

LIVESTOCK MOVEMENT BYLAW 2014

1. SHORT TITLE AND COMMENCEMENT

- 1.1 This bylaw is made pursuant to section 145 of the Local Government Act 2002.
- 1.2 This bylaw is the Hurunui District Council Livestock Movement Bylaw 2014.
- 1.3 This bylaw comes into force on 13 February 2014.
- 1.4 This bylaw revokes the Hurunui District Council Livestock Movement Bylaw 2008.

2. OBJECTIVES

- 2.1 The objectives of this bylaw include:
 - a) The safety of all road users
 - b) The protection of:
 - the structure and surface of roads
 - all utilities and structures contained within the Council's road reserve
 - c) The prevention of roads being used as livestock races where internal farm races can be used
 - d) Minimising inconvenience, nuisance and potential danger to all road users from the fouling of the road network
 - e) Ensuring public health is protected from effluent fouling

3. DEFINITION AND INTERPRETATION

- 3.1 In this bylaw, unless inconsistent with the context:

Authorised Officer means any officer appointed by the Council to carry out duties and exercise powers under this bylaw.

Berm means the edge of a road reserve between the kerb or road shoulder and property boundary.

Council means the Hurunui District Council.

Dairy cattle means any dairy cow from its first lactation, whether in milking or dry.

Drover means any person in the process of moving livestock from one point to another.

Farm means an area of land which is used principally for the purposes of agriculture, including grazing of livestock and includes any contiguous parcels of land under the same ownership, lease or licence.

Hours of darkness means any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day.

Livestock means and includes any cow, bull, ox, heifer, steer, calf, sheep (includes any ram, ewe, wether, lamb), goat, kid, donkey, mule, horse not under harnessed control (includes stallion, mare, gelding, colt, filly, foal), boar, sow, pig, llama, alpaca or deer of any kind. Livestock includes dairy cattle unless otherwise stated in this bylaw.

Mob means a group (more than one) of livestock being moved from one place to another.

New Movement means where the movement of dairy cattle was not occurring prior to the adoption of this bylaw, or where the ownership of the property changes and application is made by the new owner.

Permit means a livestock crossing permit issued by the Council for the movement of livestock, or a permit issued under clause 7.2(a).

Pilot vehicles means and includes any motor cycles, 4 wheel farm bikes, cars, utility vehicles, tractors, or trucks operating and moving with hazard lights in operation in front of or behind the mob.

Public Place means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether or not the owner or occupier of that place is lawfully entitled to exclude or eject any person from that place; and includes any beach, foreshore, reserve or domain or road reserve.

Races mean areas confined, within a farm boundary, for moving livestock from one location to another location.

Regular basis means anytime where livestock are moved across the road on more than 52 days per calendar year.

Road means a road within the Hurunui District as defined in the Land Transport Act 1998, but excludes unformed roads and State Highways.

Road users mean all lawful road users.

To move means to ride, drive, muster, lead or otherwise shift livestock whose feet are in contact with the road.

Urban boundary means the same boundary of any urban settlement as is defined in the District Plan.

3.2 Words implying the singular include the plural and vice versa.

4 FEES

4.1 For every permit the applicant must pay to the Council the fee that the Council sets.

5 PENALTIES AND OFFENCES

5.1 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 hinders any officer of the Council in the performance of any power, or duty conferred upon him or her by this bylaw.

5.2 The maximum penalty on summary conviction is \$20,000.

6 GENERAL

6.1 For the purposes of clarification, this bylaw does not apply to State Highways which are controlled by the New Zealand Transport Agency.

6.2 Any notice, order or other document which is required by this bylaw to be served, given or sent to any person is deemed to have been duly served, given or sent if delivered to such person, or left at his or her residence or workplace, or posted to such person at his or her last known postal address.

6.3 Every person, being the owner of or having the care, custody or control of any livestock should enquire into and be aware of any public liability associated with the keeping or driving of livestock, including any health and safety requirements under the Health and Safety Act 1992.

6.4 Any person moving livestock should be aware of the provisions of section 175 of the Local Government Act 2002, regarding their liability for costs incurred by the Council in remedying any damage or cleaning the road surface due to damage or excessive excrement resulting from any livestock movement.

6.5 Any person moving livestock along or across any road must take all reasonable practical steps to allow a vehicle to pass through the livestock.

7. COMPLETE RESTRICTION ON MOVEMENT OF LIVESTOCK

7.1 No person may move livestock as follows:

- (a) Along or across any road during the hours of darkness, except where a permit has been issued for the regular movement of dairy cattle under clause 10, or as allowed under clause 8.1(a);
- (b) Along or across any other road, public reserve or public place that the Council may seek to restrict from time to time, by resolution.

7.2 No person may move dairy cattle along or across any road as follows:

- (a) Within 10 metres of an urban boundary, unless a permit has been issued by Council and the livestock movement is conducted in accordance with the conditions of that permit;
- (b) Where, in the opinion of the authorised officer, it is possible to move livestock along a race or underpass.

8. LIVESTOCK MOVEMENT PERMITTED IN CERTAIN CIRCUMSTANCES

8.1 A person may move livestock along or across any road within the Hurunui District in the following situations:

- (a) Returning livestock to a farm in the case of an escape or an emergency;
- (b) When movement of livestock is carried out under the following conditions:
 - (i) Those who are responsible for moving livestock on public roads must do so in a responsible manner and using best practice;
 - (ii) The drover must keep the animals moving along the road at all times so as to make reasonable progress towards the destination;
 - (iii) Animals must be moved in such a manner, and using only such points of access and exit to and from the road, as will ensure that danger to other road users and damage to the road, road reserve and any Council or private property will be minimised.
 - (iv) Except where there is clear visibility of at least 160 metres at all points along the route that livestock are being driven, each mob must be accompanied at the front either by a pilot vehicle, or a sign must be placed where it is clearly visible and gives adequate warning of livestock movements to other road users; and at the back by either a pilot vehicle or a sign must be placed where it is clearly visible and gives adequate warning of livestock movements to other road users.

8.2 Despite clause 8.1, the Council may give written permission, subject to conditions, where any person wishes to move livestock where the conditions prescribed in 8.1(b) will not be met. The Council will only decline permission if there is a high risk to road safety and inconvenience to road users.

8.3 Nothing in this clause applies to the movement of dairy cattle on a regular basis which is covered in clause 9 of this bylaw.

9. MOVING DAIRY CATTLE FROM ONE SIDE OF A ROAD TO ANOTHER ON A REGULAR BASIS

9.1 No person may move dairy cattle from one side of a road to another on a regular basis, except when using a livestock crossing permit issued under clause 10.

9.2 All applications for a livestock crossing permit must be assessed by the authorised officer, and if found to require an underpass, then a livestock crossing permit will be issued with conditions requiring the installation of an underpass within two calendar years of the issue of the permit.

9.3 Where an application is made for the new movement of livestock on a regular basis, and it is determined that an underpass is required, the two year installation period in clause 9.2 shall not apply, and a livestock underpass must be installed before the commencement of any livestock crossing.

9.4 In determining whether an underpass is required, the authorised officer will have regard to the following:

- annual daily traffic volumes
- herd size
- percentage of pasture land on the opposite side of the road to the milking shed
- the location of the crossing in regard to schools, cemeteries, reserves and buildings

- site limitations due to the presence of high groundwater or springs or other factors
- other factors of special concern.

10. LIVESTOCK CROSSINGS

10.1 The authorised officer may issue a livestock crossing permit for the moving of dairy cattle on a regular basis on such conditions as the authorised officer sees fit. These conditions may include, but are not necessarily restricted to:

(a) The payment by the applicant of the additional cost incurred by the Council.

This may include costs incurred in respect of:

- (i) The maintenance of the road due to damage caused by the moving of such dairy cattle as is assessed by the authorised officer.
- (ii) The installation of warning signs at the crossing point to meet the requirements of New Zealand Transport Agency's Traffic Control Devices Manual or any such amended standards.
- (iii) The removal by the Council (or its agents or contractors) of livestock excrement from any sealed or unsealed road at the point where the dairy cattle cross.

(b) The construction, installation and correct use by the applicant of such facilities which in the opinion of the authorised officer are necessary to facilitate the safe passage of such dairy cattle. This may include any or all of the following:

- (i) Entranceways, including additional adjacent shoulders, at points where livestock cross the road berm must be constructed to the minimum dimensions in accordance with the Hurunui District Plan, which is available from Council offices.
Note: Sealing is only required if the road at the livestock crossing is a sealed road. Entrances are to be shaped so that effluent drains away from the road and into the property.
- (ii) Warning signs at the crossing point while dairy cattle are crossing the road to meet the requirements of New Zealand Transport Agency's Traffic Control Devices Manual or any such amended standards.
- (iii) An amber flashing light at the crossing point while dairy cattle are on the road.
- (iv) A person or persons to be present at the road crossing while dairy cattle are using the crossing.

10.2 Pursuant to clause 7.2 (b), no person may be issued with a livestock crossing permit where the authorised officer considers that it is possible to drive the dairy cattle along a race on private land or through a cattle underpass.

10.3 The person whose name the livestock crossing permit is issued in is responsible for ensuring that livestock excrement is removed from the road on a daily basis, during daylight hours, on days when dairy cattle use the livestock crossing.

11. PERMITS DECLINED PURSUANT TO CLAUSE 10 OF THIS BYLAW OR CONDITIONS IMPOSED PURSUANT TO CLAUSE 9 OF THIS BYLAW

11.1 Notice that the authorised officer has declined to issue a permit under clause 10, or has imposed a condition for the installation of an underpass under clause 9, must be in writing and addressed to the applicant.

- 11.2 A person who has received written notice that a permit has been refused or a condition has been imposed to install an underpass may, within fifteen (15) working days of the receipt of that notice, lodge an objection in writing to the authorised officer, stating the grounds of their objection. The Council will consider the objection and make a decision on the matter.
- 11.3 The applicant will be notified of the decision in writing no later than 10 working days after the Council has met.
- 11.4 The decision is final and binding on both parties.

12. REVIEWING, REVOKING OR SUSPENDING A LIVESTOCK CROSSING PERMIT

- 12.1 The authorised officer may from time to time review the conditions for any permit and impose in writing, altered conditions controlling the use of the livestock crossing. Such review is subject to the appeal provisions of clause 11.
- 12.2 If a road is to be under repair or reconstruction and the movement of livestock would, in the opinion of the authorised officer, cause undue damage to the road, the Council may after notifying the affected land owner prior to the repair or reconstruction, and with reasonable notice or coordination with the land owner, prohibit the movement of any livestock during the period of such repair or reconstruction. This would be despite the prior issuing of a livestock crossing permit authorising the contrary, or where Clause 8 authorises the contrary.
- 12.3 During any period when a road is closed or traffic flow is restricted because of road works, flooding or an emergency, Council staff (including but not limited to authorised officers) have discretionary power either to halt mobs in one place with a view to restricting their movement or to re-direct mobs along such other road or roads which in the circumstances are more appropriate.
- 12.4 The authorised officer may revoke any livestock crossing permit issued under clause 10 if:
- (a) Any person moving or crossing livestock fails to comply with any of the conditions of their permit;
 - (b) In the opinion of the authorised officer the crossing is resulting in excessive livestock excrement or other matter on the road or the berm;
 - (c) In the opinion of the authorised officer, the number of livestock or frequency of livestock crossing or moving along the road increases beyond that specified in the permit.