

Gisborne Stock Control Bylaw 2017

Made by Gisborne District Council

Resolution of Council dated 17 August 2017

Pursuant to the Local Government Act 2002, the Health Act 1956, the Land Transport Act 1998 (S22AB)
Gisborne District Council makes the following bylaw

Contents

1. TITLE	1
2. COMMENCEMENT AND APPLICATION	1
3. APPLICATION	1
4. DELEGATION	1
5. PURPOSE	1
6. DEFINITIONS AND INTERPRETATIONS	2
7. DROVING OF STOCK ON ROADS.....	3
8. GRAZING ON ROAD RESERVE.....	5
9. FENCING LAND ADJACENT TO ROADS.....	6
11. BYLAW ADMINISTRATION.....	7
12. ENFORCEMENT, OFFENCES AND PENALTIES.....	7
13. SAVINGS, REVOCATION AND TRANSITIONAL PROVISIONS	7
SCHEDULE 1: EXAMPLE TRAFFIC MANAGEMENT PLAN FOR STOCK MOVEMENT.....	9

1. Title

1.1 This Bylaw is the Gisborne District Stock Control Bylaw (2017).

2. Commencement and Application

2.1 This Bylaw shall come into force on 17 August 2017.

3. Application

3.1 This bylaw applies to the whole of the Gisborne District, including all roads under the control of Gisborne District Council and to those State Highways within Gisborne District.

3.2 Nothing in this Bylaw limits the application of any other Act or any rules or regulations made under any other Act, for example, and without limitation the

- a. Impounding Act 1955
- b. Fencing Act 1978;
- c. Land Transport Act 1998; and
- d. Resource Management Act 1991.

3.3 This Bylaw, except sub clause 6(5)(h), does not apply to:

- a. Any stock which is being led or ridden or which is drawing a vehicle; or
- b. Any stock which is being transported in a vehicle.

3.4 A reference in this Bylaw to any Act, regulation or rule, unless the context otherwise requires, includes a reference to all subsequent Acts, regulations or rules, made in amendment or substitution, and for the time being in force.

3.5 This Bylaw should be read in conjunction with the Keeping of Animals, Bees and Poultry Bylaw 2012, the Public Places Bylaw 2015 and the Reserves Bylaw 2015.

4. Delegation

4.1 In this bylaw, where the written permission of the Council is required, such permission may be given by the Chief Executive, and the Chief Executive may delegate all or part of that function to any other officer of the Council.

5. Purpose

5.1 The purpose of the Bylaw is to control movement and grazing of stock on public roads:

- a. To protect:
 - i. The safety of all road users including those associated with moving and grazing stock on roads and road reserves;
 - ii. The structure and surface of roads, including road reserves; and
 - iii. Public structures and utilities situated in the road.
- b. To reduce inconvenience, nuisance and potential hazards for all road users.

Explanatory note: the Gisborne District Stock Control Bylaw 2017 supplements rather than duplicates other animal owner obligations, including but not limited to, the Keeping of Animals, Bees and Poultry Bylaw 2012, the Public Places Bylaw 2015 and the Reserves Bylaw 2015

6. Definitions and Interpretations

6.1 The Interpretation Act 1999 shall apply to this Bylaw.

6.2 In this Bylaw, all definitions shall apply unless the context otherwise specifies:

Term	Definition
Act	means the Local Government Act 2002.
Appropriate Fencing	means a fence that, as to its nature, condition, and state of repair, is reasonably satisfactory for the purpose that it serves or is intended to serve. This includes the erection, replacement, repair, and maintenance of a fence in whole or in part and may include a permanent or temporary fence that is of a sufficient standard to hold stock.
Authorised Officer	means any person appointed or authorised in writing by the Chief Executive or by Council to act on its behalf in accordance with this Bylaw and with its authority and includes members of the New Zealand Police.
Beach	means that part of the foreshore landwards from the mean high water mark that is under the control of the Council.
Competent Person	means a person being able to provide reasonable care and supervision.
Council	means the Gisborne District Council or any Committee of the Council or officer delegated to exercise the authority of the Council.
Drove or Drive	"Stock droving" or "stock driving" is the practice of moving livestock over long distances by walking them "on the hoof".
Fence	means a fence, whether or not continuous; and includes all gates, culverts, and channels that are part of or are incidental to a fence. A fence shall include a natural barrier (such as a bank or cliff) but not a natural or artificial watercourse.
Hours of Daylight	means any period of time between half an hour after sunrise on any one day and half an hour before sunset on that day.
Livestock Course	means a pathway located within a berm used by livestock when that route must leave the livestock owner's property.
Local Road	means any road not identified as a State Highway.
Owner	in relation to any stock, includes the person having the charge of the stock or the management thereof; and owned has a corresponding meaning.
Paper Road	means any road which has not been formed.
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.

Road	as defined in section 5 of the Land Transport Management Act 2003 and includes a beach but does not include a private road.
Road Reserve	means the unformed part of any formed road.
State Highway	means a state highway declared under section 5 of the Land Transport Management Act 2003.
Stock or Livestock	includes any farmed animal and includes any cattle, horse, deer, sheep, goat or pig.
Stock Movement	includes both stock droving and the movement of stock for stock grazing on a road reserve.
Stock Permit/Permit	means a permit or written approval issued by Council granting approval to operate or act in terms of this Bylaw.
Stock Underpass	means a stock access structure together with associated fencing, drainage and safety facilities, under a road, connecting two parts of a property or properties. An underpass must be designed and constructed in compliance with this Bylaw, any Council Policy and with approval of Council.
Tether	to tie an animal with a rope or chain so as to restrict its movement.

- 6.3 Words importing the singular number include the plural number, and words importing the plural number include the singular number.
- 6.4 The headings to the clauses of this Bylaw shall not affect the construction thereof.
- 6.5 For the purposes of this Bylaw the word "shall" refers to practices that are mandatory for compliance with the Bylaw, while the word "may" refers to practices which are discretionary.
- 6.6 Every Schedule to this Bylaw shall be deemed to form part of the Bylaw.
- 6.7 Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be inserted, amended or revoked without formality.

7. Droving of Stock on Roads

- 7.1 Stock shall not be driven across or along a road unless it is:
- a. For escape or emergency; or animal welfare purposes;
 - b. Provided for under this Bylaw, subject to meeting any standards; or
 - d. Stock movements on a road that are a result of an emergency, such as flooding or fire, landslide and damage to fences, or similar, shall only occur as a result of that emergency, e.g., Stock movements on public roads for the purposes of returning wandering or loose livestock to the owner's property or to a temporary pound.
- 7.2 No person shall move stock across or along a road where that person can reasonably move the stock on private land.
- 7.3 Stock movement on or along a local road and State highway is permitted if:
- a. Droving occurs during the hours of daylight;
 - b. Sheep and cattle numbers do not exceed:

- i. 3000 sheep; or
 - ii. 600 cattle.
 - c. All stock must be driven in such a way as to cause the least possible disruption to other road users and landowners a drover must allow any vehicle to proceed along the road and take all reasonable steps to make way for or allow that vehicle to pass through the stock; and
 - d. The ratio of drovers to the number of stock must at all times be such that the drovers are able to maintain control of all the animals at all times so that the drovers may direct the stock in a particular direction or stop the stock as required; and
 - e. The route taken by any stock drove must be the shortest and most practicable route by road between the departure point and the destination point subject to the provisions of this Bylaw; and
 - f. The drover must keep the animals moving at a reasonable speed so as to make progress towards the destination; and
 - g. Every person driving stock on any road must ensure that any gateways to any adjoining property have been closed before the stock passes and must take all reasonable steps to ensure that where no gateway or boundary fence exists stock are kept on the road and off any adjoining property.
 - h. The owner or drover of any stock that is being moved along or across any road, must ensure that all reasonable steps are taken to clean the roadway free of any faecal matter as soon as practicable if that faecal matter is causing a road nuisance or a road safety issue.
 - i. At all times during the driving procedure, appropriate warning mechanisms must be used, these may include:
 - i. Orange flashing warning lights / flagman;
 - ii. Warning signs;
 - iii. Road cones;
 - iv. High visibility clothing worn by drovers.
 - j. The driving will be completed without the stock having to be pastured and rested overnight; and
 - k. The traffic management plan in Schedule 1 provides an example of warning mechanisms that could be used and how they are applied.
- 7.4 The leading or riding of a horse or a horse which is drawing a vehicle of any description on a road is permitted.
- 7.5 Where driving of sheep or cattle, or horse-riding is permitted, no person shall move stock or ride a horse in such a manner as to cause danger to any other person.
- 7.6 A Stock Permit is required if:
- a. There is non-compliance with any of the standards in clause 7.4.
 - b. Driving of stock other than sheep or cattle is required.

An example traffic management plan for best practice stock droving is provided in Schedule 1.

- 7.7 If the owner or drover breaches clause 7.4, the Council may give to that owner or drover notice:
- a. To remedy that situation as soon as possible to the Council's satisfaction; and
 - b. That if the owner or drover does not comply with this notice, the owner or drover commits a further breach of this Bylaw.
- 7.8 Council may require that a stock underpass or livestock course be installed if stock are to be moved on a regular basis across or along a road. Regularity of crossing means either daily or up to 25 times per week. Other factors to take into account are where there are high traffic volumes, problems of visibility at site and a potential significant amenity impact.

All underpasses or livestock courses must be installed within two (2) years of the date of written notification from Council. Any person who fails to install an underpass or livestock course within the time stated in any notice given in writing by the Council shall be acting in contravention of this Bylaw and legal action may be taken. Unless otherwise stated by Council the applicant is fully liable for all costs associated with the diversion of underground services (including but not limited to water service pipes) in the road. Council will work with the applicant to develop a stock underpass or livestock course construction agreement to ensure these are appropriately designed on a case-by-case basis.

- 7.9 Any underpass installed in accordance with clause 7.8 shall be maintained by the applicant at the applicant's sole cost and removed at the end of the permit to the satisfaction of the Council.

8. Grazing on Road Reserve

- 8.1 Stock grazing on road reserve on a formed local road or State highway is permitted if the following standards are met:
- a. Temporary fencing shall be used and the temporary fence shall be located not less than 4.5 metres from the road centre or 1.5 metres clear of the road carriageway whichever is greater or stock are under the supervision of a competent person; and
 - b. The temporary fence is constructed of posts or stakes made of fibreglass, plastic or wood or any combination of those things of a size not greater than 100 mm width and 50 mm depth with a steel wire or netting or electric fence ribbon wire or netting or any combination of those things; and Temporary fencing using steel posts such as waratah standards and barbed wire are not permitted; and
 - c. The fence is erected on one side of a road at any one time; and
 - d. Stock must not be held or confined on a road verge behind a temporary fence during the hours of darkness; and
 - e. Safety reflectors are fitted to both ends of the temporary fence and to posts or stakes at not more than 50 metre intervals; and
 - f. If electrified, the temporary fence must carry appropriate "live wire" warning signs.

- g. No temporary fence including a replacement or re-erected fence may be in place for a period greater than an aggregate of 30 calendar days within any 12 month period, unless the person wishing to erect the temporary fence has obtained the prior consent of the Council.
 - h. Grazing shall only occur during daylight hours;
 - i. Grazing shall not occur during wet weather conditions where stock may cause damage to the drainage system and quality of the road reserve surface; and
 - j. Stags, bulls or stallions shall not be grazed on road reserve.
 - k. Consideration is given to adjacent landowner if there are households.
- 8.2 Consent from Council for temporary fencing may be for such period as is specified by the Council and the temporary fencing must be removed at the end of that period.
- 8.3 In the event of any breach of the conditions of the consent or the standards in clause 8.1 the Council may suspend or revoke its consent and require the temporary fence to be removed immediately.
- 8.4 The tethering of cattle, horse, goat and sheep on the road reserve of a local road or low volume areas of state highway is permitted but the tether must be at least 1m from the formed road.
- 8.5 The owner is responsible for any damage which may occur as a result of grazing on the road reserve.
- 8.6 No gates, barriers or fencing are able to be placed across a road or cause any obstruction to traffic without prior permission from Council.

9. Fencing Land Adjacent to Roads

- 9.1 The owner is responsible to ensure stock do not wander onto roads.
- 9.2 Within the one year anniversary of implementation of the Bylaw appropriate fencing shall be installed on all property boundaries adjacent to a state highway where paddocks are utilised for stock as determined by Council. If Council has concerns around the safety of road users on a state highway, Council can require the owner take action immediately to appropriately fence the road boundary to the Council's satisfaction. (Council's discretion will be based on factors such as risk, traffic volumes and history of non-compliance).
- 9.3 Within the three year anniversary of implementation of the Bylaw appropriate fencing shall be installed on all property boundaries adjacent to local roads where paddocks are utilised for stock as determined by Council. If Council has concerns around the safety of road users on a local road, Council can require the owner take action immediately to appropriately fence the road boundary to the Council's satisfaction. (Council's discretion will be based on factors such as risk, traffic volumes and history of non-compliance).
- 9.4 On a local road the use of warning signs and/or cattle stops across the road or similar mechanisms may be used instead of property boundary fencing. This will be assessed on a case by case basis to ensure risks are managed. Existing cattle stops, subject to satisfactory maintenance shall have existing use rights.

10. Bylaw Administration

- 10.1 There is no fee for the Stock Permit processing.
- 10.2 The Council may set fees and charges for the recovery of costs incurred for the:
- a. Unscheduled maintenance or repair of the road or any part of the carriageway due to damage caused by the livestock movement;
 - b. Unscheduled maintenance or cleaning to remove excrement, mud and other matter from the road, carriageway or any entrance to the road after any livestock movements (permitted, conditional or prohibited); and
 - c. Replacing or reinstating road marker posts, traffic signs or repairing any other street furniture, culverts, drains, public property or plantings damaged by the movement or grazing of livestock.
- 10.3 Every person commits a breach of this Bylaw who:
- a. Commits, or causes to be committed, any act contrary to this Bylaw; or
 - b. Omits, or knowingly permits to remain undone, any act required by this Bylaw; or
 - c. Refuses or neglects to comply with any notice, or any condition in any such notice, whether public or private, given pursuant to this Bylaw; or
 - d. Obstructs or hinder any Authorised Officer in the performance of any power, or duty conferred upon him or her by this Bylaw; or
 - e. Commits an offence under section 239 of the Act, and is liable to a fine as specified in section 242 of the Act, or the issue of an infringement notice under section 245 of the Act.

11. Enforcement, Offences and Penalties

Enforcement

- 11.1 The Council may use its powers under the Local Government Act 2002 , the Land Transport Act 1998 and the Health Act 1956 to enforce this Bylaw.

Offences and penalties

- 11.2 A person who fails to comply with this bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002, the Land Transport Act 1998 and/or the Health Act 1956.

12. Savings, Revocation and Transitional Provisions

- 12.1 This Bylaw revokes the Gisborne District Stock Control Bylaw 2008.
- 12.2 Any license, consent, permit, dispensation, permission or other form of approval granted under the Gisborne District Stock Control Bylaw 2008 continues in force but – (a) expires on the date specified in that approval; or (b) if no expiry date is specified, it expires on the date six months after the commencement of this bylaw; and (c) can be renewed only by application made and determined under this bylaw.
- 12.3 Where a license, consent, permit, dispensation, permission or other form of approval was not required under the Gisborne District Stock Control Bylaw 2008 and under this bylaw a

license is required, a person must obtain a license within six months of the commencement date of this bylaw.

- 12.4 Any application for a consent, permit, dispensation, permission or other form of approval granted under the Gisborne District Stock Control Bylaw 2008 that was filed before the day on which this bylaw commences must be dealt with by the council under the Gisborne District Stock Control Bylaw 2008 as if this bylaw had not been made
- 12.5 The revocation of the Gisborne District Stock Control Bylaw 2008 under sub clause (1) does not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw and such proceedings continue to be dealt with and completed as if the that bylaws had not been revoked.

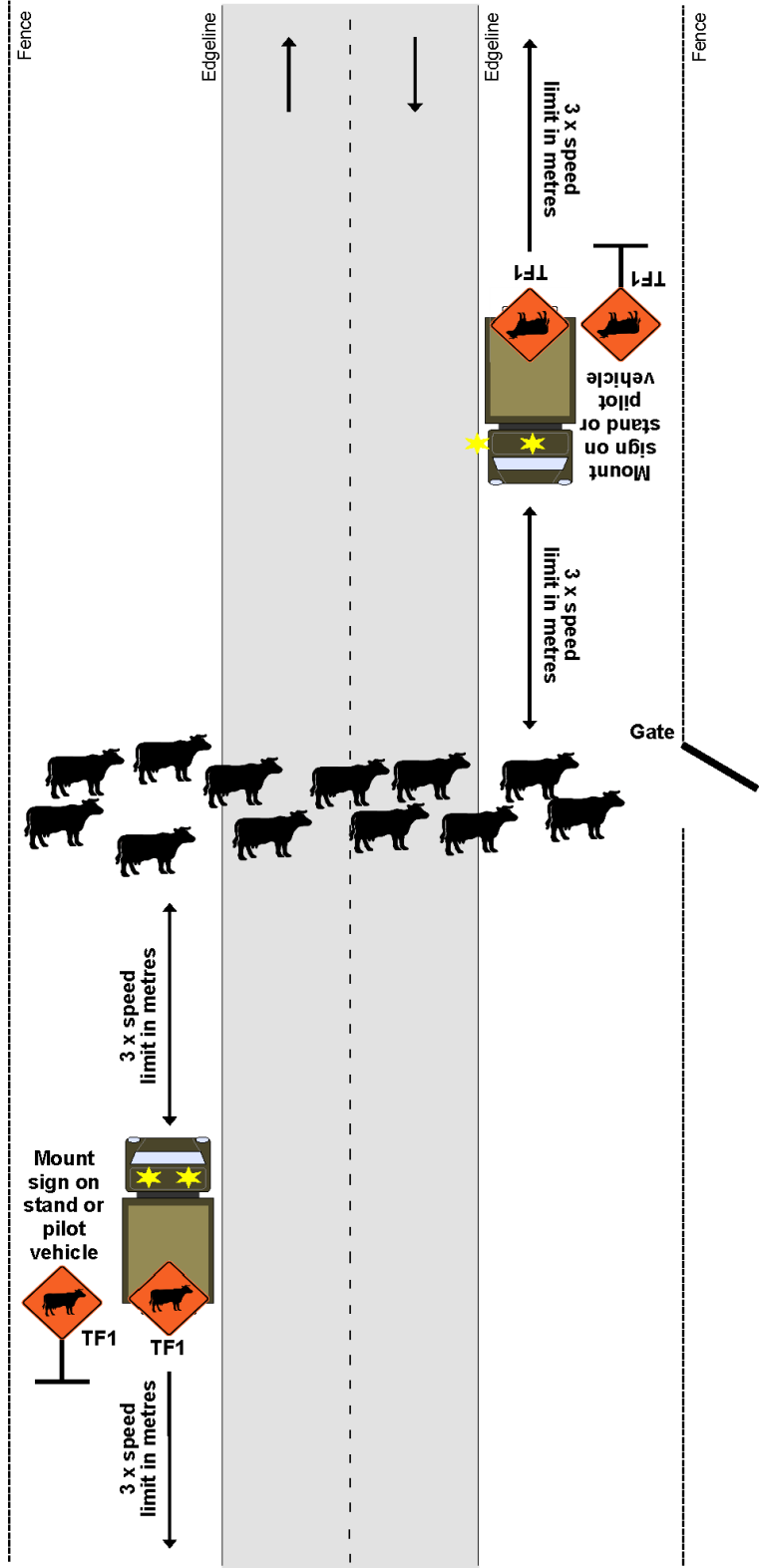
Schedule 1: Example Traffic Management Plan for Stock Movement

Special Activity: Stock under control

TWO-WAY TWO-LANE ROAD Stock crossing road **15.1** Level 1

- Notes**
1. The signs can be mounted on a pilot vehicle or placed on a stand on the side of the road
 2. The signs must be visible from 3 x the speed limit in metres (eg 3 x 100 = 300m). This could be the permanent speed or (where the Road Controlling Authority allows) the operating speed
 3. If pilot vehicles are used, they must have flashing amber beacon(s)
 4. Distance from the sign (or pilot vehicle and sign) to the stock should be 3 x speed limit in metres

This traffic management diagram may be used as part of a TMP where the RCA permits (refer section A5.3.1)



TWO-WAY TWO-LANE ROAD
Stock droving on left hand side of road

15.2
Level 1

Notes

1. The signs and pilot vehicles must be visible from 3 x the speed limit in metres (eg 3 x 100 = 300m). This could be the permanent speed or (where the Road Controlling Authority allows) the operating speed
2. All pilot vehicles must have flashing amber beacon(s)
3. Distance from the pilot vehicles to the stock should be 3 x speed limit in metres

This traffic management diagram may be used as part of a TMP where the RCA permits (refer section A5.3.1)

