

# Policy

## Stock on roads

Responsible Manager (Title)	Manager Civil Services		
Adopted by Council	27 October 2020	Minute Number 6c.20.154	
File Reference Number	2163709	Version 6.0	Review Due Oct-23
Document(s) this policy Supersedes	V5.0 – 21/03/2017 – 15.042/17		
Community Plan Linkage	<b>2 Infrastructure</b>		
	2.1 We will have communities that are well serviced with appropriate infrastructure		
	2.1.5 Provide safe and effective vehicular and pedestrian networks that balance asset conditions with available resources		

## 1 Purpose

The purpose of the Stocks on Roads Policy is to detail the:

- a) Circumstances where stock are permitted on Council roads;
- b) Circumstances where permits are required;
- c) Obligations of Council for stock of roads;
- d) The circumstance under which Council staff will attend straying stock on roads, and
- e) Obligations of landowners for stock on roads.

## 2 References

- Roads Act 1993;
- Local Land Service Act 2013;
- Local Land Service Regulation, 2014;
- Roadside Grazing, Junee Shire Council and;
- Impounding Act 1993

### 3 Background/legislative requirements

Council is the responsible road authority for all public roads, including the road reserve from boundary fence to boundary fence. Legislation, as detailed below, provide stock owners with rights and responsibilities with regard to stock on roads, however stock on roads is ultimately the responsibility of the owners of the stock. As the road authority, Council will attend straying stock on roads under certain circumstances as listed in the stock on road procedures of this policy. The Local Land Services also has a responsibility, providing permits for travelling stock and roadside grazing.

There are five (5) dominant pieces of legislation that govern stock on roads. These are:

- Roads Act 1993;
- Local Lands Services Act 2013;
- Local Land Services Regulation 2014: and
- Road Rules 2008.
- The Impounding Act 1993

The implications of the governing legislation are discussed below.

#### **Roads Act 1993**

Part 1, Section 5 – Right of Passage Along a Public Road by Members of the Public provides that: “A member of the public is entitled, as a right, to pass along a public road (whether on foot, in a vehicle or otherwise) and to drive stock or other animals along the public road.”

#### **Local Land Services Act 2013 & Local Land Services Regulation 2014**

The Issue of stock on roads is covered more extensively within this Act and Regulation. Assessment of the Act and Regulation indicate that there are five different ways in which stock may exist on a roadway. These are:

- Travelling stock
- Grazing stock on reserves and stock zones
- Roadside grazing
- Moving of stock from property to property, and
- Straying Stock

Each of the ways that stock may exist on a roadway is expanded upon individually below.

#### **Travelling Stock (refer Local Land Service Act – Part 8)**

Travelling stock means stock that are being moved by being walked, and includes travelling stock that are grazing along an approved route at a rate of approximately 10km per day. Travelling stock is governed by the Local Land Service who issue permits for this activity along designated zones (refer Local Land Service Act – Clause 96).

It is possible for a person managing travelling stock to deviate from the stock zones and be authorised to travel along a temporary stock zone (Council’s public road network). However, if this is to occur the stock

must be off the temporary stock zone between sunset and sunrise (refer Local Land Services Regulation 2014 – Regulation 58).

A person managing travelling stock needs no approval from Council to travel a stock route or public road. All approvals and permits are provided by the Local Land Service.

### **Grazing Stock on Stock Zones**

This form of grazing occurs when a person with a mob of stock is given a permit to linger in a stock zone for an extended time. A permit issued by the Local Land Service, allows the person responsible for the mob to use the stock reserve as a base for a prescribed period of time. In this period the stock will graze on the surrounding stock zones, returning to the same stock reserve at night. Properties adjoining stock zones can be permitted to use stock route adjoining property boundaries during daylight hours.

### **Roadside Grazing**

Roadside grazing is the practice where owners take their stock from their property onto the temporary stock zone (council public road) to graze the grass on the road shoulder, generally adjoining their property. A permit for this activity is issued by the Local Land Service. However, in this instance approval is required by Council (for public roads) prior to a permit being issued (refer Local Land Service Act, 2013– Part 8, Clause 101). Council’s procedure for providing approval for roadside grazing is detailed in the Procedures section of this policy.

### **Movement of Stock from Property to Property**

Property movements cover the situation where a property owner owns property on both sides of the road or owns another property along the road with some distance between them. On fenced road reserves because of the nature of the situation the stock is in fact, “travelling”, and therefore fall under the criteria of travelling stock. Under this interpretation of the Act, the owners concerned require a permit from the Local Land Service (Annual Travelling Movement Permit) but do not require Council’s permission.

The requirements of “travelling stock” apply in this area. These requirements do not apply to unfenced public roadways (refer below).

### **Straying Stock** (Straying stock, apply to fenced roads only)

Straying stock are defined as those stock that have escaped from their normal enclosure (either from private property or from a stock reserve) and are moving along a roadway in an uncontrolled manner.

Straying stock are the responsibility of the owner of the stock or the owner of the land from which they came. Straying stock becomes an issue for Council where they cause a nuisance to the travelling public.

Under the Rural Lands Protection Act 1989, stock are considered to be ‘abandoned’ if they are left unattended on a public road or public land. Abandoned or trespassing animals may be impounded by a council ranger under the impounding Act 1993 and there may be a fee to have them released. Fines also may be imposed.

### **Unfenced Public Roadways**

Unfenced public roadways are treated as a “Temporary Stock Zone” (defined below). As such, stock on unfenced roadways does not constitute straying stock (if a temporary stock zone has been defined).

The Local Land Services Regulation 2014 - Regulation 52 states that:

*“...an occupier of land through which an unfenced public road passes must set aside that part of the road passing through the land as a temporary stock zone if the land is normally grazed by stock”.*

### **Stock Zones**

The Local Land Services Regulation 2014 – Regulation 52 – defines two types of stock zones, Permanent and Temporary.

A Permanent Stock Zone is the whole or part of a public road set aside as a permanent stock zone by a Council. The permanent stock zone is to be positioned as per Local Land Services Regulation 2014 – Regulation 53(3).

A Temporary Stock Zone is where a person who owns or has charge of stock that are grazing or walking on a public road may set aside the whole or part of that public road as a temporary stock zone. An occupier of land through which an unfenced public road passes must set aside that part of the road passing through the land as a temporary stock zone if the land is normally grazed by stock.

In the Council area stock zones are normally of the temporary type and must be operated in accordance with Local Land Services Regulation 2014; Regulations 52(6), 53(1), 53(2), 53(3), 54(1) with regard to Temporary Stock Zones in particular:

- A temporary stock zone is to be designated by a temporary stock zone sign exhibited at the entry point of the zone to which it relates (Local Land Services Regulation 2014 - Reg 52 (6)).
- The owner or person in charge of stock that are on a public road must ensure, as far as practicable, that the stock do not pose a hazard to any person, animal or vehicle on the road (Local Land Services Regulation 2014 - Reg 53(1)).
- The owner or person in charge of stock that are on or near a public road must ensure that the stock are in a stock zone if it is reasonably foreseeable that they may be a hazard to any person, animal or vehicle on the road (Local Land Services Regulation 2014 - Reg 53(2)).
- The driver of a mechanically powered vehicle must give way to stock and to all other animals and any vehicle accompanying stock in a stock zone (Local Land Services Regulation 2014 - Reg 53(3)).
- A person moving or grazing stock on or near any part of a public road that is not a permanent stock zone must display a temporary stock sign in accordance with this part (Local Land Services Regulation 2014 - Reg 54(1)).
- A person must not, without lawful authority, remove, interfere with, damage, deface or affix advertising material or any other thing to any stock zone sign (Local Land Services Regulation 2014 - Reg 55).

One fact to note is that the Local Land Service Act clearly states that all stock are the responsibility of the owner of the stock or the owner of the property from which they came.

## **4 Policy statement**

There are a number of situations where stock is permitted on Council controlled (i.e. public) roads. Some of these situations require permits while others do not. In most cases there are obligations imposed on the owner of the stock when the stock are actually on the road.

There are four different ways in which stock may exist on a road. These are:

- Permanent stock zones;
- Travelling stock in temporary stock zones;
- Grazing stock in temporary stock zones;
- Unattended or straying stock.

This policy is to provide general information to Council staff and the public about the issue of stock on Council's roads. It is not a definitive summary of the legislation regarding stock on roads and owners of stock should make themselves aware of their responsibilities with stock on roads.

## 5 Implementation

In the discussion above, it is evident that Council has limited responsibility in terms of stock on Council controlled roads. Council's authority extends to three (3) main areas:

- Roadside Grazing;
- Straying Stock; and
- Temporary Stock Zones; and
- Permanent Stock Zones

Council's approach to each of these issues is detailed below.

### 5.1 Roadside Grazing

The objective of this section is to detail the process to allow stock to graze the available feed on the road reserve at no cost to Council.

Council will allow stock (cattle and sheep) to graze on Council road reserves subject to the following conditions:

- 5.1.1 Council will provide approval and conditions in regard to establishing a temporary stock zone on the Council Public road reserve. A permit shall then be obtained from Local Land Services. Council is to be supplied with a copy of the permit.
- 5.1.2 Due to prevailing weather conditions, the area required for the temporary stock zone has been assessed as necessary by Council, in consultation with Local Land Services, for the stock zone applicant to provide feed or water for their stock, without suffering undue hardship.
- 5.1.3 The road is properly signposted with standard temporary stock zone warning signs not more than 5 kilometres, and not less than 200 metres, between the sign and the place where a vehicle being driven towards the stock would first encounter the stock, in both directions.
- 5.1.4 Stockperson(s) to be in attendance in accordance with legal requirements.
- 5.1.5 The stock is to be kept off the road at all times unless the stock are purposely being transferred from one side of the road to the other as a herd by the stockperson(s).

- 5.1.6 If rain does occur the stock shall be removed from the road reserve immediately, unless stock can be restrained from moving on the road and associated drainage infrastructure.
- 5.1.7 All stock shall be removed from the road reserve or securely penned between sunset and sunrise.
- 5.1.8 Should any damage occur to Council's assets or adjoining fences the person holding the permit to graze stock and the owner of the stock are to be responsible for the actual cost of repairs.
- 5.1.9 The applicant must be a ratepayer of Clarence Valley Council.
- 5.1.10 The permit holder must arrange a public risk insurance policy to the value of \$20 million indemnifying Council against litigation. The policy must be sighted by the Council and the policy number and expiry date recorded on the permit.
- 5.1.11 The grazing permit strictly forbids bulls or horses.
- 5.1.12 The applicant shall obtain a certificate from the Clarence Valley Weed Authority certifying any chemicals used and any withholding period on the proposed grazing area.

The Local Land Service is to be requested to notify Council of the issue of any permits.

## 5.2 Straying Stock

Whilst the control of stock is the responsibility of the landholders, if Council is notified of straying stock on its roads, Council workers will try to coordinate the removal of unattended stock from its roads. Council will only coordinate the removal of straying cows and domesticated horses, all other animals such as goats, wild horses, kangaroos, are the responsibility of either the NPWS and/or the RSPCA.

Council will attempt to contact the owner of the stock to remove the stock from the road where contact cannot be made with the stock owner Council may carry out impounding procedures under the Impounding Act 1993 to manage the hazard of straying stock.

When straying stock is reported to Council, council workers will:

- 5.2.1 Between the hours of 8am to 4pm (on the availability of stock owner's phone numbers) attempt to contact the stock owner by phone and if contact can be made direct the stock owner to remove their stock from the road.
- 5.2.2 If contact cannot be made with the stock owner by phone and the stock is in the following areas
- The Summerland Way: From Grafton to Clarence Way;
  - Gwydir Highway: From South Grafton to Tindal Road;
  - Armidale Road: From South Grafton to Orara Way;
  - Eight Mile Ln and Woolli Rd: From Pacific Hwy to Firth Heinz Rd ;
  - Yamba Rd;
  - Urban areas in Grafton, South Grafton, Maclean & Yamba.

Council workers will attend site during daylight hours only to locate stock. Where straying stock is located and it is safe to do so, council will erect signs to warn motorists of the hazard.

5.2.3 Council workers will then endeavour to contact the owners of the surrounding properties to identify the stock owner and have them remove the stock from the roadway.

5.2.4 Where contact cannot be made with the stock owner Council Rangers may undertake actions to impound the stock in accordance with the impounding Act 1993. This may involve implementation of traffic control to ensure the safety of Council workers.

Council workers will not attend to remove straying stock from the roadway unless adequate controls can be put in place to ensure the health and safety of workers. Due to the inherent risks of working in poorly lit conditions on the roadway, council workers will not attempt to remove straying stock from the road reserve between sunset and sunrise unless suitable lighting or Police assistance is available.

Council may seek to recover costs from stock owners for impounding straying stock including the costs of traffic control, and/or issue fines under the Impounding Act (1993).

### **5.3 Permanent Stock Zones**

Council will only consider applications for Permanent Stock Zones in exceptional circumstances. Roads concerned will need to meet the following criteria:

- Roadway is unfenced;
- Stock to be continuously grazing or crossing the road; and
- Road to be classified as Distributor or above.

Council will assess each application on its merits in determining whether to approve a request for a Permanent Stock Zone.