

Tasman District Council

Stock Control & Droving Bylaw 2022

Made by Resolution of Council

On

22 September 2022

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PART A – General

1. Introduction

1.1 Tasman District Council makes this bylaw in accordance with section 22AB of the Land Transport Act 1998 and Section 145 of the Local Government Act 2002.

2. Title

2.1 The title of this bylaw is the Tasman District Council Stock Control & Droving Bylaw 2022.

3. Commencement

3.1 This bylaw comes into force on 1 November 2022.

4. Revocation

4.1 The Tasman District Council Consolidated Bylaw Chapter 8 Stock Control & Droving Bylaw 2005 expired in 2017.

4.2 Tasman District Council Stock Control & Droving Bylaw 2022 is a new bylaw and does not amend the Tasman District Council Consolidated Bylaw Chapter 8 Stock Control & Droving Bylaw 2005.

5. Purpose and application

5.1 The purpose of this bylaw is to:

- (a) provide for the safe and orderly droving and movement of stock along and across all roads within the District;
- (b) protect the safety of all road users; and
- (c) provide for the protection of freshwater from stock effluent on the road.

5.2 This bylaw shall apply to Tasman District.

5.3

6. Interpretation

6.1 In this bylaw, unless the context otherwise requires:

Act means the Local Government Act 2002.

Authorised Officer means any person appointed as an enforcement officer under section 208 Land Transport Act 1998.

Bylaw means this Stock Control & Droving Bylaw 2022.

Council means Tasman District Council.

Crossing means that part of any road used for the purpose of moving stock across any road and, where the context requires, moving stock across a road.

District means the district within the jurisdiction of the Tasman District Council.

Drove means to drive or to move untethered stock from place to place along a road and includes the leading of stock in mobs or herds, or singly or in small groups, and **drive**, **driven**, **driving** and **droving** have equivalent meanings.

Drover means a person responsible for droving stock along a road.

Hours of Darkness and **At Night** means:

- (a) a period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or
- (b) any other time when there is not sufficient daylight to render clearly visible a person or vehicle at a distance of 100 metres.

Person in Charge of Stock means a person responsible for moving stock across a road.

Publicly Notified means a notice published in a daily newspaper circulating in the Tasman District, and published on the Council's website.

Race means that part of any road margin fenced off and used specifically for the purpose of droving stock.

Register means notifying the Council in writing of stock movements in accordance with section 8 of this bylaw.

Road includes:

- (a) a street; and
- (b) a State Highway; and
- (c) a place to which the public have access, whether as of right or not; and
- (d) all bridges, culverts, ferries, and fords forming part of a road or street or state highway, or a place referred to in paragraph (c).

Road Margin includes any uncultivated margin of a road adjacent to but not forming part of either the roadway or the footpath (if any).

Roadway means that portion of the road used or reasonably usable for the time being for vehicular traffic in general and includes a cycle track or a footpath (if any).

State Highway means any State Highway (as defined in section 5 Land Transport Management Act 2003) or portion of a State Highway that is under the control of Tasman District Council.

Stock means any farm animal, including cattle, sheep, pigs, goats, and deer, but excluding horses.

6.2 In this bylaw:

- (a) the Legislation Act 2019 applies to this bylaw; and
- (b) a reference in this bylaw to any Act, Regulation or Rule, includes any amendment thereof, and any Act, Regulation or Rule in substitution therefor.

7. General responsibilities of drovers and persons in charge of stock

7.1 No person shall, in the course of droving stock, tether or otherwise put or place the stock on a road for the purpose of grazing, except pursuant to a current grazing licence issued by the Council.

7.2 No person shall drove stock along any road, or move stock across a road, during the hours of darkness except:

- (a) for milking purposes, if this activity is registered in accordance with section 8 of this bylaw and the drover or person in charge of stock complies with the road safety requirements in 7.7 and Table 1 of this bylaw;
- (b) when the person is returning stock to a secure paddock following their escape; or

- (c) in an emergency.
- 7.3 A drover must ensure that continuous progress is made towards the destination while any stock are being driven on any road.
- 7.4 No person shall drive, in any one herd, more than 600 head of cattle, or 3000 head of sheep, or 1000 head of any other stock.
- 7.5 A drover or person in charge of stock must exercise due care towards other road users, and must ensure that any disruption to traffic is minimised.
- 7.6 A drover or person in charge of stock must take steps to ensure that approaching drivers are given reasonable warning of the presence of stock. For this purpose, persons in charge of crossing or driving stock must follow the requirements in 7.7 of this bylaw.
- 7.7 When driving stock, or moving stock across any road, a drover or person in charge of stock must use at least two of the road safety measures listed below, and also comply with the requirements outlined in Table 1 for stock movements on state highways, and for crossings at night:
- two orange cones not less than 900 mm high on each side of the crossing not less than 30 m apart;
 - personnel wearing high vis gear;
 - signage indicating stock on the back/front of pilot vehicles with flashing amber lights, or with headlights and hazard lights on;
 - vehicles with flashing amber lights, or with headlights and hazard lights on;
 - New Zealand Transport Agency TW6 static signs placed approximately 150 m from the crossing point;
 - personnel holding high vis flags to alert traffic;
 - for crossings only, a flashing amber light on each side of the road at the start and end points of the crossing, visible to all traffic approaching the crossing (i.e. at least 2 lights).

Table 1

	State highway	At night (when permitted by 7.2)
Droving	Must use at least two measures specified in 7.7 including 7.7(c)	Not allowed
Crossing	Must use at least two measures specified in 7.7 including at least one of either 7.7 (d), (e) or (g)	Must use at least two measures specified in 7.7 including at least one of either 7.7 (d) or (g)
	State highway crossing at night	
	Must use at least three measures specified in 7.7 including at least one of either 7.7 (d) or (g)	

- 7.8 Other road safety measures, not listed in 7.7, may be used if agreed in writing by the Council.
- 7.9 A drover or person in charge of stock shall take all reasonable and practical measures to prevent damage to any public or private property along or adjacent to the road.
- 7.10 The Council reserves the right to recover all costs from the owner of stock, drover, or person in charge of stock for replacing or reinstating road marker posts, traffic signs or repairing any other street furniture or property of the Council damaged by the droving or crossing of stock, in accordance with section 176 of the Act.
- 7.11 The owner of stock, drover, a person in charge of stock, or a person using the road margin as a race, must make reasonable efforts to ensure that stock effluent on the road or road margin is removed in such a way that faecal matter is not washed into a stream or wetland, if clean-up is required.

8. Registering stock drives or crossings

- 8.1 All drives or crossings must be registered with the Council, in writing, five working days prior to the activity, if the movement is:
- (a) along or across a road within any urban or residential area (as defined in the Tasman Resource Management Plan); or
 - (b) along or across a State Highway; or
 - (c) over a distance greater than 5 kilometres; or
 - (d) for milking purposes during the hours of darkness.
- 8.2 When registering a drive or crossing, the drover or person in charge of stock must state:
- (a) stock owner's name and address and contact phone number;
 - (b) name and contact phone number(s) of the head drover or the person in charge of stock;
 - (c) number of stock;
 - (d) types of stock;
 - (e) intended route through district;
 - (f) statement of daily stages and holding paddocks;
 - (g) public liability insurance detail; and
 - (h) the approximate date and time of the proposed drive or crossing.
- 8.3 If the stock movement is regular or reoccurring the drover or person in charge of stock only need to register once for the ongoing activity, unless circumstances change.

9. Stock crossing roads

- 9.1 Every person in charge of stock shall comply with the following requirements:
- (a) stock shall cross the road in a direct route and, as nearly as practicable at right angles to the road alignment;
 - (b) gates will be erected on both sides of the crossing on the boundary between the road and the race entrance on the adjoining land;

- (c) obstructions impairing road user visibility of the full width of the road must be avoided;
- (d) all fences or barriers put up to contain stock while crossing the road are to be removed immediately after stock have passed, and must always be supervised by at least one person in charge of stock;
- (e) at a crossing all entrances from a road to a farm race on private land shall be constructed of hard fill material with a cambered free-draining profile for at least 15 metres from the edge of the seal or road formation on each side of the road to the satisfaction of the Council;
- (f) all reasonable steps will be taken to prevent fouling of the road and to clear any excess faecal waste and mud from the road where practicable. How this is achieved may be determined by the person in charge of stock and can include, but is not limited to, using mats, on road clean up, and holding stock back before crossing;
- (g) excess fouling of the road, which may cause inconvenience or create a nuisance, as defined under section 29 of the Health Act 1956, shall be removed by the stockowner, landowner or person in charge of stock. If, in the view of Council, fouling has not been adequately cleaned from the road, then Council's network road maintenance contractor may be requested to undertake the work and the cost recovered from the person in charge of stock, stockowner or landowner who uses that section of the road as a stock crossing; and
- (h) where excessive maintenance costs to sustain the pavement or road surface are incurred, the Council may require a financial contribution from the person in charge of stock, stockowner, or landowner who uses that section of the road as a stock crossing.

10. Use of a road margin as a race

- 10.1 No person shall construct a race on a road margin, or erect a fence on a race, for the purpose of moving stock, unless that person is the holder of a current race permit issued by the Council in accordance with clause 11 of this bylaw and is acting in accordance with the terms and conditions of the race permit.
- 10.2 The holder of a race permit shall be responsible for all costs of construction and maintenance of the race.
- 10.3 No person is permitted to construct a race on a road margin if there is an existing race, constructed pursuant to a race permit, located on the opposite side of the road.
- 10.4 The conditions of a race permit issued by the Council may include (without limitation) conditions relating to the following:
 - (a) maximum length of race: 2 kms;
 - (b) maximum width of race: 5 metres;
 - (c) a race is only permitted in the road margin on one side of the road;
 - (d) any fence erected on a race must be frangible and be of a type, and comply with specifications, approved by the Council;
 - (e) the formed edge of the race, and any fence erected on a race, must be no closer than 1 metre from the edge of a gravel roadway, or 2 metres from the edge of the seal on a sealed roadway unless otherwise specified by the Council;

- (f) the race and any fence erected on a race shall not encroach into any water table or drain;
- (g) if the race is used frequently and an excessive amount of mud and debris is fouling the road, the race shall be formed with hard fill to the satisfaction of the Council;
- (h) existing drains must be either piped or bridged and may require fencing off;
- (i) the holder of a race permit shall be responsible for locating and avoiding any underground services and culvert drain structures;
- (j) the holder of a race permit shall ensure that no stock occupy the race during the hours of darkness;
- (k) reflective road marker posts shall be placed at minimum 100 metre intervals with 25 metre intervals for vertical curves (in the slope of the road) and horizontal curves (in the alignment of the road);
- (l) the Council may cancel a race permit at any time subject to giving the holder of the race permit not less than one dairy season's notice (a dairy season begins on 1 June in any year and ends on 31 May in the following year), and prior to the expiry of such notice period the holder of the race permit shall remove the race, and any fence erected on a race, and reinstate the road margin to the satisfaction of the Council. All such work to be at the expense of the holder of the race permit;
- (m) if stock cross the roadway at the entrance or exit of a race, then the provisions of this bylaw applicable to moving stock across a road shall apply; and
- (n) the holder of the race permit must arrange and keep in force public liability insurance for an amount approved by the Council.

11. Applications for a permit

11.1 Whenever a person (the applicant) applies to the Council for approval for a permit under this bylaw:

- (a) the application shall be in writing on the prescribed form and be accompanied by the application fee;
- (b) the Council may at its discretion grant or decline the application;
- (c) any approval may be given subject to such conditions as the Council thinks fit;
- (d) the applicant shall comply with the conditions of any approval given by the Council to the applicant; and
- (e) the applicant shall pay the Council all fees and charges payable to the Council in connection with the application, and any approval given by the Council, as prescribed in the Council's Schedule of Fees and Charges.

12. Fees and charges

12.1 The Council may prescribe in its Schedule of Fees and Charges the fees and charges payable to the Council for permits and other matters provided for in this bylaw.

- 12.2 All charges will be invoiced in accordance with the Council's practice. The invoice shall provide the information and calculations used to determine the extent of any fees and charges due.
- 12.3 The Council may, for any reasons as it thinks fit, refund, remit or waive any fee or charge prescribed by this Bylaw.

13. Review of decisions

- 13.1 If any person is dissatisfied with any decision made under this bylaw by an authorised officer, that person may, by notice delivered to the Chief Executive Officer of the Council within twenty (20) working days after receipt of the decision, request the Chief Executive Officer to review the decision.
- 13.2 On receipt of a request under Part A clause 11.1, the Chief Executive may review the matter and confirm or reverse the decision in question. Any review decision of the Chief Executive shall be final.

PART B – Enforcement

14. Offences and Penalties

- 14.1 Every person who fails to comply with this bylaw commits an offence and is liable to enforcement action by the Council and the penalties set out in the Local Government Act 2002 or the Land Transport Act 1998, as the case may be.
- 14.2 The Council may recover from the person committing a breach all expenses incurred by it in connection with any action under this Bylaw.

15. Removal of works and recovery of costs

- 15.1 The Council may:
- (a) remove or alter a work or thing that is, or has been, constructed in breach of this bylaw; and
 - (b) recover on demand the costs of removal or alteration from the person who committed the breach.
- 15.2 If any person defaults in undertaking any action required under this bylaw the Council may at its discretion, upon giving notice to that person, undertake that action and recover on demand from them the full cost of undertaking that action from that person.
- 15.3 The Council may recover from a person the cost of replacing or reinstating road marker posts, traffic signs or repairing any other street furniture or public property damaged by the droving of stock along a road or the moving of stock across a road.

Council resolution

This bylaw was made by Tasman District Council at a meeting of the Council on 22 September 2022.

The common seal of the Tasman District Council is attached in the presence of:



A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke, positioned above a solid horizontal line.

Mayor



A handwritten signature in blue ink, appearing to be 'C. Joe', positioned above a solid horizontal line.

Chief Executive

