

KAIKOURA DISTRICT COUNCIL STOCK CONTROL BYLAW
2011

PART 4

PENALTIES

4.1 PENALTY

Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000, as set out in the Local Government Act 2002 and where the breach is a continuing one to a further fine not exceeding \$50 for every day or part thereof on which the failure continues.

KAIKOURA DISTRICT COUNCIL STOCK CONTROL BYLAW
2011

PART 5

5.1 REVOCATIONS AND SAVINGS

- 5.1.1 The Kaikoura District (Movement of Stock Bylaw1995) is hereby revoked.
- 5.1.2 Any approval, permit or other act of authority which originated under The Kaikoura District (Movement of Stock Bylaw1995 that is continuing at the commencement of this Bylaw, continues to have full force and effect for the purposes of this Bylaw, but is subject to the application of any relevant clause in this Bylaw.
- 5.1.3 The revocation of any of The Kaikoura District (Movement of Stock Bylaw1995 under subclause (5.1.1) does not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw and such proceedings continue to be dealt with and completed as if the that bylaws had not been revoked.

KAIKOURA DISTRICT COUNCIL STOCK CONTROL BYLAW
2011

GUIDELINES
for Approval under Clause 3.1

ROAD CROSSINGS/

- A direct route perpendicular to road alignment shall apply;
- Gates shall be erected at the race entrance on each boundary, and also, 50 metres back from the race boundary;
- Entrance and race itself shall be constructed of hardfill material with a cambered free draining profile for at least 15 metres from the edge of seal or road formation on each side of the road;
- Obstructions impairing road user visibility of full width of road reserve shall be avoided where at all possible;
- Crossings shall be sited to permit effective, safe stopping sight distance for road users relevant to the speed environment of the road;
- For heavy use crossings, Council may require a financial contribution limited to 50% of the cost, towards the installation of a durable road pavement, eg Concrete. Maintenance shall also be apportioned at 50%, except cleaning, which shall be the responsibility of the landowner;
- Stock shall be held back 50 metres from the road exit point prior to entering race or crossing the road;
- Warning Signs of a suitable standard shall be erected and maintained by the Landowner, such warning signs being collapsible, and displayed only when stock is being moved.
- Gateways entering the roadway shall be as wide as is practicable, to allow rapid movement of stock.

RACES ON ROAD MARGINS

- Size

Maximum length of 1.5km, minimum 3m wide and maximum 5m wide

- Fence Construction

No waratah standards or similar steel posts shall be used.

Electric fences shall be constructed of wooden battens/posts, small decimetre or plastic electric fence standards. Must give regard to all road users (including pedestrians).

- Pavement

Shall be hard fill.

Shall be to the satisfaction of the Council Works and Services Manager or his delegated representative.

- Proximity to Road

No fence or race shall be constructed closer than 2 metres from the edge of the roadway.

- Water Tables/Drains

Construction and use of the race shall not encroach into or foul water tables or drains.

- Underground Services/Drainage Structures

The applicant shall be responsible for locating, avoiding and if necessary repairing underground services and culvert drainage structures.

- Hours of Darkness

No stock will be left in the race during the hours of darkness.

- Road Crossings

The conditions relating to Road Crossings shall apply to any race constructed on a road margin.

- Effect on Other Properties

The effect of the construction and use of a race on properties fronting the road reserve shall be taken into consideration and other landowners must be consulted before approval is given.

- Visibility to Other Road Users

Reflective markers shall be installed, one at each end, and at intervals of not more than 100 metres on the fence nearest the road edge.

GENERAL EXPLANATORY COMMENT

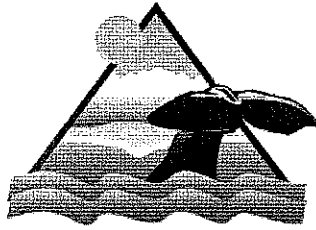
This document is a draft proposal for Bylaws to control the movement of stock in the Kaikoura District.

A bylaw is a rule or regulation made by a local authority which affects the public, which orders something to be done, or not to be done, as the case may be.

A bylaw provides penalties for non-compliance, including fines that may be enforced by a District Court. Additional measures to enforce bylaws include court orders, or in some cases, direct intervention by a council to demolish or remove nonconforming features.

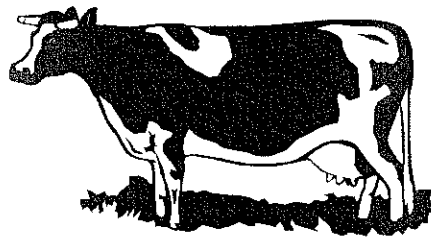
These bylaws deal specifically with the Kaikoura District, to improve the safe and reasonable movement of stock, and to help protect the roads from unnecessary damage.

The bylaws have been drafted using the Kaikoura District Movement of Stock Bylaw 1995 and sample bylaw from the Christchurch City Council.



**KAIKOURA
DISTRICT COUNCIL**

**DRAFT POLICY ON STOCK UNDERPASSES,
CROSSING AND RACES ON ROAD
RESERVE - 2011**



Adopted by Council –

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Policy on Stock Crossings, Races on Road Reserve, and Stock Underpasses

Purpose

To set out the procedures and standards required for stock movement on and around road reserve.

To set out standards for the implementation and construction of stock crossings, races on road reserve, and stock underpasses.

Policy

The procedures set out in this Policy are to be used to manage stock movement on and around road reserve within the Kaikoura District.

Council shall not be held responsible in any way for claims for damages, and it is a condition of issuing approvals for stock crossings, races, or underpasses on road reserve that the property owner/ lessee arranges and keeps current public liability insurance to protect his/her liability for damage to third parties.

Facilities on state highways, including siting of crossings, races, and underpasses shall be subject to scrutiny and approval by Transit New Zealand or their agents.

Procedures

1. Stock Crossings

A formal application for the creation of a stock crossing on road reserve has been attached in Appendix A. This form together with plans and specifications detailing any proposal to create a stock crossing shall be submitted to the Chief Executive Officer, Kaikoura District Council, P O Box 6, Kaikoura, for approval.

Road Crossing Requirements

A direct route perpendicular to road alignment shall apply.

Gates shall be erected at race entrance on each boundary.

Entrance and race shall be constructed of hardfill material with cambered free draining profile for 15 metres from edge of road formation each side of road.

The stock crossing shall not impede roadside drainage or cause it to be diverted onto the roadway.

Obstructions impairing road user visibility of the full width of road reserve shall be avoided.

Crossings shall be sited to permit effective, safe stopping sight distance for road users relevant to the speed environment of the road (i.e. 100m for 70kph, 170m for 100kph).

Unsafe Road Crossing

Where an existing or proposed road crossing is deemed unsafe and no reasonable alternative siting is available, the option of a stock underpass shall be considered

Heavy Use Crossings

Where heavy use stock crossings apply (and underpasses are not warranted), Council may require landowner to provide financial assistance to construct a durable road pavement (i.e. concrete or similar) over the extent of the crossing. This action by Council shall be limited to situations where excessive maintenance costs to sustain the pavement are incurred.

Stock Crossing Construction and Use Specifications

- 1) Warning signs shall be erected in accordance with the sign requirements for permanent and temporary crossings as outlined below.
- 2) Warning signs shall be kept covered or folded down at all times when the crossing is not in use.
- 3) A gate shall be erected at the race entrance on each boundary at least two metres back from the watertable.
- 4) The entrance and race shall be constructed of hardfill material with a cambered free draining profile for 15 metres from the edge of road formation each side of road.
- 5) A direct route perpendicular to road alignment shall apply unless otherwise permitted.
- 6) A temporary electric tape can be erected across the road reserve at a maximum height of 600mm to aid in stock movement. This must be removed in between stock crossings.
- 7) The cattle shall be under the control of a drover at all times when using stock crossings.
- 8) All stock movements shall take place during the hours of daylight except in the event of an escape or emergency; or for the purpose of regular milking
- 9) The permit holder and/or property owner shall be required to keep the stock crossing clear of surface detritus.
- 10) The stock crossing is installed at Councils approval and must be removed upon request.

Sign Requirements for Permanent Crossings

- The required signs are either a TW-6A (cattle) or a TW-6.1A (sheep) (as per Manual of Traffic Signs and Markings); whichever is the most appropriate for the majority of stock using the crossing.
- The sign will be a folding sign. A full-length stainless steel hinge is recommended.
- The symbol will be a black silhouette with a black border around a 750mm x 750mm diamond shaped sign (as per Manual of Traffic Signs and Markings).
- The orange background will be a minimum of High Intensity reflective material (class 1).
- Sign to be manufactured to meet the standards specified in the RSMA Standard for the Manufacture and Maintenance of Traffic Signs, Posts and Fittings.

Sign Installation Requirements for Permanent Crossings

- Sign to be mounted on a 100mm x 100mm square treated wooden post. The post shall be painted white.
- The post will be located 1.0 to 2.0 metres off the outside edge of the gravel verge.
- The height from the road level to the underside of the sign shall be 1.50 metres minimum.
- As near as possible, signs should be located as per the following table:

Traffic Speed	50 km/hr	70 km/hr	100 km/hr
Distance of sign prior to the stock crossing	60 metres	90 metres	150 metres
Approaching drivers uninterrupted viewing distance of the sign	60 metres	80 metres	120 metres

Note: The signs must always be folded down or covered when not in use.

Sign Requirements for Temporary Crossings

- The required signs are either a TW-6A (cattle) or a TW-6.1A (sheep) (as per Manual of Traffic Signs and Markings); whichever is the most appropriate for the majority of stock using the crossing.
- The symbol will be a black silhouette with a black border around a 750mm x 750mm diamond shaped sign (as per Manual of Traffic Signs and Markings).
- The orange background will be a minimum of High Intensity reflective material (class 1).
- Sign to be manufactured to meet the standards specified in the RSMA Standard for the Manufacture and Maintenance of Traffic Signs, Posts and Fittings.

Sign Location/Mounting Requirements for Temporary Crossings

- Sign to be mounted on a suitable stand and must be stable under adverse weather conditions and vehicle created draft.
- The sign and stand will be located in the gravel verge on a sealed road and up to 1.0 metres off the edge of a gravel road.
- The height from the road surface to the centre of the sign will be a minimum of 1.25 metres.
- As near as possible the signs should be located as per the following table:

Traffic Speed	50 km/hr	70 km/hr	100 km/hr
Distance of sign prior to the stock crossing	60 metres	90 metres	150 metres
Approaching drivers uninterrupted viewing distance of the sign	60 metres	80 metres	120 metres

Note: For vehicle or bike mounted signs, a 750mm x 600mm rectangle shaped sign may be used with an appropriate attachment. All of the other sign requirements as listed above must still be met.

2. RACES ON ROAD RESERVE

Roadside fence shall comply with Council's conditions for Temporary Fence on Road Reserve.

Race pavement shall be formed with hardfill.

Siting of fence must give due regard to the requirements of all road users including pedestrians.

A road shall have a race on one side only.

Fence and edge of race shall be no closer than 1.25 metres from the edge of a road except existing watertables shall be avoided.

Construction and use of race shall not encroach into or foul watertables and drains.

The applicant and subsequent users shall be responsible for locating, avoiding, and provision for reinstatement of underground services and culvert drainage structures.

Stock shall not be left in the race during the hours of darkness.

Reflective markers or road marker posts shall be maintained at 100m intervals along the race.

Council may require the fence and race to be removed and the flank reinstated at any time, subject to not less than three months notice being given.

If stock cross the road at the entrance or exit of a roadside race then conditions for road crossings shall apply (see 1. Road Crossings).

Due consideration is to be given to the effect of race and stock movement on properties fronting road reserve.

3. STOCK UNDERPASSES

Objective

To set the procedure and construction standards required for the installation of Stock Underpasses

To enable Council to manage the future maintenance of existing and new Stock Underpasses

Policy

The "Policy for the Installation of Stock Underpasses" is to be used to manage the Installation and Maintenance of Stock Underpasses within the Kaikoura District.

STOCK UNDERPASS INSTALLATION POLICY/GUIDELINES

GENERAL

These notes are for the guidance of the Applicant intending to install a stock underpass that crosses under a Council road.

In the first instance Applicants are advised to contact the Asset Manager, Kaikoura District Council, P O Box 6, Kaikoura, telephone (03) 3195026 by making an appointment to inspect the likely site, an early indication of Council's requirements would be established and this will assist in the official application for the installation of a stock underpass. A standard application form has been developed for this purpose (refer to Appendix 2).

There are no cost implications to the Applicant with regard to the initial site inspection however; applicant shall pay for any processing of the application form and approval of construction drawings.

GENERAL CONDITIONS

A building consent is not normally required. Should such a consent be required, the Applicant will be informed accordingly.

A formal application on the attached form, together with plans and specifications detailing the proposal shall be submitted to the Chief Executive Officer, Kaikoura District Council, P O Box 6, Kaikoura, for approval.

A one-month approval period shall be allowed for within the Applicant's programme. The Applicant shall be responsible for making contact with **all** service authorities and obtaining location plans for water services, telephone, electricity and all other under/above ground services and overhead plant to ensure all conflicts with the work are identified.

During the course of all works within the road reserve the Applicant is responsible for all damage and all costs for any subsequent reinstatement of services.

GENERAL CONSTRUCTION REQUIREMENTS

The underpass shall be designed so that the minimum cover retained over the top of the structure below the road surface is not less than 400 mm.

The minimum length of an underpass shall be 12 metres, with at least a 3 metre clearance to be maintained between the edge of seal and the end of the underpass. The minimum length is set at 6 metres either side of the road centreline. Therefore if an underpass does not run perpendicular to the road centreline the minimum length shall be increased to gain the full 6 metre clearance. However, where the centreline of a formed road does not correspond with the centreline of the road reserve, it will be treated on its own merits and the final length of the structure shall be as approved by the Engineering and Asset Manager.

Each application will be dealt with on its own merits, with the final total length of a stock underpass being determined by the following factors:-

- Roading hierarchy
- Sealed or unsealed road
- Seal width
- In-situ soil conditions
- Construction of wingwalls
- Roadside drainage requirements
- Traffic safety / risk assessment
- Any other factors Council deems necessary for consideration in order to ensure the structural integrity of the road.

In the case of a sealed road the trafficked road shall comprise the width of the seal. Where the road is unsealed a carriageway of 6 metres shall be allowed for.

A full design specification for the underpass shall be submitted with accompanying confirmation that the design is adequate to withstand applied traffic loads and other normal applied loads. The stock underpass structure shall at minimum be capable of carrying maximum Class I traffic loadings.

Supply and installation shall be carried out as per manufacture's specifications, plans and producer statement for the structures used to form the underpass.

Tests (at the Applicant's expense) shall be carried out by a Registered Engineer on the subgrade prior to the placement of the units or pipes to ensure that the bearing capacity complies with the design requirements.

The ground water level shall be below the invert level of the structure at all times during construction.

The excavation and installation of the underpass shall be carried out by a competent Contractor familiar with Transit New Zealand specifications, safety procedures and the Health and Safety Act which shall all be adhered to.

The site shall be signed and barricaded as per the New Zealand Transport Agency Manual "Working on the Road" i.e. Road Works, Temporary 30 km/hr, Metal Surface Signs, etc, until all works on the road have been completed.

Drainage with sufficient capacity to drain the underpass shall be installed at the site. The structures installed shall take into account the likely scouring of fill batters, and shall provide protective work (e.g. wingwalls) to prevent or minimise the effects of the scouring and subsequent damage to the road.

The installation Contractor shall provide a producer statement (PS4) confirming on completion of all works that installation complies with all conditions laid down in the plan and specifications.

Council will consider temporary road closure for one day if warranted. All costs associated with temporary road closure including detour signing to Council's approval and the payment of newspaper advertising will be the Applicant's responsibility. The Contractor/Applicant shall submit a Traffic Management Plan to the Engineering and Asset Manager for approval, 5 days prior to work commencing.

The Applicant shall obtain all resource consents required for the installation of the underpass e.g. disposal of stormwater etc. at their own expense. No construction will be allowed to proceed until all such consents have been obtained.

Before any work commences within the road reserve a completed and signed Memorandum of Encumbrance (refer Appendix 1) or a letter stipulating the Applicant's commitment to complete such an Encumbrance, shall be submitted. The Encumbrance will include any further conditions that Council may wish to apply. Approval for proceeding with construction will be given in writing.

Upon satisfactory completion of construction the Applicant agrees to take over the maintenance of the structure, drainage, fencing, cleaning and maintenance of the underpass invert. The Applicant shall maintain the reinstated carriageway for a period of 12 months from the date of final reinstatement; thereafter normal carriageway maintenance will revert to Council.

3.1 Backfilling

Backfill shall be imported material comprising well-graded aggregate free of organic material and generally with a maximum particle size of 65 mm. In no case shall excavated material be used as backfill except with express written permission of the Engineering and Asset Manager.

Backfill shall be placed in level layers no greater than 300 mm of uncompacted thickness. Compaction shall be applied evenly to each layer before progress to the next layer. Excavation

of the road shall be wide enough to ensure compaction plant can access and compact the material surrounding the underpass satisfactorily.

Backfill shall only be placed by the Applicant to a level and compacted, 300 mm below the adjacent sealed surface. The road construction above this level shall be done by a Council Approved Contractor and shall at minimum be identical in design to the surrounding road. The proposed road design has to be submitted to the Engineer and Asset Manager for approval.

3.2 Road Sealing

Reinstatement of the road surfacing to a standard comparable to that of the site prior to excavation shall be done by a Council approved Contractor. All joints to be sawcut to ensure smooth transitions.

3.3 Roadside Barrier Rails

The Applicant shall, at the time of construction, install barrier rails sufficient to warn approaching traffic of the hazard, identify the position of the underpass and reduce the possibility of vehicles leaving the road and dropping into the openings adjacent to the road. The ends of the barriers shall also be marked with bridge end hazard markers approved by the Council.

3.4 Fencing, Roadside Stock Control and Barriers

Adequate fencing and gates shall be supplied by the Applicant to control stock movements when entering and leaving the underpass and prevent the escape of stock onto the roadside. All costs associated with the maintenance of this fencing within the road reserve shall lie with the Applicant and work shall be done to ensure stock control is maintained to the satisfaction of the Council at all times. This work will also include the provision of all required sightrails and armco barriers as determined by the Engineer and Asset Manager.

3.5 Clean up on Completion of Works

The site is to be left in a clean and tidy condition after the works are completed, with all surplus spoil removed and excavated road shoulder areas regrassed. No stockpiles of material are to be left within the road reserve.

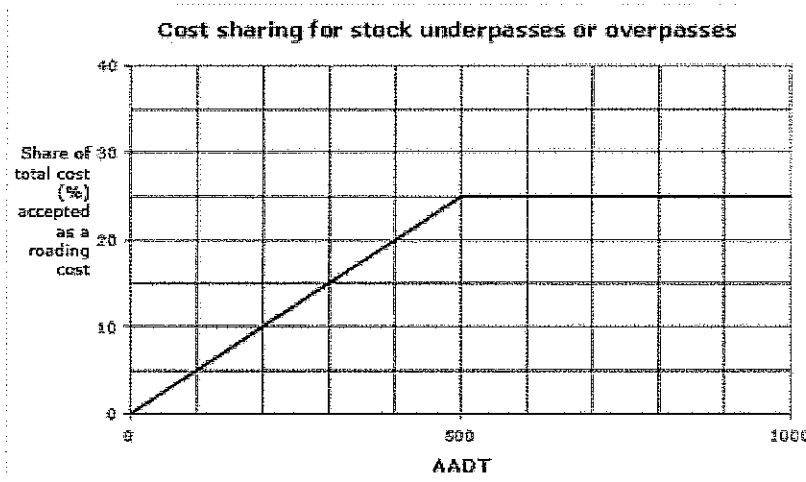
An initial contract maintenance period of 12 months is required. Prior to expiration of this period the Council will undertake a site inspection and advise any remedial works required at the Applicant's expense, before final acceptance is granted by the Council.

Once acceptance by Council is granted, the structure will be included in Council's Asset Register, but the Applicant shall still be responsible for repairs and reinstatement of structural defects detected by the Council in periodic inspections of the underpass.

FUNDING

Financial assistance will be based on New Zealand's Transport Agency Planning, Programming & Funding Manual

Cost sharing for stock underpasses or overpasses



Formula for cost sharing for stock underpasses or overpasses

$$CS = 0.05 \times AADT \text{ (on roads having less than 500 AADT) in percent}$$

Where:

$$CS = 25 \text{ percent (on roads having greater than or equal to 500 AADT)}$$

CS = RCA's contribution to the total construction cost of an access structure on an existing road (in percent)

AADR = traffic volume

Each application will be treated on its own merits and granting of such subsidies will depend on the amount of funding available within Council's current Minor Safety Works budget and may from time to time require Council approval.

MEMORANDUM OF ENCUMBRANCE

It is a requirement that a Memorandum of Encumbrance (as per the attachment) be registered on the titles of the affected properties. The Memorandum of Encumbrance is to include the following information:-

- Legal description of the properties
- Type of stock underpass (pipe, precast box etc.)
- Construction material (concrete, steel etc.)
- Dimensions of structure
- Depth of cover over the structure
- Design loading data
- Location (ward, road, rapid no.)

All costs relating to the registration of the Memorandum of Encumbrance is the responsibility of the Applicant.

DEFINITIONS

Permanent Stock Crossings

Where there is a high frequency of stock movements (say on a regular daily basis – often perhaps several times a day).

Temporary Stock Crossings

Crossings used occasionally and short length droving

Relevant Legislation

Local Government Act 2002

Legal Compliance

Non compliance or breaches with respect to this policy may result in recovery of costs by Council, penalties, fines or prosecutions.

Related Policy and Documents

- Kaikoura District Council Roading Bylaw 2008 – Part 2 - Stock Movement
- The Kaikoura District Council Speed Limits Bylaw 2008
- Kaikoura District Council Signs Bylaw 2010
- New Zealand Transport Agency - Manual of Traffic Signs and Markings (MOTSAM)
- New Zealand Transport Agency - Code of Practice for Temporary Traffic Management (COPTTM)
- New Zealand Transport Agency *Planning , Programming & Funding Manual*, August 2008
- Kaikoura District Council (Movement of Stock) BYLAW
- Kaikoura District (TRAFFIC CONTROL) BYLAW

Key Words

Stock movement, stock underpasses, stock crossings, installation of stock underpasses, construction of stock crossings, stock control, permanent stock crossing, temporary stock crossing, heavy use crossing, stock underpass specifications, road reserve, memorandum of encumbrance.

REFERENCES

1.0 New Zealand Transport Agency *Planning, Programming & Funding Manual*, August 2008

2.0 Clutha District Council Policy

APPENDIX 1 - MEMORANDUM OF ENCUMBRANCE

DATED

20

KAIKOURA DISTRICT COUNCIL

Council

And

Encumbrancer

MEMORANDUM OF ENCUMBRANCE

FIRST SCHEDULE
(Terms and Conditions of Encumbrance)

1. The term of the Encumbrance is 50 years commencing from the date hereof subject to earlier determination in the events provided in the *Fifth Schedule*.
2. The annual rent charge is \$250 and such further sum as may be owing by the Encumbrancer to the Council under the Covenants of this Encumbrance to be paid to the Council on the 1st day of July 20__ and on the like day of July in every year thereafter.
3. The covenants of the *Fourth Schedule* shall be enforceable only against the owners and occupiers for the time being of the land and not otherwise against the Encumbrancer and his successors in title.
4. Section 104 of the Property Law Act 1952 applies to this Memorandum of Encumbrance but otherwise (and without prejudice to the Council's rights of action at common law as a rent-chargee):
 - a) The Council shall be entitled to none of the powers and remedies given to Encumbrancees by the Land Transfer Act 1952 and the Property Law Act 1952; and
 - b) No covenants on the part of the Encumbrancer and his successors in title are implied in this Memorandum other than the covenants for further assurance implied by Section 154 of the Land Transfer Act 1952.
5. In the event of the Encumbrancer wishing to enter into a mortgage or mortgages of the land to have priority to this Memorandum the Encumbrancer shall be entitled at his own cost in all things to a Memorandum of Priority granted by the Council in favour of any such mortgage or mortgages PROVIDED that the mortgagee thereunder consents to and acknowledges that it is bound by the covenants of this Memorandum for the purposes of Section 105 of the Land Transfer Act 1952.
6. The Encumbrancer shall further pay to the Council forthwith upon demand an amount equal to any output tax payable by the Council under the Goods and Services Tax Act 1985 or any Act in amendment or substitution therefore in respect of taxable supplies made to the Encumbrancer directly or indirectly attributable to matters referred to in, or arising from, this Memorandum of Encumbrance.
7. In this Memorandum and its Schedules:
 - a) "the Land" refers to that described in the Second Schedule and any part of it;
 - b) "the Licence" is that for a stock underpass referred to in the Third Schedule;
 - c) "Schedule" refers to the several Schedules attached to this Memorandum;
 - d) "the Works" refers to those described in the Sixth Schedule and any part of it.

Words importing the singular number of plural number shall include the plural number and singular number respectively and words importing the masculine gender shall include the feminine or neuter gender.

SECOND SCHEDULE
(the Land)

An estate in fee simple in all those parcels of land containing:

THIRD SCHEDULE
(the Circumstances)

1. The Encumbrancer has applied to the Council for a Licence to have constructed on and under the road between the separate parcels of the Land a stock underpass.
2. That application has been approved by the Council on the condition, amongst others, that the Encumbrancer enters into this charge and the covenants of the Fourth Schedule in the Council's favour.

FOURTH SCHEDULE
(the Covenants)

1. That the Encumbrancer shall duly and punctually, to the Council's reasonable satisfaction, comply with all these Covenants.
2. Nothing expressed or implied in this Encumbrance shall constitute either party as the partner, agent, employee or officer of, or as a joint venturer with, the other party, and neither party shall make any contrary representation to any other person.
3. The Encumbrancer shall have the Works carried out and completed in strict accordance with plans and specifications and any timetable or programme of performance first approved by the Council and to the reasonable satisfaction of the Council.
4. The Encumbrancer shall not do, nor permit, anything with regard to the underpass or Works which might directly or indirectly prejudice the structural integrity of the works, the Council's road or the underpass.
5. The Encumbrancer shall maintain the Works until all the Works have been completed to the reasonable satisfaction of the Council, including the provision of satisfactory as-built plans and records of such of the Works as may be required from time to time by the Council, together with Certificate of Due Performance of the Works acceptable to the Council given by adequately qualified persons as requested from time to time by the Council, including upon completion of the works.
6. The Encumbrancer permits the Council without hindrance at any time and from time to time, and without the need for notice, by its servants, agents, contractors or workmen:
 - a) To undertake the Works or any of them should the Council consider it necessary to do so on account of the Encumbrancer failing, or failing to make such progress as the Council reasonably requires as being necessary, to complete or fulfil any of the Covenants strictly in accordance with this schedule;

- b) To issue instructions to the Encumbrancer, or any servant, contractor, or workman of the Encumbrancer for any remedial works as the Council reasonable thinks necessary for the due maintenance or better performance of the Works;
 - c) As reasonably required to audit the performance of the Works by examination of all relative records of the Encumbrancer, or any servant, contractor or workman of the Encumbrancer;
 - d) To undertake any remediation of the Works as the Council reasonably thinks fit.
7. The Encumbrancer shall not take any proceedings, make any claim, join any proceedings or claim, or charge, account for, seek payment, or set-off of any kind, against the Council, whether in respect of any costs, charges or expenses incurred, or losses or damages suffered, for compensation or other relief whatsoever, directly or indirectly arising from:
- a) The exercise by the Council of any rights, remedies or powers under this Encumbrance, or as territorial local authority for the district within which the Land is situated; or
 - b) The Encumbrancer or any servant, contractor or workman of the Encumbrancer complying with orders or instructions given by, or for the Council in accordance with this Schedule.
8. Without limiting the Encumbrancer's obligations and liabilities under this Encumbrance, the Encumbrancer shall effect and maintain in respect of the Works policies of public liability, professional and contract works insurance and personal injury and loss of life insurance, or any of them, as the Council may reasonably direct, with the Council named as principal, fully insuring the Council and the Encumbrancer against all claims and liabilities whether under statute or at common law in respect of damage to or loss of any real or personal property of any description, and loss of life or personal injury, if reasonably required by the Council, arising from or caused by the execution of the Works whether by or for the Council, the Encumbrancer or others. The total amount payable under each such insurance in respect of any one claim shall be as directed by the Council.
9. In undertaking the Works the Encumbrancer shall:
- a) Comply with all relative legislation including, but not in limitation, the Health and Safety in Employment Act 1992 (the HSE Act); and
 - b) When called upon by the Council to do so, satisfy the Council as to the Encumbrancer's due performance of the obligation in the preceding paragraph; and
 - c) Indemnify the Council to the full extent permitted by the laws against liability or loss arising directly or indirectly to the Owner under or by virtue of the HSE Act as a consequence of the works or any thing undertaken by any person pursuant, or relative to this Encumbrance.
10. The Encumbrancer shall at all times indemnify the Council in respect of any loss, damage or cost (including consequential loss or damage and legal costs on a solicitor and own client basis) suffered or incurred by it as a direct or indirect result of the Council granting the Licence, or imposing conditions or requirements on the issue of the Licence.
11. The Encumbrancer authorises the Council to recover the cost of Council undertaking any Works, exercising any of the Council's powers, or satisfying any of the Covenants of the Encumbrancer under this Memorandum from the Encumbrancer as a debt owing by the

2. All equipment required for the efficient operation of the underpass including any dewatering pumps, switching systems or other plant.
3. Cleaning, maintenance, dewatering, de-sludging, repair, restoration and ultimate closure (including removal of any Works and the filling of any void and portals) of the underpass.

Together with:

- a) All necessary or desirable works associated with the works described above, including on any road (including road repairs) or property adjoining or near the Land affected by the Works;
- b) The provision to the Council as and when requested, of such reports, plans, specifications, documentation and certificates reasonably required by the Council; and
- c) The securing, maintenance and due performance of any consent, licence, right or authority which may be necessary or desirable for the performance of the Works by or for the Encumbrancer or the Council, and compliance with any conditions applying to any such consent, licence, right or authority.

And the performance of the Works shall require at all times the highest practicable standards of performance with regard to (without limitation) environmental, visual and aural impact and the safety and convenience of all persons directly affected by the Works.

APPENDIX 2 - APPLICATION FORMS

Application for creation of a Stock Crossing on Road Reserve

Kaikoura District Council



Date: Permit no:

Applicant's name:

Applicant's address:

Permit Fee of \$100.00 GST inclusive attached **YES / NO**

Stock Crossing to be located on Road

metres from the intersection with

Road connecting my property(s), described as

and

Signature: **Date:**

Definition: A Stock Crossing is a surface installation at a specific site approved by Council for the purpose of moving stock across a road or road reserve. It is not a Stock Underpass.

Note: The applicant must complete and return with the permit the attached indemnity form, a site plan showing the location of the crossing and signs with dimensions.

Conditions for cleaning of the stock crossing may be imposed upon the applicant under this permit. Council may give permission for the crossing to be constructed of concrete to allow cleaning or allow the use of a removable cover to keep the roadway clean.

Office use only

Application: **APPROVED / NOT APPROVED**

Date:

Signed:

Asset Manager Rounding

To be charged **YES / NO**

Copy sent to: Applicant YES / NO

Accounts Dept YES / NO

Filed YES / NO

**Stock Underpass Installation –
Application form**

Kaikoura District Council



1. Applicant (Owner)

Name:	<input type="text"/>	Phone: (b/h)	<input type="text"/>
Address:	<input type="text"/>	Phone: (a/h)	<input type="text"/>
		Fax:	<input type="text"/>
		Mobile:	<input type="text"/>

2. Underpass Contractor (Earthworks/Roading)

Name:	<input type="text"/>	Phone: (b/h)	<input type="text"/>
Address:	<input type="text"/>	Phone: (a/h)	<input type="text"/>
		Fax:	<input type="text"/>
		Mobile:	<input type="text"/>

3. Underpass Contractor (Structural)

Name:	<input type="text"/>	Phone: (b/h)	<input type="text"/>
Address:	<input type="text"/>	Phone: (a/h)	<input type="text"/>
		Fax:	<input type="text"/>
		Mobile:	<input type="text"/>

4. Site Location & Prelim Installation Information

Road:	<input type="text"/>	Rapid No:	<input type="text"/>
Legal Description	Property 1: <input type="text"/>	Property 2:	<input type="text"/>
Depth below centre of carriageway (estimated to top of structure):	<input type="text"/>		m
Length of structure (estimated):	<input type="text"/>		m
Estimated start date:	<input type="text"/>	Contact Person:	<input type="text"/>
		Phone Number:	<input type="text"/>
Services contacted:	<input type="checkbox"/> Telephone	<input type="checkbox"/> Power	<input type="checkbox"/> Water
(please ✓)	<input type="checkbox"/> Sewer	<input type="checkbox"/> Stock water	<input type="checkbox"/> Irrigation
		<input type="checkbox"/> Other	
Signature:	<input type="text"/>	Date:	<input type="text"/>

