

Special Order

Buller District Council Livestock Movements Bylaw

TO CONTROL THE MOVEMENT OF LIVESTOCK ACROSS AND ALONG PUBLIC ROADS

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INTRODUCTION

Buller District Council may make bylaws to regulate the movement of livestock on, across or along public roads under the control of the Council under the authority of and in accordance with the provisions of the Bylaws Act 1910, Transport Act 1962 and the Local Government Acts 1974 and 2002.

1.0 Title

1.1 This bylaw is made under Section 145 of the Local Government Act 2002 and shall be known as the Buller District Council Livestock Movements Bylaw (2010).

2.0 Commencement And Application

2.1 This bylaw comes into force on 1st July 2010 and applies to all parts of all roads under the control of the Buller District Council and also to those State Highways within the Buller District Council area.

3. Revocation

3.1 The Buller District Council Stock driving Bylaw 1996 will be revoked from the date of implementation of the Buller District Council Livestock Movement Bylaw 2010.

4. Purpose of the Bylaw

4.1 The purpose of the Bylaw is to improve the control of the movement of livestock on public roads:
(a) to protect:

- (i) the safety of all road users including those associated with moving livestock;
 - (ii) the structure and surface of the carriageway in the roads; and
 - (iii) public and private structures and utilities situated in the road.
- (b) to reduce inconvenience, nuisance and potential hazard for all road users

5. Scope of the Bylaw

- 5.1 This bylaw provides for the acceptance of long-term, intermittent, or temporary movement of livestock on, across or along public roads in the district;

6. Compliance with other Acts

- 6.1 Nothing in this bylaw shall derogate from any provision of the Health and Safety in Employment Act 1992, the Resource Management Act 1991, the Litter Act 1979, the Animal Welfare Act 1999, the Impounding Act 1955, the Land Transport Acts 1993 and 1998, the Transit New Zealand Act 1989 or any statutory or regulatory requirement.

7. Interpretation

- 7.1 For the purposes of this bylaw:
(NOTE: Words in *italics* are also defined.)

'Approval or approved' means approved in writing by an *authorised officer* of the *Council*.

'Authorised officer' means any person appointed by the Chief Executive of the *Council* for the purposes of acting as an *authorised officer* under this bylaw.

'Carriageway' means that part of a road constructed or made for use of vehicular traffic and includes any shoulder, edging, kerbing or channelling thereof.

'Characteristic' means any of the features of a *road* or *livestock movement* described in Schedule 1 of this bylaw.

'Competent person' means a *person* being able to provide reasonable care and supervision.

'Council' means the Buller District Council.

'Livestock' means any animal kept or normally kept for commercial purposes, whether so kept or not, and may include, but is not limited to, any hoofed animal, domestic fowl or poultry.

'Livestock movement' means any movement of *livestock* on, across or along a road where the animals move by their own efforts and are free of individual control, such individual control being by means of being ridden or lead or driven on a bridle, halter, collar or similar restraint.

'Mob and Herd' means more than one livestock.

'Road' means a road as defined in section 315 of the Local Government Act 1974, being all the land under the control of Buller District Council maintained for public use as a highway and being the full width of the legal road between adjacent property boundaries and including both the *carriageway* and any unformed parts to the sides of the *carriageway*, but excluding any unformed road. Road also includes any road designated as a State Highway within the Buller District Council area.

'Traffic management plan' means a plan, drawing, sketch or map indicating the method or measures for the ensuring the safety of the *livestock* and all other road users to be used by a *competent person*, that is acceptable to the Council, or if State Highway, the New Zealand Transport Agency.

'Person' means a legal person and includes a corporation sole and also a body of persons whether corporate or incorporate.

'Urban Area' means an area where the posted speed limit is 60 km/hr or less

COMPLIANCE WITH THE BYLAW

8. Control of Livestock Movements

8.1 No person shall:

- (a) move, or cause or allow to be moved, any livestock to which the provisions of this bylaw apply except in accordance with the provisions of this bylaw; or
- (b) move, or cause or allow to be moved, any livestock on a road restricted for the movement of livestock by this bylaw.
- (c) move livestock across or along a road where they may reasonably move the livestock on private land (raced or un-raced) or on road reserve.
- (d) move livestock within an urban area without written permission from the Council
- (e) move livestock where the number of animals being moved exceeds the maximum appropriate to the average daily traffic volume as indicated on the chart in appendix B without written permission from the Council.

9. Council May Restrict Movement

9.1 In the event that an authorised officer considers it necessary to close or restrict access to any road as a result of obstruction from road works, flooding, landslide, civil emergency or any other event, the authorised officer shall have discretionary power to halt or divert any movement of livestock from the use of that road notwithstanding any prior consent for movement of livestock on that road.

10. Movements to Comply with Best Practice

10.1 Any and every movement of livestock on a public road shall comply with the requirements of any applicable statute, regulation, code of practice or similar directive relating to the safety, health and welfare of livestock.

LIVESTOCK MOVEMENTS

11. Management of Livestock Movements

11.1 All livestock movements along or across a road shall be classified as one of the following types, and shall be undertaken in accordance with the appropriate conditions set out in 11.2 or 11.3;

- (a) Any movement of livestock across a road and for a distance of less than 250m along a road shall be considered a livestock crossing for the purposes of 11.2.
- (b) Any movement of livestock along a road for a distance of greater than 250m shall be considered a livestock movement for the purposes of 11.3

11.2 Any livestock crossing shall be undertaken in accordance with the traffic management plan included as Appendix A

- (a) At least one competent person must be present while livestock is on the road.
- (b) Either;
 - (i) Livestock excrement and debris shall be removed from the carriageway and entrances to the road prior to staff leaving the site.
 - (ii) Mats or similar devices shall be used to protect the road from excess livestock excrement and debris. The device(s) shall be removed prior to staff leaving the site.

- (c) Any tapes used to guide stock across the road are to be removed prior to staff leaving the site.

11.3 Any livestock movement along a road shall be undertaken subject to the following conditions:

- (a) Appropriate warning mechanisms must be used at all times that livestock are on the road these may include:
 - (i) Orange flashing warning lights / flagman
 - (ii) Warning signs
 - (iii) Road Cones
 - (vi) High visibility clothing worn by staff
- (b) Warning signs / devices, must be placed both in front of and behind the herd at the visibility and warning distances shown on the sign layout table included with the traffic management plans included as Appendix A
- (c) For livestock movements involving up to 150 livestock at least two competent persons must be present while livestock is on the road. For livestock movements greater than 150 livestock at least three competent persons must be present while livestock is on the road.
- (d) The mob size is not to exceed 500 livestock without prior written permission from the Council.

12. Livestock Movements to Require Written Permission

12.1 Where any person is unable to comply with any of the aforementioned conditions, that person shall not drive any livestock along or across any road without the prior written permission of the Buller District Council.

12.2 When considering written permission under 12.1 the Buller District Council shall consider the following matters:

- (a) Traffic safety criteria, including traffic volume and sight distances
- (b) Number of livestock involved in crossing

- (c) Frequency or scale of any potential traffic hazard or obstructions or nuisance
- (d) Potential damage to the road or structures in the road
- (e) Use, size, colour and placement of any warning devices
- (f) Number of competent persons required to be present
- (g) Use of mats or similar devices to protect the road
- (h) Removal of excess excrement and debris from the carriageway and entrances to the road
- (i) Specific routes and times of movement
- (j) Meeting of any other conditions reasonably necessary to achieve or ensure compliance with this bylaw.

13. Exemptions

13.1 Livestock movements on public roads that are the result of an emergency, such as flooding or fire, landslide and damage to fences, or similar, or for the purposes of returning wandering or loose livestock to the owner's property or to a temporary pound, shall be exempt from Clause 11.1.

13.2 Where livestock are moved on to a road to graze it and are securely contained by temporary fencing or similar measure to ensure that no animal intrudes onto or across the carriageway while grazing within the road adjacent to the livestock owner's property, and such road is not restricted for livestock movements by this bylaw, and the livestock are within the road only during the hours of daylight, such livestock movement shall be exempt from Clause 11.1.

NOTE: Specific Council approval is required prior to grazing any road sides.

14. Decision on an Application

14.1 The Council shall, within five (5) working days of receiving all information necessary to process a request for written approval, after considering the request:

- (a) grant the request as a livestock crossing; or
- (b) grant the application as a livestock movement; and
- (c) notify the applicant of any conditions attached to the written approval.

15. Suspension or Cancellation of Written Approval

15.1 The Council may suspend or cancel any written approval by giving twenty (20) working-days written-notice to the approval holder where it is in the public interest to do so or if the approval holder fails to comply with any condition of the written approval.

16. Summary Cancellation

16.1 An authorised officer may suspend or cancel any approval immediately by giving written notice to the approval holder, if the:

- (a) Council is lawfully directed to suspend or cancel the approval;
- (b) Approval holder disregards any conditions of the approval in a manner which the authorised officer determines may endanger the health or safety of any person or damage any part of the road or cause environmental degradation; or
- (c) Livestock movement is not effectively controlled to be in accordance with the requirements of the written approval.

BYLAW ADMINISTRATION

17. Incidents to be Reported

17.1 The approval holder shall inform the Council of any incident which may cause a breach of the written approval or this bylaw within one day. Any incident causing or likely to cause a breach of an approval or of this bylaw shall be cause for the Council to review the conditions of the consent.

18. Council May Recover Costs

18.1 The Council may set fees and charges for the recovery of the reasonable costs incurred for the:

- (a) administration of written approval;
- (b) unscheduled maintenance or repair of the road or any part of the road due to damage caused by the livestock movement, except under circumstances set out in 13.1; and
- (c) unscheduled maintenance to remove livestock excrement from the road carriageway or any entrance to the road after the livestock movement except in circumstances set out in 13.1.

18.2 The calculation of charges shall be based on recovery of reasonable costs incurred by the Council as a result of the livestock movement consent.

18.3 Charges shall be payable to the Council within 30 days of the date of the notice of the charges levied.

18.4 Any person wishing to object to any assessment of charges levied by the Council in respect of a livestock movement consent has the right to appeal in accordance with the provisions of the Local Government Act 2002.

19. Offences and Penalties

19.1 Every person who fails to comply with this bylaw or breaches any condition of a written approval granted under this bylaw or fails to comply with any notice served under this bylaw commits an offence under section 239 of the Local Government Act 2002 and is liable to a fine not exceeding \$20,000 under section 242(4) of the Local Government Act 2002.

20. Review of Decisions

20.1 If any person is dissatisfied with a decision of an authorised officer, that person may request the Council to review any such decision by notice to the Chief Executive Officer not later than twenty (20) working days after the decision of the authorised officer has been received.

21. Service of Documents

21.1 A person authorised by the Council shall sign any notice or document to be served or delivered to any person and such notice or document may be left at a conspicuous place at the persons property or handed to an employee of the person at the persons property or given or served by delivery or courier or sent by facsimile or electronic mail or registered post addressed to the:

- (a) 'Address for service' specified in a written approval; or
- (b) Persons last known place of residence; or
- (c) Registered office of an incorporated entity.

22. Date of Service

22.1 Any notice or document sent by registered post shall be deemed to have been received on the third working day following posting. Any notice or document left at a conspicuous place at the property of or handed to an

employee of any person at that property or given or served by delivery or courier or sent by facsimile or electronic mail shall be deemed to have been received on the same day as the notice or document was despatched.

OTHER ACTIVITIES

STOCK
Crossing road
Good visibility

See note No 2

NOT TO SCALE

Notes:

1. All TW6 signs to be folded or removed when not required
2. Visibility A and warning B distances are:

Posted speed limit or Operating Speed of RCA	
A	B
50m	30m
60m	80m
70m	105m
80m	120m
90m	135m
100m	150m

3. The cones on the centre line are optional

OTHER ACTIVITIES

OTHER ACTIVITIES

STOCK
Crossing road
Poor visibility

See note No 2

NOT TO SCALE

Notes:

1. All TW6 signs to be folded or removed when not required
2. An amber flashing beacon or a person's waving an orange flag is required during times and situations of poor visibility
3. Visibility A and warning B distances are:

Posted speed limit or Operating Speed of RCA	
A	B
50m	30m
60m	80m
70m	105m
80m	120m
90m	135m
100m	150m

4. The cones on the centre line are optional

OTHER ACTIVITIES

APPENDIX B

Requirements for Stock Movement Permits

