



Rural Roads Fence Encroachment Strategy

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1.0 Introduction

This strategy sets out the Council's practice for the management and licensing of areas of Council-administered rural roads fenced for the grazing of stock by the adjoining property owner/occupier in the Matamata-Piako District.

2.0 Objectives

The objectives of this strategy are:

- to provide for the grazing of the road berm in rural areas where practical;
- to maintain tidy road corridors in rural areas;
- to control noxious vegetation on roads in rural areas.

3.0 Principles

The principles underlying this strategy are:

- that the safety of road users will be protected;
- that the public right for access will be preserved;
- that interference with services and service providers will be prevented;
- that the efficient maintenance of the road will be promoted;
- that legitimate operations within the road will be permitted;
- that a corridor for network use be preserved;
- that pollution of waterways will be reduced.

4.0 Definitions

- 4.1 “**Applicant**” is the owner or occupier of the property immediately adjacent to the Road.
- 4.2 “**Council**” is the Matamata-Piako District Council as represented by the Asset Manager Roding or a Council Officer authorised to act on behalf of the Council.
- 4.3 “**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; or any other time when there is insufficient daylight to render clearly visible any stock, person, animal or vehicle at a distance of 170 metres.
- 4.4 “**Occupation Area**” is the area of the road berm between the property boundary and an encroaching fence used for grazing.
- 4.5 “**Encroachment Fence**” is a fence erected by the Applicant with the Council’s approval within the road.
- 4.6 “**Road**” is any legal road as defined by s315 of the Local Government Act 1974 (this does not include State Highways which are administered by NZTA).

4.7 “Permit” is a permit to occupy part of a road for grazing purposes granted by the Council under s45 of the Public Works Act 1981. This permit to occupy shall be of a period not exceeding ten years.

5.0 Background

In the past the Council has granted permits to occupy the road berm in rural areas for grazing. Such permits have been granted at the discretion of a “Roading Inspector” with guidelines and policy on how to administer the licence and encroachment fence erected by the adjoining farmer.

Given the varying set-backs and types of fences that farmers have erected on the road berm, it has become apparent that the safety of road users has been compromised by fences being too close to the carriageway and/or constructed of materials that may cause injury. Therefore it is necessary for the Council to revise the strategy for the issuing of fence encroachment licences, and on the location and standard of fencing that can be permitted on a road berm in a rural area. The issue of Public Liability Insurance is a new feature of this strategy.

6.0 Implementation and Review

6.1.

The implementation of this strategy is delegated to the Asset Manager – Strategy and Policy.

6.2

The Asset Manager – Strategy and Policy has responsibility for review of this strategy which shall be done every year.

7.0 Acceptance of a Fence Encroachment on a Rural Road

7.1

The acceptance (or otherwise) of all fence encroachments remains at the full and sole discretion of the Council. Amongst matters that the Council will take into account in the exercise of its discretion is whether the fence encroachment will:

- interfere with access to another property;
- affect road safety or the public's right to use the road;
- assist in efficient maintenance of the road berm;
- have consequences to any services within the road or to any service provider;
- have consequences for any corridor for future networks;
- permit the ongoing maintenance of the road carriageway,
- restrict any road upgrades;
- Damage or pollute waterways, culverts and their flowpaths, embankments and bridges.

7.2 Temporary Fences

Lightweight temporary electric fencing with a single strand (tape or wire) will be permitted up to and no closer than one metre from the edge/shoulder of the carriageway, along the Applicant's road frontage immediately adjoining their property.

Posts shall be lightweight "pig's tails" type so as not to pose a danger to vehicles. Number 3 wooden posts may be permitted at only ends or angles. No waratahs (steel fence standards) are permitted. A temporary fence shall be splayed at 45 degrees from any gates or entrances in the boundary fence along the road berm being grazed.

Only cattle may be grazed. Sheep, bulls, pigs and horses are specifically excluded and the stock can only be kept in the Occupation Area during daylight hours.

All temporary electric fences will be deactivated when not in use including during the hours of darkness.

Any temporary fence on the road will be removed or relocated by the Applicant when requested and directed to do so by the Council.

When the Applicant fails to remove or relocate a temporary fence as directed by the Council within 24 hours, the Council may remove or relocate the temporary fence at the Applicant's expense and any stock within the Occupation Area will be treated as wandering stock in terms of the Council's bylaws.

The Permit will be for a period not exceeding ten years and by the nature of permits they can be only for the person to whom they are issued and cannot be transferred. If the Permit expires or the farming property adjoining the Occupation Area is sold, then The fence must be removed.

7.3 Permanent Fencing

The owner or occupier of a property with frontage to a road in a rural area may apply to the Council for a Permit to fence and occupy part of the road berm for grazing purposes.

An application for a Permit to fence and occupy part of a rural road berm will be considered only if the Applicant meets the following criteria:

- the road is located in a rural zone in the District Plan.
- the Applicant is the owner or legal occupier of the property immediately adjoining the proposed Occupation Area
- the Applicant has submitted a fully completed application form.
- the Applicant has supplied evidence of Public Liability Insurance indemnifying the Council for at least \$2,000,000.
- the Applicant has no history of illegal or inappropriate grazing of a road berm.

- The setback of the fence must be as the following table.

Road Traffic Volume (vehicles per day)	Set-back Distance from the Edge/shoulder of the Carriageway to an Encroachment Fence
<250	3.0 metres #
250-1000	3.5 metres #
1000-1500	4.0 metres #
>1500	Specific Approval Required

- can vary according to topography but only with specific consent.

- Additional set-backs can be required on bends, near bridges, or drains as may be necessary in order to preserve sight lines and clearances (such as passing bays and turnarounds) needed for road maintenance machinery.
- If a farm gate or entrance is needed for the Occupation Area then the gates or entrance shall remain on the road/property boundary and Encroachment Fence shall be splayed out at 45-degrees from the sides of the gate or entrance.

The final position of any Encroachment Fence permitted under this strategy will be at the sole discretion of the Council.

7.3.1 Permits

The Permit will be for a period not exceeding ten years and by the nature of permits they can be only for the person to whom they are issued and cannot be transferred. If the Permit expires or the farming property adjoining the Occupation Area is sold, then the fence must be removed.

7.3.2 Fence Requirements and Specifications

Fences must be constructed in accordance with the following specifications and requirements:

- Posts shall be 125mm diameter if round, 200mm diameter if half round or 120mm average radius for quarter round. Angle posts shall be no bigger than 150mm diameter.
The use of waratahs or other steel posts within the road reserve is not permitted.
- Fence shall be at least 5 wires or the equivalent in netting with no barbed wire permitted.
- Any fence containing metal and within 10 metres of overhead electric power wires shall be properly earthed.
- No horizontal rails or rails parallel to the ground that are made of solid material are permitted within the road reserve.

- e) No gate or entrance may be constructed in the Encroachment Fence. All access will be directly from the Applicant's property to the Occupation Area. Fences shall be returned at an angle of 45 degrees or less to the boundary at a distance of not less than 1 metre from the gate.
- f) Deer fencing will not be permitted as an Encroachment Fence under any circumstances.
- g) The Occupation Area may only be used for grazing of cattle. The Applicant can use no part of the road for cropping, horticulture or the planting of trees, shrubs or hedges.
- h) The Council or the Applicant may cancel the Permit at any time by giving written notice to the other party. The Applicant will then remove the Encroachment Fence and all stock from the Occupation Area land and (if necessary) restore the road berm in the Occupation Area to its original condition as well as reinstate the boundary fence along the Road within one month of receiving (or giving, as the case may be) the written notice.
- i) The Applicant will pay all costs associated with any restoration needed of the road berm and the reinstatement fence on the boundary between the Applicant's property and the Road including surveying costs if the Council considers it necessary in order to accurately re-establish the boundary position.

7.4 Existing Encroachment Fences

Where the Council has previously granted a permit for an encroachment fence on a road berm in a rural area, the current licence with Council will be honoured for a period of five years from 1 June 2011 and thereafter cancelled.

Where the owner or occupier of the adjacent land must make application for a new permit in accordance with this strategy within the five years, otherwise before 1 June 2014 remove the Encroachment Fence and restore the Occupation Area to its original condition as well as reinstate the boundary fence along the Road.

Where the owner or occupier of the adjacent land is occupying part of the Road without a permit or agreement from the Council they must make an application for a new permit in accordance with this strategy by 1 June 2014, otherwise remove the Encroachment Fence and restore the Occupation Area to its original condition as well as reinstate the boundary fence along the Road.

7.5 Permit Fee

There is at present no fee for application or annual charge for the use of the Occupation Area but there is a fee for inspections due to non compliance.

Any application/administration fee and annual charge considered will be subject to yearly review and published in the Matamata-Piako District Council Fees and Charges Schedule.

7.6 Variation of Strategy

The application of this strategy may be varied on a case by case basis at Council's discretion. Any conditions created by any variation shall be noted on the permit.

7.7 Management of Rural Road Fence Encroachment Permits

The Matamata-Piako District Council currently administers and manages fence encroachment applications in-house. The Council may consider alternative arrangements or partnerships for the future administration and management of Licences to fence and occupy part of a rural road berm if it is in the best interests of the Council and it is cost-effective.

7.8 References and Relevant Legislation

Local Government Act 1974, s 316 and s 317

Public Works Act 1981

Matamata-Piako District Council Fees and Charges Schedule

Matamata-Piako District Council Infrastructure Code of Practise 2012.

Matamata-Piako District Council Development Manual 2010

