



Proposed Traffic Safety and Road Use Bylaw 2022

Contents

Part One – Preliminary Provisions 3

Part Two - Parking 6

Part Three - Roading and Traffic Controls 9

Part Four – Vehicle Crossings10

Part Five - Stock on Roads.....11

Part Six - Stock Underpasses14

Part Seven - Roadside Grazing and Tethering17

Part Eight - Offences.....19

Part Nine - Transitional Provisions19

Appendix 1 - Application and Construction Process for a New Stock Underpass22

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Part One – Preliminary Provisions

1 Title

1.1 This Bylaw is the **Traffic Safety and Road Use Bylaw 2022**.

2 Commencement

2.1 This Bylaw commences on 6 October 2022.

3 Authority

3.1 Parts 2 and 3 of this Bylaw are made solely under the Land Transport Act 1998.

3.2 The remaining Parts of this Bylaw (being Parts 1 and 4 to 9) are made under both the Land Transport Act 1998 and the Local Government Act 2002.

4 Review

4.1 Parts 1 and 4 to 9 of this Bylaw are due for review under section 158 of the Local Government Act 2002 on *[insert date of Council resolution adopting bylaw plus 5 years]*.

Guidance note: Parts 2 and 3 of this Bylaw do not require review under the Local Government Act 2002. Council will review these Parts as and when necessary.

5 Application

5.1 This Bylaw applies generally to all Roads under the care, control and management of the Council.

6 Purpose

6.1 The purpose of this Bylaw is to:

- a) regulate Parking and control of Vehicle traffic on any Road;
- b) provide for the orderly driving and control of Stock on Roads, with regard to the safety of Road users and to minimise damage to, and avoid Nuisance on, the Roads;
- c) to regulate the construction, maintenance, and decommissioning of Stock Underpasses on Roads and to ensure the ongoing safety of Stock Underpasses.

7 Interpretation and Definitions

7.1 The Manawatu District Explanatory Bylaw 2022 and its amendments apply to this Bylaw. Where this Bylaw contains a provision that is contrary to that Explanatory Bylaw, the provision in this Bylaw will prevail.

7.2 In this Bylaw, unless the context requires otherwise:

Act means the Land Transport Act 1998, and includes any regulations and rules made under that Act.

Approved Disabled Person's Parking Permit means a displayed permit label provided by Disability New Zealand.

Authorised Officer means any person appointed or authorised by the Council to act on its behalf and with its authority in relation to this Bylaw, and includes a parking warden appointed by Council under section 128D of the Land Transport Act 1998 or any sworn member of the New Zealand Police.

Bicycle means a Vehicle that has at least 2 wheels and that is designed primarily to be propelled by the muscular energy of the rider; and includes a power-assisted cycle.

Bus means a passenger service Vehicle that has more than 9 seating positions (including the driver's seating position).

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

Covenant Instrument means a covenant in gross (as provided for in sections 307A to 307F of the Property Law Act 2007) that is registered against a Record of Title, which sets out the terms on which the Council agrees to the construction of a Stock Underpass and the responsibilities of the parties.

Driver means a person driving a Vehicle; and includes the rider of an all terrain Vehicle, a motorcycle, a moped, a cycle, a mobility device, or a wheeled recreational device.

Drove means to lead or move untethered Stock from place to place along or across a Road, and includes the leading of Stock in mobs or herds, or singly or in small groups. **Drive, Driven, Driving** and **Driving** have equivalent meanings.

Footpath includes, without limiting the meaning of the term "Footpath" as defined in clause 2.2 of the Manawatu District Explanatory Bylaw 2022, any part of a Vehicle crossing laid out or constructed over a Footpath, and related edging, kerbing, channelling and any footbridge.

Goods Vehicle has the same meaning as in the Land Transport (Road User) Rule 2004.

Heavy Motor Vehicle has the same meaning as in the Land Transport (Road User) Rule 2004.

High Volume Rural Connection Route means the Roads in the District with more than 950 Vehicle movements per day, as measured by the Council from time to time.

Guidance note: the Roads fitting this description as at the commencement of this Bylaw are set out in the High Volume Rural Connection Routes map available on the Council website. The Council will update this map over time as new measurements become available, and will provide that up-to-date map on its website.

Horse includes any ass, or mule.

Hours of Daylight means the period of time between 30 minutes before sunrise on any day and 30 minutes after sunset on that same day.

Engine Brake includes brakes of the Jacobs type that is also commonly known as exhaust brakes.

Kerbline means, where the kerb is constructed, the line thereof; where no Kerb is constructed the Kerbline shall be construed as meaning the edge of the travelled portion of the road.

Loading Zone has the same meaning as in the Land Transport (Road User) Rule 2004.

Mobility Park means a Parking Space reserved by Council, by resolution, for the exclusive use of disabled persons.

Parking and Park means stopping, standing or parking a Vehicle, whether attended or not.

Parking Place means any areas of Road, land or Public Place (including a building) that the Council has designated for the Parking of Vehicles under clause 10.1.

Parking Space means an area on a Road or within a Parking Place that has been marked out to accommodate a parked Vehicle.

Passenger Service Vehicle has the same meaning as in section 2 of the Land Transport Act 1998.

Pilot Vehicle means any Vehicle (including a motor cycle, four wheel farm bike, car, utility Vehicle, tractor or truck) operating in front or behind Stock for the purpose of assisting the Driving of that Stock.

Rural Area includes those areas Zoned as rural Zone under the operative District Plan.

Service Lane has the same meaning as in section 315 of the Local Government Act 1974.

Speed Limit has the same meaning as in the Transport Rule: Setting of Speed Limits 2022.

Special Vehicle Lane means a traffic lane that is restricted to a specified class of Vehicle or Vehicles carrying specified classes of loads or no fewer than a specified number of occupants, and includes (without limitation) a Bus lane, transit lane or Bicycle lane.

Stock means any farmed Animal, including, but not limited to, any cattle, horse, deer, sheep, goat, pig or poultry.

Stock Crossing means the movement of Stock from one side of a Road to the other side at a fixed point or location.

Stock Handler means a person who is driving Stock along or across a Road, or handling Stock.

Stock Movement means any movement of Stock on, across or along a Road where the Stock 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.

Stock Underpass means a Structure, and any associated drainage, fencing and track, that provides for the passage of Stock under a Road.

Stock Vehicle means a Vehicle that is carrying Stock.

Street Furniture means any Structure installed by or with the Approval of the Council on a Road and includes utility infrastructure, poles, sign posts, public refuse receptacles, telephone kiosks or boxes, public art, containers for plants or flowers, mailboxes, seating, parking meters and bus shelters.

Traffic Management Plan means a plan that sets out how a safe environment will be created and maintained for all road users while an activity occurs and which complies with Part 8 of Waka Kotahi the New Zealand Transport Agency's Traffic Control Devices Manual (or any equivalent replacement guidance document approved by Waka Kotahi the New Zealand Transport Agency).

Urban Area includes those areas Zoned as residential Zone, village Zone, business Zone and industrial Zone under the operative District Plan.

Wheeled Recreational Device has the same meaning as in the Land Transport (Road User) Rule 2004.

7.3 Reference can be made to clause 2 of the Council's Explanatory Bylaw 2022 for any other definitions not included in clause 4.2 of this Bylaw.

Guidance note – For example, the Explanatory Bylaw 2022 defines "Road" and "Vehicle" by reference to the definition in section 2 of the Land Transport Act 1998. The term "Stock" is also defined as meaning any farmed Animal, including, but not limited to, any cattle, horse, deer, sheep, goat, pig or poultry.

7.4 Unless the context requires otherwise, a term that is defined in the Act, but not defined in this Bylaw or the Council's Explanatory Bylaw 2022, has the meaning given to it by the Act.

- 7.5 Any guidance notes are for information purposes only. They do not form part of the Bylaw, and the Council may insert, change, or remove them at any time.
- 7.6 This Bylaw should be read in conjunction with, but not in replacement of, the Council's Public Places Bylaw and the Council's Freedom Camping Bylaw.

8 Council to Install Markings and Signage

- 8.1 Where the Council makes a resolution under Part 2 or 3 of the Bylaw, it must install any signs and markings that are required by the Land Transport Rule: Traffic Control Devices 2004.
- 8.2 Such resolutions will have effect only once any such signs and markings have been installed.

Part Two - Parking

9 Council's General Powers to Prohibit and Restrict Parking on Roads

- 9.1 The Council may, by resolution, permanently or temporarily:
- a) prohibit or restrict the Parking of Vehicles on any Road (including a specified Road or part of a Road), including imposing restrictions about the maximum duration and manner of such Parking;
 - b) limit the Parking of Vehicles on any Road (including a specified Road or part of a Road) to Vehicles of a specified class or description, and where this occurs, limit the period of time such Vehicles may Park;
 - c) prohibit or restrict the Parking of Heavy Motor Vehicles, or any specified class or description of Heavy Motor Vehicle, on any specified Road (or part of a Road) during specified hours or for a period that exceeds a specified period; or
 - d) provide that a Vehicle used for the time being for any specified purpose must be treated to be of a specified class or description for the purposes of this Bylaw, whether or not the Vehicle belongs to any other class or description for any other purpose.
- 9.2 Except with the written consent of the Council, a person must not Park a Vehicle in breach of any prohibition, restriction or limitation made under clause 9.1.

10 Council's General Powers to Prescribe the Use of Parking Places

- 10.1 The Council may designate any land or buildings owned or otherwise controlled by Council, including any part of a Road, to be a Parking Place.

Guidance note: The Council has the power in section 591 of the Local Government Act 1974 to provide Parking Places and buildings, including the ability to authorise the use of any part of a road as a Parking Place.

- 10.2 The Council may mark out Parking Spaces within any Parking Place, and alter those at any time.
- 10.3 The Council may, by resolution, prescribe the use of Parking Places, including (but not limited to):
- a) specify the Vehicles or classes of Vehicles that may use any Parking Place;

- b) reserve any Parking Place for use, either generally or at specified times, only by members of the judiciary, medical practitioners, members of the diplomatic corps or consular corps;
 - c) prohibit or restrict Parking on specified Roads (or parts of Roads) in residential areas by specified classes of Vehicles, either generally or at specified times, where such Parking is likely to cause a Nuisance or danger;
 - d) prescribe the conditions under which the Parking Place may be used;
 - e) provide for the removal from a Parking Place of Vehicles parked in breach of this Bylaw and the payment of reasonable costs for such removal.
- 10.4 Except with the written consent of the Council, a person must not use a Parking Place in breach of any resolution made under clause 10.3.

11 Mobility Parking

- 11.1 The Council may, by resolution, reserve any Parking Space, whether on a Road or Parking Place, for the exclusive use of disabled persons.
- 11.2 A person may Park a Vehicle in a Mobility Park only if:
- a) a current Approved Disabled Person's Parking Permit is on display in the Vehicle and clearly legible; and
 - b) the Vehicle is being used to convey a disabled person or to pick up or drop off a disabled person.
- 11.3 The disabled person(s) Parking Spaces listed in Council's Traffic Control Register and are deemed to be Mobility Parks.

12 Special Vehicle Parking

- 12.1 The Council may, by resolution, designate any part of a Road or Parking Place as a stopping place or a stand for:
- a) any specified class of Passenger Service Vehicles (including for a Bus);
 - b) any other specified class of Vehicle (for example a Bicycle stand or taxi stand); or
 - c) any specified class of person including, but not limited to, the judiciary, the New Zealand Police, diplomatic or consular corps, medical practitioners, and senior citizens.
- 12.2 Except with the written consent of the Council, a person must not Park a Vehicle in an area designated under clause 12.1, unless the Vehicle or the person comes within the specified class permitted.
- 12.3 Despite clause 12.2, a person may Park a Vehicle in an area designated under clause 12.1 for so long as is reasonably necessary to load or unload goods or passengers.

13 Loading Zones

- 13.1 The Council may, by resolution, designate any part of a Road as a Loading Zone for use by Goods Vehicles or any other specified class of Vehicle, and impose conditions on the use of that Loading Zone, including time restrictions.

- 13.2 Except with the written consent of the Council, a person must not Park a Vehicle in a Loading Zone in breach of a resolution made under clause 13.1.
- 13.3 Despite clause 13.2, a person may Park a Vehicle in a Loading Zone for up to 5 minutes at a time to load or unload goods or passengers.

14 General Requirements for Parking

- 14.1 A person must not Park a Vehicle so that it:
- a) extends beyond the markings indicating the limits of the Parking Space concerned, or otherwise extends into an adjoining Parking Space (unless it is of a size which makes it unavoidable);
 - b) protrudes further than 5.2 metres from the Kerbline when it is angle parked in a Parking Space; or
 - c) is within a Parking Space already occupied by another Vehicle (with the exception of motorcycles as provided for in clause 14.2 below).
- 14.2 Despite clause 14.1(c), more than one motorcycle may occupy a Parking Space at the same time, provided that each motorcycle must be Parked in a way that gives due consideration to other users of the Parking Space.
- 14.3 Clause 14.1 does not apply to a Goods Vehicle when:
- a) it is loading or unloading a delivery, provided this is undertaken with due consideration for the safety and convenience of other Road users; and
 - b) a reasonable alternative for loading or unloading the Goods Vehicle is not available.

15 Parking on Footpaths, Grass Verges etc.

- 15.1 Except with the written consent of the Council, or as indicated by signage, a person must not Park a Vehicle, either wholly or partly, on a Footpath, kerb, Grass Verge, garden or other cultivated area that is part of a Road, or any other part of a Road that is not designed and constructed to accommodate a Vehicle.
- 15.2 Despite clause 15.1, a person may Park a Bicycle, Wheeled Recreational Device or mobility device on a Footpath if it does not unreasonably obstruct any other user of that Footpath.

16 Parking on Service Lanes

- 16.1 A person must not Park a Vehicle on a Service Lane if it unreasonably obstructs any other user of that Service Lane.

17 Parking Vehicles For Sale

- 17.1 Council may by resolution, permanently or temporarily prohibit or restrict Vehicles being displayed for the purpose of sale, exhibition or demonstration on any Road, Public Place or part thereof.

Part Three - Roading and Traffic Controls

18 Council's General Powers to Regulate Vehicle and Road Use

18.1 The Council may, by resolution, permanently or temporarily:

- a) prohibit or restrict road use as provided by section 22AB(1)(c) of the Land Transport Act 1998;
- b) provide that Vehicles must drive in one specified direction on certain Roads (making them one-way roads);
- c) prescribe that any turning movement may be made only by Vehicles of a specified class or Vehicles carrying specified classes of loads or no fewer than a specified number of occupants;
- d) prohibit Vehicles from performing U-turns;
- e) prohibit Vehicles, other than Vehicles of a specified class or description, from turning to the right or to the left; or
- f) designate any part of a Road as a Special Vehicle Lane.

18.2 Except with the written consent of the Council, a person must not use a Road in contravention of any resolution made under clause 18.1.

19 Beaches

19.1 The Council may, by resolution, temporarily or permanently prohibit or restrict the use of Vehicles, including Vehicles of a specified class or description, on beaches.

19.2 Except with the written consent of the Council, a person must not use a Vehicle on a Beach in contravention of any resolution made under clause 19.1.

20 Engine Brakes

20.1 The Driver of a Vehicle may not use or operate an Engine Brake, at any time, on any Road in any Urban Area.

21 Planting of Vegetation on Roads

21.1 Except with the written consent of the Council, a person must not plant vegetation in or on a Road (which, for clarity, includes roadside areas for formed roads and any unformed Road).

22 Placing Machinery, Equipment, Materials, or Containers on Roads

22.1 Except with the written consent of the Council, a person must not stand or place any machinery, equipment, materials, or freight containers on any Road.

Guidance Note: This clause does not apply to those containers that are used solely for the purpose of domestic refuse or recycling as authorised by the Council and placed off the Road, provided that such containers are not left on any Road or Public Place by the Occupier or manager no later than 7pm on the scheduled collection day. For more information see the Solid Waste Bylaw 2019.

23 Obstruction or Damage to Roads

- 23.1 Except with the written consent of the Council, a person must not willfully or negligently:
- (a) damage any Road ;or
 - (b) obstruct a Road so as to cause a Nuisance or otherwise interfere with any other Road users.
- 23.2 A person who causes or permits any mud, silage, excrement or other debris to be on a Road must remove that mud, silage, excrement or other debris as soon as practicable and in a way that does not to cause danger to any other Road users.
- 23.3 Where a person has breached clause 23.1 or 23.2, the Council may recover from that person any reasonable costs incurred to repair, clear, or clean the Road.
- 23.4 If any construction work, relocation of a building or any heavy traffic in Council's opinion has the potential to damage the adjacent Road, Footpath or Vehicle crossing), Council may require the landowner to pay a bond. This bond will be refundable at the end of the work less any expenses, which Council may incur in rectifying any damage to the Road, Footpath or Vehicle crossing that results from the work. The amount of the bond will be determined by Council's discretion.

24 Damage to Street Furniture

- 24.1 Except with the written consent of the Council, a person must not interfere with, damage, or remove any Street Furniture.
- 24.2 Where a person has breached clause 24.1, the Council may recover from that person any reasonable costs incurred to repair or replace the Street Furniture.

Part Four – Vehicle Crossings

25 Installation, Alteration or Removal of Vehicle Crossings

- 25.1 A person must not take any Vehicle across any Footpath or water channel on or adjoining any Road other than by means of a Vehicle crossing that the Council has consented to under clause 25.4(a).
- 25.2 Except with the written consent of the Council, a person must not:
- (a) construct or install any Vehicle crossing across any Footpath or water channel on or adjoining any Road; or
 - (b) remove, repair or do any other work in connection with any existing Vehicle crossing.
- 25.3 Any person wishing to obtain the Council's consent for undertaking work on a Vehicle crossing that would otherwise be in breach of clause 25.2(a) or (b) must apply in writing to the Council.
- 25.4 On receiving an application under clause 25.3, the Council may:
- a) subject to the payment of the appropriate charges and bond, consent to an Approved contractor carrying out the work to the Council's standards and planning requirements; or

- b) refuse to consent to the work if in Council's opinion the Vehicle crossing may constitute or cause a danger or obstruction.

Guidance note – the Council maintains a list of Approved contractors and makes it available on its website.

- 25.5 In giving consent under clause 25.4(a) to the installation of a new Vehicle crossing, the Council may consent to a permanent Vehicle crossing or to a temporary Vehicle crossing (to provide access to construction sites or similar activities).
- 25.6 Any bond required by the Council under clause 25.4(a) must be refunded if the work is completed to the Council's satisfaction.
- 25.7 If any work is not done to the Council's standards and planning requirements, the Council may:
 - a) remove, repair, or renew the Vehicle crossing, and
 - b) by written notice to the Owner or Occupier of the Premises that are served by the Vehicle crossing, recover the costs of removing, repairing or renewing the crossing from that Owner or Occupier.

Part Five - Stock on Roads

26 Application

- 26.1 Nothing in this Part limits the application of any other Act (and any rules or regulations made under that Act), including, for example and without limitation:
 - a) the Land Transport (Road User) Rule 2004;
 - b) the Animal Welfare Act 1999;
 - c) the Impounding Act 1956;
 - d) the Resource Management Act 1991; and
 - e) the Health and Safety at Work Act 2015.
- 26.2 The Droving of Stock along or across any State Highway is within the jurisdiction of Waka Kotahi, the New Zealand Transport Authority, and so is outside the application of this Bylaw.

27 No Droving in Urban Areas

- 27.1 The owner of Stock must not permit or undertake the Droving of their Stock on any Road in an Urban Area.
- 27.2 Despite clause 27.1, the Droving of Stock on a Road in an Urban Area is permitted where it is necessary to:
 - (a) return Stock to a secure paddock following their escape; or
 - (b) due to an emergency situation (for example, flooding, fire, landslide, or similar).

28 Droving in Rural Areas Permitted

- 28.1 The owner of Stock must not permit the Droving of their Stock on any Road in a Rural Area unless:
- (a) all of the conditions in clause 28.2 are met; or
 - (b) the Council has granted written consent for the Drove under clause 28.4(a); or
 - (c) it is a Stock Crossing permitted under clause 29; or
 - (d) the Stock are moved by means of a Stock Vehicle.
- 28.2 The conditions for Droving Stock on a Road in a Rural Area are:
- a) it must not be reasonably practicable to move the Stock across or over private land that is owned, occupied, or otherwise controlled by the owner;
 - b) the Road(s) used for the Droving must not involve any High Volume Rural Connection Routes;
 - c) the Droving must occur during the Hours of Daylight;
 - d) the size of any mob of Stock must not be so large as to cause unreasonable delay to traffic, or cause the Stock Handler to lose control of the Stock;
 - e) the Stock must be accompanied by at least one experienced Stock Handler, wearing high visibility clothing, for the purpose of controlling Stock and alerting traffic;
 - f) the Stock must be moving continuously forward at a good pace so as not to cause unreasonable delay to traffic;
 - g) advance warning of Stock being on a Road must be given to Road users by way of signs located at least 3 x the permanent Speed Limit for that Road (for example, a 300 metre distance for a 100km/h speed limit) in front and behind the Droving; and
 - h) any Pilot Vehicle must have headlights and hazard lights on to enable clear visibility to other traffic.
- 28.3 An owner of Stock who wishes to carry out Droving on a Road in a Rural Area other than in compliance with the conditions in clause 28.2 must apply in writing to the Council using the prescribed form, and providing payment of any relevant fees and charges.
- 28.4 On receiving an application under clause 28.3, the Council may:
- a) subject to the payment of the appropriate fees and charges, grant a written consent; or
 - b) refuse to grant consent if in Council's opinion the proposed Droving may for any reason endanger Road users' safety or cause damage to the Road.
- 28.5 In granting consent under clause 28.4(a), the Council may, at its discretion, require the Stock owner to formulate and implement a Traffic Management Plan for the Droving.
- 28.6 Where the Council has required a Stock owner to formulate and implement a Traffic Management Plan, that owner must ensure that the Traffic Management Plan is complied with.

28.7 Despite clause 28.1, the Droving of Stock on a Road in a Rural Area is permitted where it is necessary to:

- (a) return Stock to a secure paddock following their escape; or
- (b) due to an emergency situation (for example, flooding, fire, landslide, or similar).

29 Stock Crossings Permitted

29.1 The owner of Stock must not permit a Stock Crossing involving their Stock unless:

- (a) all of the conditions in clause 29.2 are met; or
- (b) the Council has granted written consent for the Stock Crossing under clause 29.4(a).

29.2 The conditions for a Stock Crossing are:

- a) it must not be reasonably practicable to move the Stock across or over private land that is owned, occupied, or otherwise controlled by the owner;
- b) the Stock Crossing must occur on a Road in a Rural Area, but not one that is a High Volume Rural Connection Route;
- c) the Stock Crossing must occur during the Hours of Daylight;
- d) advance warning of a Stock Crossing must be given to any users of the Road via permanently affixed signage that complies with the Land Transport Rule: Traffic Control Devices 2004 (see requirement W3-4.1 Stock - cattle or requirement W3-4.2 Stock – sheep in Schedule 1 of the Rule), and be located no more than 150 metres in front and behind the location of the Stock Crossing.

Guidance Note: Council will install and maintain this signage once payment is received.

Guidance Note: Correct use of the signs is the responsibility of the Stock owner. Signs are to be visible only whilst the Stock crossing is in progress.

- e) a static flashing amber beacon must be permanently affixed to the entranceway of the the Stock Crossing point, and be operated continuously whilst Stock are crossing the Road;

Guidance note: It is the Stock owner's responsibility to arrange installation and operate the amber beacon correctly at all times.

- f) at least one Stock Handler, who is experienced in Stock Crossings and wearing high visibility clothing, must be present at all times whilst Stock are crossing the Road;
- g) every Stock Handler present during the Stock Crossing must take all reasonable and practical steps to make way for Vehicles using the Road, including allowing them to pass through the Stock without unreasonable delay;
- h) entranceways to a Stock Crossing point (including additional adjacent shoulders at points where Stock cross the Road berm) must be surfaced in an appropriate material, such as gravel or limestone, and be constructed to accommodate the regular movement of Stock, to a standard that prevents damage to the Road and avoids mud being tracked onto the Road; and
- i) mats must be used to protect the Road verge and the Carriageway from any damage.

29.3 An owner of Stock who wishes to carry out a Stock Crossing other than in compliance with the conditions in clause 29.2 must apply in writing to the Council using the prescribed form, and providing payment of any relevant fees and charges.

29.4 On receiving an application under clause 29.3, the Council may:

- a) subject to the payment of the appropriate fees and charges, grant a written consent; or
- b) refuse to grant consent if in Council's opinion the proposed Stock Crossing may for any reason endanger Road users' safety or cause damage to the Road.

29.5 In granting consent under clause 29.4(a), the Council may, at its discretion, require the Stock owner to formulate and implement a Traffic Management Plan for the Stock Crossing.

29.6 Where the Council has required a Stock owner to formulate and implement a Traffic Management Plan, that owner must ensure that the Traffic Management Plan is complied with.

Guidance note: If a Stock Crossing is not permitted under this clause, the Stock owner may need to consider constructing and using a Stock Underpass.

30 Council may Restrict Movements of Stock

30.1 Despite clauses 28 and 29, an Authorised Officer may prevent or restrict the movement of Stock on a Road, including halting or diverting a Drove or Stock Crossing, if:

- (a) work is being carried out on or around the Road so as to cause an obstruction or safety risk; or
- (b) flooding, landslide, or any other civil emergency event has affected the Road.

31 Stock Owner Responsible for Any Damage

31.1 The owner of Stock is responsible for any damage caused by their Stock during a Drove or Stock Crossing, whether the damage is to private property, any Road, Street Furniture, or a Public Place.

31.2 In the event that Stock damage any Road, Street Furniture, or Public Place, the Council may repair the damage and recover its costs from the owner of that Stock.

Explanatory Note: It is recommended that the Stock owner maintains a public liability insurance policy to protect them against any claims for damage caused by their Stock.

Part Six - Stock Underpasses

32 Restrictions on Stock Underpasses

32.1 A person must not construct, use, or decommission a Stock Underpass other than in accordance with this Part of the Bylaw.

33 Construction of a New Stock Underpass

- 33.1 Any owner of land that adjoins both sides of a Road who wishes to construct a Stock Underpass under that Road to connect parts of a farming unit must apply in writing to the Council using the prescribed form, and provide payment of any relevant fees and charges.
- 33.2 On receiving an application under clause 33.1, the Council may:
- a) subject to the payment of the appropriate fees and charges, grant a written consent for construction of a new Stock Underpass; or
 - b) refuse to grant consent if in Council's opinion the proposed Stock Underpass may for any reason endanger Road users' safety or cause damage to the Road.
- 33.3 Any consent granted under clause 33.2(a) will be subject to the following conditions:
- a) the land owner must enter into a Covenant Instrument with the Council, and ensure it is registered against the Record of Title for the land, before construction of the Stock Underpass begins;
- Guidance Note: The Covenant Instrument sets out the terms and conditions on which the Council agrees for a Stock Underpass to be constructed under a Road, and will include particular maintenance requirements. The Covenant Instrument runs with the land and will bind the current registered owner as well as any successive owners.*
- b) the Stock Underpass must be constructed in accordance with the Council's Engineering Standards and any applicable regulatory consents.
- Guidance Note: The Stock Underpass must also be authorised by all necessary resource and building consents. A flow chart in Appendix 1 of this Bylaw sets out the application process.*
- 33.4 As part of satisfying the condition in clause 33.3(a), the land owner must cover all costs (including the Council's reasonable costs) to facilitate the registration of the Covenant Instrument, and must obtain the mortgagee's consent if necessary.
- 33.5 The design and construction of a Stock Underpass is the responsibility of the land owner and is at the land owner's expense.
- 33.6 Where the parcels of land that would be connected by a Stock Underpass are not held by the same owner, the Council may, at its discretion, consent to the Stock Underpass under clause 33.2(a). In this situation, each of the owners concerned must:
- (a) agree to the application being made under clause 33.1;
 - (b) enter into a Covenant Instrument in accordance with clause 33.3(a); and
 - (c) agree to comply with the obligations and requirements applying to a land owner in this Part of the Bylaw.

34 Council's Ongoing Inspection of Stock Underpasses

- 34.1 The Council will inspect all Stock Underpasses (as part of its bridge and culvert inspection programme, in its role as a Road Controlling Authority) to monitor their structural integrity.
- 34.2 The Council will endeavour to conduct each inspection in consultation with the land owner concerned.

- 34.3 If the Council identifies any issues with the structural integrity of a Stock Underpass during an inspection, it will provide a written notice to the land owner detailing the issues and specifying a time period in which they must be remedied.

35 Land Owner Responsible for Maintenance of Stock Underpasses

- 35.1 The land owner is responsible for maintaining any existing Stock Underpass, including one that is no longer in use, to ensure its ongoing structural integrity, at the land owner's expense.
- 35.2 Under clause 35.1, the written consent of the Council must be gained if maintenance work may affect the Road or its use.
- 35.3 The obligation in clause 35.1:
- (a) applies to the land owner who constructed the Stock Underpass and to all successive owners of the land; and
 - (b) is subject to any particular maintenance obligations in any applicable Covenant Instrument.
- 35.4 Without limiting the obligation in clause 35.1, a land owner who receives notice from the Council under clause 34.3 must remedy all issues identified by the Council within the period specified in the notice, at the land owner's expense. Alternatively, the land owner can apply to decommission the Stock Underpass.

36 Decommissioning Stock Underpasses

- 36.1 Any land owner who wishes to decommission a Stock Underpass must apply in writing to the Council using the prescribed form, and provide payment of any relevant fees and charges.
- 36.2 On receiving an application under clause 36.1, the Council may:
- a) subject to the payment of the appropriate fees and charges, grant a written consent to decommission the Stock Underpass; or
 - b) refuse to grant consent if in Council's opinion the proposed Stock Underpass cannot safely be undertaken at that time.
- 36.3 Any consent granted under clause 36.2(a) will be subject to the following conditions:
- (a) the decommissioning work must be carried out by appropriately qualified contractors; and
 - (b) the Road must be reinstated to the Council's satisfaction.

Explanatory Note: Additional resource or building consents may be required from Council or from Horizons Regional Council for the demolition of an existing Stock Underpass.

Part Seven - Roadside Grazing and Tethering

37 General Prohibitions on Grazing and Erection of Fences for Grazing

- 37.1 The owner of Stock must not permit any of their Stock to graze on any Road, unless such grazing is permitted under clause 38 or 39.
- 37.2 A person must not erect a fence on any Road for the purpose of enabling Stock grazing, unless it is a temporary fence permitted under clause 38.2 or a permanent fence for which the Council has issued a Licence to occupy under clause 39.3(a).

38 Temporary Roadside Grazing Permitted (Fenced or Tethered)

38.1 Despite clause 37, temporary roadside grazing is permitted on an area of Road that is adjacent to a Carriageway, provided that all of the conditions in either clause 38.2 or 38.3 are met.

38.2 The conditions for grazing within a temporarily fenced area are:

- a) the Stock being grazed are sheep, steers, heifers, or cows;
- b) the area that is being grazed must be adjacent to land that is owned or occupied by the owner of the sheep, steers, heifers or cows, or land that is owned by another person if that person has given their written consent;
- c) the grazing must occur during the Hours of Daylight;
- d) the area being grazed must be enclosed by a temporary electric fence that is constructed and sited in accordance with the Council's 'Roadside Grazing Temporary Fencing Standard';
- e) the enclosed area must not be overgrazed or trampled into mud;
- f) the owner of the sheep, steers, heifers, or cows must fence all water channels and culverts in the enclosed area so as to prevent the sheep, steers, heifers, or cows from entering them;
- g) the enclosed area must not be used as a place to store food supplements for the sheep, steers, heifers, or cows, such as baleage or hay, or to feed the sheep, steers, heifers, or cows such food supplements; and
- h) all fencing materials must be completely removed as soon as the enclosed area has been grazed off.

38.3 The conditions for grazing while being tethered are:

- a) the Stock being grazed are not poultry, bulls, pigs, horses or deer;
- b) the area that is being grazed must be adjacent to land that is owned or occupied by the owner of the Stock, or land that is owned by another person if that person has given their written consent;
- c) the grazing must occur only during the Hours of Daylight;

- d) the Stock must be tethered so that they are not able to stray within 1.8 metres of the Carriageway; and
- e) the area that is being grazed must not be overgrazed or trampled into mud.

38.4 Any owner of Stock who grazes them on the Road in accordance with this clause 38 does so at the owner's risk.

39 Permanent Grazing on Roadside or Unformed Legal Roads Permitted

39.1 Despite clause 37.1, the owner of Stock may graze their Stock on an area of Road that is enclosed by permanent fencing authorised by a Licence to occupy issued by the Council.

39.2 An owner of Stock who wishes to erect permanent fencing on a Road for the purpose of enabling Stock grazing must apply in writing to the Council using the prescribed form, and providing payment of any relevant fees and charges.

39.3 On receiving an application under clause 39.2, the Council may:

- a) subject to the payment of the appropriate fees and charges, grant a Licence to occupy; or
- b) refuse to grant a Licence to occupy if in Council's opinion the fencing may cause any danger or obstruction.

39.4 In granting a Licence to occupy under clause 39.3(a), the Council may impose conditions, including, without limitation, any of the following conditions:

- a) the type of proposed permanent fence, and its location, must be Approved by the Council;
- b) the licensee must keep the area of Road concerned free from all noxious plants, rabbits, and other vermin;
- c) the licensee must not erect any buildings on the area of Road concerned;
- d) the licensee must only use the area of Road concerned for Stock grazing purposes.
- e) the licensee must keep all fences, gates, drains, and other improvements that are on the area of Road concerned in good order, condition, and repair;
- f) the licensee must not destroy, or allow damage to, any natural, scenic, historic, cultural, archaeological, biological, geological or other scientific features, or indigenous flora and fauna on the area of Road concerned;
- g) the licensee must at all times permit the Council to access the area of Road concerned to carry out such work as the Council may consider necessary;
- h) the licensee must permit access over the area of Road concerned to all persons duly authorised by the Council in writing, at such times and for such purpose as the Council may specify, provided that no such authorisation may be granted by the Council without first consulting the licensee;
- i) the area of Road concerned remains a public Road and access must not be blocked to pedestrians or vehicular traffic;
- j) the licensee must hold public liability insurance with a minimum cover of \$1,000,000;
- k) the Licence will remain in force, unless terminated earlier, for a period of three, five or ten years (whichever is specified by the Council in the Licence), and may be renewed for a further

five years by the licensee applying in writing to the Council at least two calendar months prior to the expiration of the Licence;

- l) the Licence may be terminated for any reason by either party giving the other one-calendar month's notice in writing;
- m) the Licence may also be terminated by the Council if the licensee breaches any of the conditions of the Licence; and
- n) upon the expiration or termination of the Licence, the licensee is not entitled to compensation from the Council for any improvements to the area of Road concerned made by the licensee.

The Council may set fees and charges for the recovery of the reasonable costs incurred for the Licence to occupy application process for permanent Roadside grazing.

Part Eight - Offences

40 Removal of Vehicles and Items on Roads and Parking Places

- 40.1 If any Vehicle is Parked on any Road or Parking Place in breach of this Bylaw, the Council may remove it or cause it to be removed.
- 40.2 If any item or thing is placed or left on any Road or Parking Place, and the Council considers it may endanger the safety of Road users or cause damage to the Road, the Council may remove it or cause it to be removed.

41 Offences and Penalties

- 41.1 Every person who breaches this Bylaw commits an offence and may be liable for any applicable penalty provided for in the Act or the Local Government Act 2002.

Explanatory Note: This clause should be read in conjunction with clauses 9 and 10 of the Council's Explanatory Bylaw 2022.

42 Exceptions

- 42.1 A person is not in breach of this Bylaw if that person proves their act or omission was taken:
 - a) to avoid the death or injury of a person;
 - b) at the direction of an Authorised Officer.

Part Nine - Transitional Provisions

43 Transitional Provisions for Consents etc.

- 43.1 Any consent granted under Chapter 4 or Chapter 6 of the Manawatu District Bylaw 2008 that was in force immediately before the commencement of this Bylaw, continues in force as if it is a consent of that kind issued under this Bylaw, but the consent:
 - a) expires on the date specified in such consent; or

- b) where no expiry date is specified, expires 12 months from the commencement of this Bylaw; and
 - c) may be renewed only by application made and considered in accordance with this Bylaw.
- 43.2 In clause 43.1, "consent" includes any Approval, Licence, permit, or other form of authorisation granted or issued by the Council.

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This Bylaw was made by the Manawatu District Council by resolution at a Council meeting on x month 2022 and must be reviewed in accordance with clause 4.

Sealed with the Common Seal
of the **MANAWATU DISTRICT COUNCIL**
in the presence of:

Mayor

Chief Executive

DRAFT

Appendix 1 - Application and Construction Process for a New Stock Underpass

