to ensure the safety of all road users and manage the impact of stock movement on or across any road controlled by the Gisborne District Council and/or State Highways under formal delegation from Transit New Zealand.

Stock Control Policy will be put into operation via a Gisborne District Council Stock Control on Roads Bylaw.

KEY POINTS

- The movement of stock on or across one or more roads controlled by the Gisborne District Council and/or State Highways under formal delegation from Transit New Zealand is only allowed by holding a permit issued by the Gisborne District Council. This is subject to the Gisborne District Council Stock Control Bylaw 2008.
- In considering the application of a permit, the Gisborne District Council will consider - The number and nature of stock, the frequency of intended road use and the time required to move stock along the intended route.
- Other uses, condition and physical characteristics of the road and possible alternative routes.
- The safety of users of the road and damage to property on or adjacent to the road.
- Any related Council policy and or bylaw.
- Other considerations that maybe relevant in the circumstances.
- Stock Movement that requires the overnight resting of stock is only allowed by holding a permit issued by the Gisborne District Council.
- Stock Movement that does not require the overnight resting of stock does not require a permit issued but is subject to restrictions outlined in the Gisborne District Council Stock Control Bylaw 2008.

BYLAW SCOPE

• Bylaw Title	Stock Movement on Roads Bylaw
• Council Report this Bylaw relates to	Cook County Council Resolution (Minute Book 1 April 1984 to 31 March 1985) (Resolution occurred 21 June and 26 July 1984).
• Date this Bylaw became effective	6 August 1984
• Authority for this Bylaw	Section 72 Transport Act 1962
• Repeals	Rescinded by Resolution Cook By-Law 1979
• Council Unit primarily responsible for the compliance of this Bylaw	Animal Control

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1. Title

This Bylaw may be cited as the “Gisborne District Stock Control Bylaw 2008”.

2. Commencement and Application

This Bylaw shall come into force on the 1st of July 2008 and shall apply to the whole of the Gisborne District.

3. Enabling Enactments

This Bylaw is made pursuant and subject to the Local Government Act 2002, the Local Government Act 1974, the Impounding Act 1955, the Transport Act 1962, the Land Transport Act 1998 and the Regulations and Rules made pursuant to these Acts.

4. Definitions and Interpretations

4.1 The Interpretation Act 1999 shall apply to this bylaw.

4.2 In this Bylaw, unless the context otherwise requires:

Act	Means the Local Government Act 2002.
Approval	Means approval by Council or any authorised officer so authorised on behalf of the Council and any approval may include conditions.
Authorised Officer	Means any person delegated, appointed or authorised in writing by the Council to act on its behalf and with its authority.
Council	Means the Gisborne District Council or any Committee of the Council or officer delegated to exercise the authority of Council.
Cycle Path	Has the same meaning as in the Land Transport (Road User) Rules 2004.
District	Means the territory of Council.
Drove or Drive	Means to direct the course of stock and “stock droving” or “stock driving” shall have the same meaning.
Enactment	Has the same meaning as in section 29 of the Interpretation Act 1999.
Footpath	Has the same meaning as in the Land Transport (User Rules) 2004.

Permit	Means a permit or written approval issued by Council granting approval to operate or act in terms of this bylaw.
Permit Holder	Means the holder or holders of a permit issued in terms of this bylaw.
Person	Includes a corporation and also a body of persons whether corporate or unincorporated.
Public Place	Has the meaning given to it in Section 147(1) of the Local Government Act 2002.
Road	Has the same meaning as in section 315 of the Local Government Act 1974.
Reserve	Has the meaning given to it in Section 2 of the Reserves Act 1977.
Stock	Has the same meaning as it has in Section 2 of the Impounding Act 1955.
Vehicle	Has the same meaning as it has in Section 2(1) of the Land Transport Act 1998.

- 4.3 Words importing the masculine gender include the feminine gender and the neuter gender.
- 4.4 Words importing the singular number include the plural number, and words importing the plural number include the singular number.
- 4.5 For the purposes of this Bylaw the word "shall" refers to practices that are mandatory for compliance with the Bylaw, while the word "should" refers to practices which are advised or recommended.
- 4.6 The headings to the sections of this Bylaw shall not affect the construction thereof.

5. Purpose

The purpose of this Bylaw is to set the requirements for the driving of stock on any road, reserve or public place in the district controlled by the Council, including of State Highways under formal delegation from Transit New Zealand.

6. Driving Of Stock Subject To This Bylaw

No person shall drive any stock on any road, reserve or public place in the district unless in accordance with the requirements of this Bylaw.

7. Restrictions Applicable to the Driving Of Stock

- 7.1 Any person having control of stock on any road, reserve or public place shall ensure that the stock is kept under proper control.
- 7.2 No person shall drive any stock on any road, reserve or public place during the periods of darkness unless the person complies with Transit New Zealand's *Code of Practice for Temporary Traffic Management - Section D (Mobile Operations)* (inclusive of any subsequent amendments or replacements thereof) to the extent required by the Council.
- 7.3 No person shall permit stock to be driven across any road, reserve or public place if a reasonable alternative route is available.
- 7.4 No person shall permit stock to be grazed on a public place or reserve unless allowed by the Council.
- 7.5 Stock shall at all times move at a rate of progress of not less than one kilometre per hour when being driven on any road, reserve or public place. This provision does not apply during stock rest or over-night periods.
- 7.6 Vehicles shall give way to stock travelling along the road, reserve or public place.
- 7.7 No person shall:
 - (a) By negligence in driving any stock over any road, reserve or public place permit any injury or mischief to be done by such stock.
 - (b) Allow any stock to be driven or ridden along any footpath or cycle path on any public place or reserve.
 - (c) Allow any stock to be led, ridden or driven upon, across or along any grass plot or verge or flower bed laid out on any road, reserve or public place.

- (d) Allow any stock to damage any structure, land, road, vegetation, vehicle or persons on any public place or road or on any private land accessed from a road, reserve or public place.
- 7.8 The restrictions on animals in public places and reserves contained in the Gisborne District Council Public Places Bylaw and the Gisborne District Council Reserves Bylaw shall apply to stock and stock shall not be allowed in areas declared restricted to animals.
- 7.9 Every person who is the owner or in control of stock shall keep and prevent the stock from wandering or being at large without guidance on road, reserve or public place.

8. Issue of Permits

- 8.1 No permit is required for the stock droving on road, reserve or public place that is completed without the stock having to be pastured and rested overnight.
- 8.2 The Council shall require that a permit be issued for the droving of stock on public places or roads that requires the stock to be pastured and rested overnight.

9. Consideration of Permit Applications

In considering the application for a permit to drive stock, the Council shall have regard to:

- (a) The numbers and nature of the stock, the frequency of intended use, and the time involved in the driving of the stock on the road, reserve or public place;
- (b) The other uses, condition and physical characteristics of the road, reserve or public place and possible alternative routes;
- (c) The safety of users of the public place or road and damage to property on or adjacent to the road, reserve or public place;
- (d) Any Council policy relating to the issue; and
- (e) Other considerations that may be relevant in the circumstances.

10. Standard Conditions of Permits

The following are standard conditions and shall apply to all permits issued by the Council:

- (a) Temporary stock warning signs as specified in Transit New Zealand's *Code of Practice for Temporary Traffic Management - Section D (Mobile Operations)* (inclusive of any subsequent amendments or replacements thereof) shall be displayed at all times during the drive;
- (b) Drivers working on the road during the drive shall comply with Transit New Zealand's booklet *Code of Practice for Temporary Traffic Management - Section D (Mobile Operations)* (inclusive of any subsequent amendments or replacements thereof);
- (c) The Council may determine the extent of the applicability of Transit New Zealand's *Code of Practice for Temporary Traffic Management - Section D (Mobile Operations)* when considering the application.

11. Specific Conditions of Permit

In addition to the standard conditions contained in section 10 of this Bylaw, one or more of the following specific conditions may apply to a permit issued by the Council:

- (a) The roads, reserves or public places that the stock may be driven along or across.
- (b) The roads, reserves or public places that the stock may not enter.
- (c) The days or dates and the times that stock may be driven.
- (d) The areas designated as rest or overnight areas.
- (e) The nature of the stock and the size of the herd.
- (f) Requirements to identify the stock.
- (g) The number of drivers required to be present during the drive. If appropriate, the functions of one or more drivers during the drive may be prescribed.
- (h) Any measure required to repair damage or clearing excessive fouling of the roads, reserves or public places.

- (i) Any measures that the Council may reasonably impose to ensure orderly and safe driving of the stock.

12. Possession of Permit

- 12.1 No driving of stock for which a permit has been issued shall take place without the person in charge being in possession of a copy of the permit.
- 12.2 Possession of the permit does not require physical possession at the site of the stock drive but having ready access to it to enable the person in charge to produce it to an authorised officer within forty eight hours from being requested to do so.

13. Transfer of Permit

The approval given by the Council to a person named in that permit shall not be transferable to any other person and no permit shall authorise any person other than the person named therein to act in any way under its terms or conditions.

14. Suspension and Revocation of Permit

- 14.1 Except as may be otherwise provided in any enactment or elsewhere in this Bylaw:
 - (a) If the holder of a permit is convicted of an offence constituting a breach of the terms of, or conditions included in that permit, or of an offence touching his character as a permit holder or person who has been approved to undertake an activity restricted by this Bylaw, the Council may revoke that permit or suspend it for as long as the Council thinks fit.
 - (b) If the holder of a permit:
 - (i) Acts in a manner contrary to the true intent and meaning of this Bylaw; or
 - (ii) Fails to observe or comply with the terms of or any conditions included in a permit; or
 - (iii) Acts in a way which in the opinion of the Council renders the holder unfit to hold a permit;

then the Council may, by notice served upon the holder of a permit require that person to appear before the Council or its nominated Committee at a time and place specified in that notice, to show cause that permit should not be revoked or suspended.

- 14.2 If the Council or the Committee considers the acts or failures of the holder of a permit so warrant, or if there is no response by the holder of a permit, then the Council or that Committee may revoke the permit or suspend it or impose further or amended conditions on it for as long as the Council or that Committee thinks fit.
- 14.3 A person whose permit has been suspended under section 14.2 shall, during the period of that suspension, be deemed to be without approval for that activity.

15. Officers to Continue in Office

All officers appointed by the Council under or for the purpose of the repealed Gisborne District Council Public Places Bylaw 1995, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.

16. Delegation and Appeal

- 16.1 Where pursuant to this Bylaw any powers or duties are imposed on any authorised officer of the Council that officer may, with the consent of the Chief Executive delegate any of those powers or duties delegated to him, generally or particularly to any other officer of the Council.
- 16.2 In all cases where this Bylaw provides for the issue of any order, notice or permit, such order notice or permit shall be deemed to be issued in compliance with this Bylaw if the same is issued by any officer of the Council authorised by the Council for that purpose.
- 16.3 (a) There shall be a right of appeal by an affected party from any decision by a delegated authority to original holder of the power and duty. Provided that the original holder of the power and duty may, after consultation with the Chief Executive refer the appeal to the Council when in his opinion this is justified.

- (b) Where the original holder of the delegated power and duty is the Council the right of appeal may be to a committee of the Council appointed for this purpose, who shall be the final arbitrator of the merits of the matter.

17. Powers of Authorised Officers at a Stock Drive

- 17.1 When the droving of stock creates or exacerbates conditions that threaten life or health or may cause injury or serious damage to property, an authorised officer who is present, may:
- (a) Refuse to allow the stock drove to proceed in order to avert the risk; or
 - (b) Direct the person in charge of the stock drove to take the necessary steps to minimize the risk; or
 - (c) Take the necessary steps to minimize the risk.
- 17.2 If an authorised officer who is present at the droving of stock is satisfied that compliance with a requirement of a permit creates or exacerbates unsafe conditions or are impractical or unreasonable in the circumstances, a temporary dispensation may be granted, with such conditions as are appropriate.

18. Fees and Charges

The Council may by resolution pursuant to section 150 of the Act prescribe fees that may be charged in respect of any permit given or inspection or service provided by the Council.

19. Dispensing Power

- 19.1 Where in the opinion of the Council full compliance with any of the provisions of this Bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or be attended with loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of this Bylaw; provided that any other terms or conditions (if any) that Council may deem fit to impose shall be complied with by that person.

- 19.2 The Council may, after consideration of any representation by affected persons and if in its opinion it is justified, extend, withdraw or amend the dispensation granted in terms of section 19.1.
- 19.3 Except if expressly granted otherwise, the dispensation by the Council in terms of section 19.1 shall only be applicable to the person it is granted to and shall be restricted to the particular issue considered by the Council and such dispensation will not constitute a justification for the breach of the provisions of this Bylaw outside the expressed terms of the dispensation.

20. Offences and Breaches

- 20.1 No person shall do anything or cause any condition to exist for which a permit from the Council is required under this Bylaw without first obtaining that permit and the failure to do so shall constitute a breach of this Bylaw.
- 20.2 No application for a permit from the Council, and no payment of or receipt for any fee paid in connection with a permit, shall confer any right, authority, or immunity on the person making application or payment for the permit.
- 20.3 Any person commits a breach of this Bylaw who:
- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw: or
 - (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by them at the time and in the manner there in provided; or
 - (c) Does not refrain from doing anything which under this Bylaw they are required to abstain from doing: or
 - (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw; or
 - (e) Refuses or neglects to comply with any notice duly given to him/her under the Bylaw; or
 - (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon them by this Bylaw; or

- (g) Fails to comply with any notice or direction given under this Bylaw.

20.4 The notice issued under section 20.3 shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.

21. Penalties for Breach of the Bylaw

21.1 Every person who fails to comply with any part of this Bylaw commits an offence and shall be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Local Government Act 2002 and the Impounding Act 1955.

22.2 Where any person is alleged to have committed an infringement offence, that person may either:

- (a) Be proceeded against summarily for the offence; or
- (b) Be served with an infringement notice as provided in the Act or the enabling enactment.

22.3 The Council may in accordance with Section 162 of the Act apply for an injunction restraining a person from committing a breach of this Bylaw or an offence against the Act.

THE COMMON SEAL OF GISBORNE DISTRICT COUNCIL WAS HERETO
AFFIXED PURSUANT TO RESOLUTION PASSED AT A MEETING OF THE
GISBORNE DISTRICT COUNCIL HELD ON _____ (DAY) OF _____
(MONTH) 2008.

----- MAYOR

----- CHIEF EXECUTIVE

P G Collins
CHIEF ANIMAL CONTROL OFFICER

