

Otorohanga District

Stock Movement Bylaw 2006



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OTOROHANGA DISTRICT STOCK MOVEMENT BYLAW 2006

In pursuance and exercise of the powers vested in it by Part 8 of the Local Government Act 2002, Section 72 of the Transport Act 1962 in respect of roads under the control of the Otorohanga District Council, the Bylaws Act 1910, and any other Act or Authority it thereto enabling the Otorohanga District Council **MAKES AND ORDAINS THIS BYLAW:**

A Bylaw to:

Impose controls on the movement of animals on roads within the Otorohanga District which will reduce damage caused to carriageways by animal droppings and mud etc carried on animal hooves, and minimise inconvenience, nuisance, and potential danger to motorists and other road users.

1. **SHORT TITLE**

This Bylaw shall be cited and referred to as “The Otorohanga District Stock Movement Bylaw 2006”.

2. **INTERPRETATION**

In this Bylaw, except where inconsistent with the context –

“**APPLICANT**” means a person who has applied for a Permit under this Bylaw;

“**ANIMALS**” shall include horses, cattle, sheep, pigs, or any other farmed animals;

“**COUNCIL**” means the Otorohanga District Council;

“**CROSSING**” means a place where animals routinely cross a road at the surface level of that road under the direction of a person;

“**DAIRY CATTLE**” means lactating cattle in use for milk production;

“**ENGINEERING MANAGER**” means any person appointed from time to time by Otorohanga District Council to be its Engineering Manager;

“**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;

“**OTOROHANGA COMMUNITY**” means the area known as the Otorohanga Ward comprising the area delineated on SO Plan No.58021 deposited with the Chief Surveyor of the South Auckland Land District and as may be amended from time to time by due legal process;

“**OTOROHANGA DISTRICT**” means the area known as the Otorohanga District comprising the area delineated on SO Plan 58012 deposited with the Chief Surveyor of

the South Auckland Land District and as may be amended from time to time by due legal process;

“**ROAD**” means a road as defined in Section 2 of the Transport Act 1962 but shall exclude any paper road or State Highway;

“**ROAD RESERVE**” shall mean any unformed part of any road;

“**PAPER ROAD**” shall mean any road which has not been formed;

“**URBAN STREET**” means a road or a portion of a road which is within an area controlled by a 70km per hour speed restriction or less;

“**STATE HIGHWAY**” means a state highway declared under Section 60 of the Transit New Zealand Act 1989.

3. STATE HIGHWAY

No person shall drive any animal along or across any state highway except in the case of an escape or after having first notified the intention to drive animals to Transit New Zealand and to the office of the New Zealand Police nearest to the part of the State Highway on which any animal is to be driven, and having gained the necessary permissions from Transit New Zealand or its authorised agent.

4. OTOROHANGA COMMUNITY

No person shall drive any animal along or across any urban street within the Otorohanga Community except:

- (a) In the case of an escape; or
- (b) In accordance in all respects with a written drivers permit issued by the Engineering Manager and containing such conditions as the Engineering Manager may impose which are reasonable in the particular circumstances and which may include, but is not limited to, any of the conditions specified in the First Schedule to this Bylaw.

5. CATTLE MOVEMENTS

No person shall drive any cattle along or across any road in any part of the Otorohanga District for any purpose except:

- (a) In the case of escape; or
- (b) Along a cattle race constructed on a road reserve in accordance in all respects with a written permit issued by the Engineering Manager containing such conditions as the Engineering Manager may impose which are reasonable in the

particular circumstances and which may include, but is not limited to, any of the conditions specified in the Second Schedule to this Bylaw;

- (c) By a crossing at a specified point across the sealed or metalled part of a road in accordance with a written permit issued by the Engineering Manager containing such conditions as the Engineering Manager may impose which are reasonable in the particular circumstances and which may include, but is not limited to, any of the conditions specified in the Third Schedule to this Bylaw;
- (d) For infrequent and non-routine movement of animals along or across the road provided that –
 - (i) frequency of movement of cattle permitted by this sub-clause on any particular road by any particular owner or drover shall not exceed once per week; and
 - (ii) such movements comply with the requirements of clause 6 hereof which may include a requirement for a written drivers permit; and
 - (iii) under no circumstances may routine movements of diary cattle between pasture and milking shed, or between different pastures en-route to a milking shed, be permitted to take place.
- (e) On an urban street in the Otorohanga Community in accordance with a permit issued pursuant to Clause 4 hereof.

6. FURTHER CONDITIONS

Provided that such action is not precluded by the provisions of Clauses 4 or 5 hereof, a person may drive animals along or across any road (that is not a state highway, or an urban street within the Otorohanga Community), PROVIDED THAT the following conditions are complied with:

- (a) No animal shall be driven along the road during the hours of darkness nor at any other time when there is insufficient daylight to render clearly visible a person or vehicle at a distance of 100 metres; and
- (b)
 - (i) the number of animals in any one mob shall not exceed 600 head of cattle, or 3000 head of sheep; and
 - (ii) for the droving of cattle there shall be a minimum of two control persons for any number of stock up to and including 100 head. There shall be one additional control person per 100 head or part thereof above 100 head; and

- (iii) for the droving of sheep there shall be a minimum of two control persons for any number of sheep up to and including 3000 head of sheep, with such other assistance as is necessary for full control of the mob; and
 - (iv) for the droving of all other animals the number of control people droving will be such as is necessary for full control of the mob; and
 - (v) the drover or drovers shall keep the animals moving along the road at all times under full control so as to make progress towards the destination at an average rate of not less than eight kilometres per day, without unreasonably impeding vehicular traffic; and
- (c) At all times appropriate methods such as signage or flashing lights shall be employed to caution the public that stock are on the road; and
- (d) Where the number of animals to be driven in any one herd or mob exceeds 300 head of cattle, or 1000 head of sheep; or the distance over which the stock are to be driven on roads in any one day exceeds 10 kilometres; or there is an assessed average daily traffic count of more than 1000 vehicles per day on any section of road over which the animals will be driven; then such driving shall only be undertaken in accordance in all respects with a written Drivers Permit issued by the Engineering Manager and containing such conditions as the Engineering Manager may impose which are reasonable in the particular circumstances and which may include, but is not limited to, any of the conditions specified in the First Schedule to this Bylaw.

It shall be the responsibility of the drover, before taking animals on any particular road, to have enquired of the Council what the assessed average daily traffic count is for that road or roads.

7. LIABILITY

Notwithstanding that a permit may have been granted under this Bylaw for droving of stock on roads, those persons conducting such droving shall not be absolved from any liability for damage caused to private or public property that arises from the droving activity.

8. APPEALS

Any person who applies for a permit pursuant to Clauses 4, 5 or 6 hereof or who is an affected person as defined by Condition 4 of the Second Schedule hereto and who is dissatisfied with any decision of the Engineering Manager in respect thereof, may request that the application be considered by the Council and in that case the Council shall have all the powers and discretions which are granted hereunder to the

Engineering Manager, including the power to amend any decision previously made by the Engineering Manager.

9. PERMIT CONDITIONS

The following provisions shall apply in respect of any permit issued pursuant to Clauses 4, 5 or 6 hereof:

- (i) no permit issued by the Engineering Manager shall be for a period which will expire after 31 August 2016;
- (ii) permits under the Stock Droving Bylaw 1999 which expire on or before 31 August 2006, and in respect of which application for renewal is made, may be declined;
- (iii) any permit may in the event of any breach of the conditions imposed be cancelled by the Council;
- (iv) all costs incurred by the Council in connection with any breach of any of the conditions of any permit shall be a debt due from the permit holder to the Council and shall be recoverable by action.

10. FEES

The fees payable under this Bylaw for any permit issued pursuant to Clauses 4, 5 or 6 hereof shall be the respective fees specified in the First, Second or Third Schedule but the Council may at any time after the making of this Bylaw and pursuant to Section 150 of the Local Government Act 2002 proscribe by resolution publicly notified alternative fees payable under this Bylaw for any permit issued.

11. PENALTIES

Every person committing any breach of the Bylaw shall be liable upon conviction to a fine not exceeding \$1,000.00.

12. REVOCATION

The Otorohanga District Council's Stock Droving Bylaw 1999 is hereby revoked.

THE RESOLUTION BY WAY OF SPECIAL CONSULTATIVE PROCEDURE TO MAKE THIS BYLAW was passed by **THE OTOROHANGA DISTRICT COUNCIL** at a meeting of the Otorohanga District Council held on the 6th day of June 2006 and confirmed at a subsequent meeting of the Council held on the 8th day of August 2006, by a resolution passed by the Council on the 8th day of August 2006 the said Bylaw was ordered to come into effect on the 31st day of August 2006.

This Bylaw confirmed by Council on 8 August 2006



Mayor



Date

15/8/06



Chief Executive

Date

15/8/06

FIRST SCHEDULE

Conditions for Driving of Animals – Drivers Permits

(Clauses 4, 5 and 6 of the Bylaw)

1. Formal application for permission to drive animals on roads is to be received by the Engineering Manager at least 5 working days before the first day of driving. Two categories of permits will be issued, as follows:
 - Drivers Day Permits for a 'one-off' driving activity between two points which will be completed only once under the permit.
 - Recurrent Driving Permits for driving activities between two or more points (with a maximum of four separate routes) which may be completed more than once under the permit.

No fees will be charged for the issue of these permits.
2. Accompanying every application for a permit is to be:
 - (a) A current Certificate of the Applicant's Public Liability Insurance cover including details of the amount of cover, which shall be a minimum of \$1,000,000
 - (b) A cheque made payable to the Council for \$625.00 (GST inclusive) being a refundable bond with respect to any costs or expenses caused by the driving.
3. Any damage caused to private property or roadside furniture shall be the responsibility of the Applicant. The cost of remedying damage to, or cleaning of Council property or roads shall be reimbursed to the Council by the Applicant, in the first instance, from the bond money held. Any bond money not required will be refunded to the Applicant when the Engineering Manager is satisfied that any damage issues, including private property damage, have been satisfactorily addressed.
4. The animals may be driven only along the route(s) designated in the drivers permit approval. Any driving on State Highways will be subject to prior notification of intention to drive being given to Transit New Zealand and to the office of the New Zealand Police nearest to that part of the State Highway on which any animal is to be driven and to the times and traffic control measures they may require to be adhered to.
5. Stock shall not be driven during the hours of darkness and shall be under proper control at all times to avoid damage to Council property, any public place, any road, or any private property, including mown grass areas. Proper control shall be undertaken by persons experienced in animal control and in sufficient numbers for the type of animals being driven.
6. For the driving of cattle there shall be a minimum of two control persons for any number of stock up to and including 100 head. There shall be one additional control person per 100 head or part thereof above 100 head. For the driving of other animals the number of control persons shall be in accordance with the provisions of clause 6 of the Bylaw or otherwise as specified by the Engineering Manager.
7. Persons in control of the driving of animals shall ensure that the animals are constantly moving forward at a good pace and shall also ensure that vehicular traffic is not unreasonably impeded.
8. All cattle entering the district must have appropriate Bovine TB Status Card(s) and drivers are required to present the card(s) to an officer of the Council upon request. Only cattle from a TB free herd or from an accredited herd will be allowed to be driven through the District. All stock must also comply with any directives given or implied by the Ministry of Agriculture and Fisheries.

9. All tapes, strings, barriers and other temporary obstructions placed by the drover to prevent entry of animals to adjacent land shall be removed once the animals have passed, to eliminate subsequent hazards associated with these obstructions.
10. Any permit holder who fails to comply with any condition of the permit will be liable for all costs (including administrative costs) incurred by the Council in connection with the breach of condition and such costs shall be a debt due from the permit holder to the Council and shall be recoverable by action.
11. Any permit may, in the event of any breach of any of the conditions imposed, be cancelled by the Council.

SECOND SCHEDULE

Conditions for Construction of a Cattle Race on a Road Reserve

(Clause 5(b))

As a means of providing for the passage of dairy cattle over short distances within the road reserve Council will consider applications to construct races along road reserves clear of sealed or metalled parts of the road (and the water table if such exists) and subject to the following conditions:

1. Applications must be accompanied by a cheque made payable to the Council for \$140.00 (GST inclusive) or such other fee as shall be set by the Council from time to time by resolution pursuant to Section 150 of the Local Government Act 2002.
2. A permit may not be granted for a period to expire later than 31 August 2016.
3. Accompanying every application is to be a current certificate of the Applicant's public liability insurance cover including details of the amount of the cover (which shall be a minimum of \$1,000,000) and it shall be a condition of any permit granted that such cover shall be maintained at all times and if so required that the permit holder shall produce details to the Council.
4. Where the applicant wishes to develop a race which traverses the frontage of a property which is not owned by the applicants the Engineering Manager may require the applicant to provide evidence that a copy of the application has been served on affected persons (who for the purposes of this clause shall include the owner of that property, any lessee of that property and any occupier of that property who would normally use any entrance affected by the proposed race).
5. A permit may be granted only for the use of the person or persons named therein as applicant and shall not be transferable.
6. The cost of forming and maintaining the race shall be the responsibility of the applicant.
7. Races shall be constructed in a manner so that there is a reasonable buffer between the race and the sealed or metalled road edge, with a three metre buffer being considered optimal.
8. Electric fencing or some other form of light fencing shall be installed at the edge of the race nearest to the carriageway sufficient to restrain the cattle during passage along the race.
9. Topsoil and grass shall be removed from the surface of the proposed race and any contouring of the road verge shall be completed prior to forming the race with pit sand and/or quarry rubble.
10. The race shall be formed with gradients and crossfall to ensure that adequate drainage is maintained and that existing roadside drainage is not impeded, and that effluent and surface drainage is directed away from the carriageway.
11. Regular maintenance and resurfacing of the race shall be undertaken by the applicant to eliminate the accumulation of animal wastes, to prevent pugging of the surface, or ponding of stormwater and stock effluent.
12. Where the race is required to traverse the frontage of the property not owned or occupied by the permit holder, the permit holder will be responsible for ensuring that residential entrances and tanker entrances are cleared of animal droppings, mud etc after each use, by the most appropriate method.

13. When stock are being driven along a cattle race on road reserve, the stock are to be driven in a herd and with a minimum of delay and inconvenience to all affected parties.
14. No cattle shall be permitted to be driven across or on any sealed or metalled portion of the road unless there has also been granted a permit pursuant to Clause 5(c) of this Bylaw and the Third Schedule of this Bylaw.
15. Should the farming operation change and make the race redundant it shall be the permit holders responsibility to remove fencing from the road reserve and to grade the race formation to tidy it and allow it to revert to normal road reserve.
16. Any permit holder who fails to comply with any condition of the permit will be liable for all costs (including administrative costs) incurred by the Council in connection with the breach of condition and such costs shall be a debt due from the permit holder to the Council and shall be recoverable by action.
17. Any permit may, in the event of any breach of any of the conditions imposed, be cancelled by the Council.

NOTE:

Construction of races will not be approved within road reserves if:

- There is an alternative route available;
- Land owned or occupied by the applicant, or in the case of a sharemilker by his principal, is an alternative route.

District Plan

Applicants are reminded that all uses of the road and road reserve, including the construction of road crossings, must comply at all times with applicable provisions of the Council's District Plan. Further information can be obtained from the District Planner at the Otorohanga District Council.

THIRD SCHEDULE

Conditions for the Installation of Road Crossings for Cattle

(Clause 5(c))

1. Applications must be accompanied by a cheque made payable to the Council for \$140.00 (GST inclusive) or such other fee as shall be set by the Council from time to time by resolution pursuant to Section 150 of the Local Government Act 2002.
2. All applications will be assessed against Council's Policy in respect of Underpass Requirements, a copy of which is attached as an Appendix to this Bylaw. The outcome of this assessment may result in construction of an underpass being required before a specified date.

Once a requirement for an underpass has been set by this Bylaw, the date by which this underpass is required shall not be changed as a result of any further applications for crossing permits in respect of this activity, unless there is, in the opinion of Council's Engineering Manager, clear evidence that the nature of the crossing activity has significantly changed relative to that for which the initial application was made, and that the further applications are not being made for the purpose of circumventing the provisions of the Bylaw.
3. Any crossing permit issued shall expire at whichever is earlier of the following dates:
 - a) The date by which an underpass is required in accordance with Condition 2 above;
or
 - b) 31 August 2016.
4. All permits issued shall only become effective upon receipt by Council of a copy of the permit signed by the applicant which accepts all conditions of the permit. Until such time as the permit becomes effective the crossing activity is not authorised by Council.
5. Every application shall be accompanied by a current certificate of the applicant's public liability insurance cover, including details of the amount of the cover (which shall be a minimum of \$1,000,000) and it shall be a condition of any permit granted that such cover shall be maintained at all times and if so required that the permit holder shall produce details to the Council.
6. Where a farm with an existing crossing permit is sold without modification to farm size, the new owner can apply to Council to have the permit assigned to them. Standard review criteria may be applied by Council to confirm the appropriateness of such an assignment at that time, and the party to which the permit is assigned will be required to provide written acceptance of the permit conditions.
7. To be approved the crossing must have clear visibility as set out in the table below. Crossings which do not comply with the distances set out in the table are likely to be declined or approved by the Engineering Manager subject to conditions such as the placing of warning signs.

Operating Speed (V85)*	Minimum Sight Distances
50kph	45 metres
60 kph	65 metres
70 kph	85 metres
80 kph	115 metres
100kph	140 metres

* The Engineering Manager will advise as to the operating speed on any particular section of the road.

8. Internal farm races and farm management practices are to be arranged so that only one crossing is required per property, for each road.
9. The exit and entry points of any cattle crossing are to be installed as far as is practicable and possible directly opposite one another in the road fences and fitted with gates. Permits allowing cattle to be driven along extended lengths of sealed or metalled parts of a road as part of a road crossing activity will generally not be granted.
10. At all times appropriate methods to caution the public that stock are on the road shall be employed. Temporary warning signs and flashing lights may be required to be installed at the owners expense on each approach to the crossing (or where cattle are to be driven along a road on the approach to each specified point permitted for such driving) and if so, shall comply with current Transit New Zealand standards for colour, size, shape and location. Such signs shall be hinged to allow opening when the crossing is in use and are to be kept closed at all other times. Signs are obtainable from Council at the applicant's expense and Council permission is required before signs are to be erected.
11. Internal farm races leading to road crossings are to be constructed with a hard, cleanable surface to reduce the carriage of mud etc onto the road by stock movement. Surfaces between fences and the edges of sealed or metalled formations shall be similarly maintained at the owner's expense and shall be shaped to ensure effluent and surface drainage away from the road carriageway.
12. The last 50 metres of any internal race up to the property boundary and to the edge of the road formation shall be formed to a gradient no steeper than 1:20 and shall be sufficient to stand the herd within the property before driving it across the road in supervised movements of not less than 50 cattle unless stock numbers preclude this. No unsupervised crossings will be permitted and stock is to be driven and not allowed to meander between the two gates without control. The gates shall be closed when the crossing is unsupervised or otherwise not in use.
13. No posts, rails, gates, wires, tapes, or any combination or structure formed by these materials will be permitted within the road reserve to define the crossing, or to facilitate uncontrolled stock movements.
14. The permit holder is to make provision for clearing animal droppings, mud, etc from road surfaces after each crossing or use of the road by washing, sweeping or grading and picking up the material for disposal at an off-the-road site. Any wash down facilities will need to comply with requirements of the Waikato Regional Council regarding discharges, and water used for cleaning the road shall not be applied at such high pressure as to result in potential damage to the road surface. Should the applicant wish

to use high pressure water for wash down purposes, installation of a crossing surface of concrete or other approved water-resistant material will be required.

15. Crossing of stock which is permitted from one side of the road to the other or along the road is to be completed by driving the herd and with a minimum of delay and inconvenience to all road users. Traffic must not be impeded for a continuous period that exceeds 3 minutes, and a crossing rate of not less than 30 cattle per minute is considered desirable.
16. Crossing of stock will not be permitted during hours of darkness or other periods of limited visibility unless approved flashing lights and traffic controls are employed.
17. Permit holders will be required to reimburse the Council for the cost of:
 - (i) The removal by the Council (or its agents or contractors) of stock excrement from the sealed road at the point where the cattle cross, should the clearing of such excrement by the permit holder in accordance with Condition 14 fail to meet standards judged as appropriate by Council's Engineering Manager or other authorised officer;
 - (ii) Any road repairs or any required additional road maintenance at or around the crossing area which are considered by Council's Engineering Manager or other authorised officer to be attributable to the effects of the cattle crossing the road. In particular any accelerated general deterioration of the affected section of road that is considered likely to shorten the life of the carriageway surface or pavement by one third or more relative to other adjacent and comparable sections of the road will be considered as grounds for cost recovery, unless these differences in pavement life can be reasonably attributed to factors unrelated to the stock crossing.

A permit holder shall be provided with one warning by Council before reimbursement of costs is first sought under item (i) above, and a period of not less than 1 week shall be provided after delivery of this first warning, for the permit holder to rectify the non-compliance before Council will take any further action to remove excrement from the crossing.

Should further instances of inadequate clearing of excrement be observed during the term of the Crossing Permit, Council will arrange for cleaning of that excrement without providing any further warning to the permit holder.

No warning will be provided before costs are sought under item (ii), since it is expected that the permit holder will be fully aware of any damage to the road that is occurring.

Such actions under this Bylaw shall not limit Council's other rights to recover costs or impose penalties pursuant to this Bylaw, Sections 175 and 176 of the Local Government Act 2002, Section 357 of the Local Government Act 1974 or other relevant legislation.

18. Any permit holder who fails to comply with any condition of the permit will be liable for all costs (including administrative costs) incurred by the Council in connection with the breach of condition and such costs shall be a debt due from the permit holder to the Council and shall be recoverable by action.
19. Any permit may in the event of any breach of any of the conditions imposed be cancelled by the Council. Any permit may also be cancelled, or its attendant conditions revised, if it is found that the nature of the crossing activity is significantly different to that described in the permit application.
20. Once a Stock Crossing Permit becomes effective the applicant will be issued with a Permit Identification Sign which the applicant shall securely fix to a post or fence adjacent to the crossing so that it is clearly visible from the road. This sign will indicate

the number of the permit and its date of expiry. The purpose of this sign is to assist Council identify unauthorised crossings.

NOTES:

Permits to allow cattle to be regularly driven along the sealed or metalled part of a road will generally not be granted unless this activity had been previously granted a permit under the 1999 Stock Driving Bylaw, no alternative route is available and it is not possible to construct a cattle race on the road reserve. Land owned or occupied by the applicant, or in the case of a sharemilker by his principal, will be considered as an alternative route.

Special conditions requiring eventual installation of an underpass or bridge are likely to be imposed if a crossing permit is granted for a regular crossing activity that moves animals along a significant length of road.

District Plan

Applicants are reminded that all uses of the road and road reserve, including the construction of road crossings, must comply at all times with applicable provisions of the Council's District Plan. Further information can be obtained from Planning staff at the Otorohanga District Council.

APPENDIX 1

Conditions for Construction of a Cattle Underpass

[This Appendix does not form part of the Bylaw and is for guidance only]

General

An alternative to cattle road crossings, which is becoming quite common, is the installation of an underpass or access structure. Council will give favourable consideration to applications for permission to construct underpasses and will provide some technical advice free of charge to assist with planning and construction.

Financial assistance may be available for the construction of an underpass in a situation which meets criteria set by Transfund New Zealand. Council's technical assistance will include assessment of the proposal for funding assistance purposes. For underpasses that Council and Transfund agree to assist financially, Council will fund the local share of the proportion of cost that Transfund is prepared to financially assist.

Conditions for Council Grant and/or permission to install an underpass:–

1. That Council approves construction of a stock underpass in accordance with the plans and specifications forwarded by the applicant and approved by the Engineering Manager.
2. That an amount of \$1,000.00 be deposited with Council as a bond to ensure satisfactory completion of the work. This amount to be totally refundable when the work is completed to the satisfaction of the Engineering Manager.
3. That Council will fund the local share of any Transfund New Zealand subsidisable portion, the amount to be determined in terms of Transfund New Zealand Policy.

Council will make an additional non-subsidised contribution to the cost of constructing an underpass, the amount of the additional contribution to be sufficient to give a total contribution from Transfund New Zealand and Otorohanga District Council of \$2,500.00.

4. That the underpass becomes the property of the Otorohanga District Council with the maintenance of the track through the underpass, associated drainage and fencing being the responsibility of the present and future users together with the cost of repair of any damage to the structure caused by their use or activities.
5. That the owner enters into an agreement with Council under Section 341 of the Local Government Act 1974 to lease the land under the road for the underpass and that the agreement be registered on the property title(s).
6. That the land on either side of the underpass shall be either in the same ownership or occupancy, or in connected ownership or occupancy, (for example where one portion of the land may be owned by a family member and another portion by a family trust but both are farmed together) and any such agreement shall contain provision for termination of the lease and removal/disposal of the structure if part of the land joined by it is sold or ceases to be in such common or connected ownership or occupation.
7. That preparation of the agreement and its registration be carried out by Council's solicitor at the property owners cost.

NOTE:

District Plan

Applicants are reminded that all uses of the road and road reserve, including the construction of road crossings, must comply at all times with applicable provisions of the Council's District Plan. Further information can be obtained from the District Planner at the Otorohanga District Council.

APPENDIX 2

Council Policy - Underpass Requirements

Purpose

The purpose of this policy is to define those circumstances in which parties causing animals to cross roads within the Otorohanga District will be required to make use of an underpass (or bridge) for such road crossing purposes.

Policy Objectives

The objective of this policy is to ensure that activities requiring animals to cross roads are not likely to result in ongoing unacceptable levels of damage to road surfaces, creation of unsafe driving conditions, excessive delay to road users and general nuisance, including contamination of vehicles.

It is believed that for lesser stock crossing activities it is realistic to expect that these objectives can be achieved through use of an 'at grade' crossing, operated in accordance with relevant provisions of Councils Stock Movement Bylaw.

As the scale of the crossing activity (or the level of traffic on the road) increases it does however become less likely that these objectives can be achieved through use of an 'at grade' crossing, and it is therefore prudent to establish requirements for use of underpasses or bridges in some circumstances.

General Policy Principles

The policy is intended to address its objectives by imposing requirements for construction of a Council approved stock underpass or bridge (hereafter collectively referred to as 'underpass') where the use of an 'at grade' stock crossing is judged to be unsatisfactory in respect of the potential adverse effects described under the Policy Objectives.

It is considered that the extent of these potential adverse effects of an 'at grade' stock crossing is largely dependant upon the following factors:

- Volume of vehicular traffic on the road being crossed;
- Number of animals crossing the road;
- Frequency of crossing use.

Requirements for installation of underpasses will be based upon evaluation of an 'Assessment Index' for each crossing calculated as follows:

$$\text{Assessment Index} = A \times B \times C / 365, \text{ where}$$

A = Assessed average daily traffic count on road being crossed (based on Council's traffic count data).

B = Maximum number of animals in herd crossing road. If the herd is moved across the road in a number of separate movements this is the sum of all animals in those separate movements.

C = Maximum number of days in any one year during which the herd will be crossing the road.

If the calculated Assessment Index is greater than or equal to 10,000 then an underpass will be required to be installed within a specified period, which will commence upon the date at which the ODC Stock Movement Bylaw 2006 takes effect.

The length of this period will be calculated as follows:

$$\text{Underpass Requirement Period (Years)} = 2 + (80,000 / \text{Assessment Index})$$

Example

A herd with a maximum of 350 cows crosses a road with an assessed traffic count of 175 vehicles per day. The crossing will be used on a maximum of 200 days per year.

$$\text{Assessment Index} = 175 \times 350 \times 200 / 365 = 33,561$$

As this value is greater than 10,000 an underpass will be required. The period within which the underpass is required to be installed is calculated as follows:

$$2 + (80,000 / 33,561) = 4.38 \text{ years (1598 days)}$$

This period will commence from the date on which the Otorohanga District Council Stock Movement Bylaw 2006 comes into effect, which is currently expected to be 31 August 2006. In this case the underpass would be required to be installed by not later than 4.38 years after this date, which would be 15 January 2011. The existing stock crossing permit would expire on this date.

The following provisions will also apply:

- To be granted a permit for an 'at grade' stock crossing the crossing must be able to satisfy all of the relevant general conditions of the Bylaw and the crossing permit, regardless of whether or not an underpass may be required at some time in the future;
- If a first application for a permit for a new crossing activity is made after the date calculated for underpass installation in respect of that activity has either already been passed, or if the calculated date for underpass installation is less than eighteen months after the date on which the crossing permit becomes effective, then a period of two years will be provided for installation of an underpass, if the Assessment Index for that crossing activity is equal to or above 10,000.

Example

A first application for a crossing permit in respect of the previous example (for which underpass installation was required by not later than 15 January 2011) is made in October 2010. In this case rather than giving a timeframe of 3 months to install the underpass, a period of two years will be provided after the date on which the crossing permit becomes effective, ie if the permit became effective on 18 October 2010 the underpass will be required to be installed by 18 October 2012.

- Once a requirement for an underpass has been set under this Bylaw, the date by which this underpass is required to be installed shall not be changed as a result of any further applications for crossing permits in respect of this activity, unless there is, in the opinion of Council's Engineering Manager, clear evidence that the nature of the crossing activity has significantly changed relative to that for which the initial application was made;
- Where a requirement for an underpass is set, the holder of the crossing permit shall be responsible for the cost of establishing such an underpass, excepting the subsidy component provided by Council as described in Appendix 1;
- Periodic inspections will be used to check the continuing validity of the data contained in the initial crossing permit application. Should significant differences be observed between the actual crossing activity and the details contained in the application Council may, at its discretion, revise the permit conditions or revoke the permit.