

TEMPORARY FENCES ON ROAD RESERVE

1. Introduction

1.1 The purpose of this Policy is to regulate the erection of temporary fences on the road reserve and the occupation of the enclosed land.

1.2 This Policy does not apply to State Highways.

1.3 This Policy shall apply to all new and existing temporary fences on the road reserve and the occupation of the enclosed land from the date of its adoption by Council.

2. Law

2.1 The occupation of road reserve is granted in the form of an informal licence which has no legal status.

2.2 Note:

Local Government Act 1974. Section 357 - Damage to Roads

Every person commits an offence who, not being authorised by the Council, or by or under any Act, -

(a) Encroaches on a road by making or erecting any building, **fence**, ditch or other obstacle or work of any kind upon, over, or under the road, or by planting any tree or shrub thereon; or

(b) Causes or negligently allows any retaining wall, foundation wall; or fence erected on any land; or any batter or slope of earth, or any building, erection, material or thing, to give way or fall so as to hamper or obstruct a road.

3. Council Approval

3.1 Any person wishing to graze the road verge by erecting a temporary fence and occupy land on road reserve, ("the occupier") need not apply to the Council for permission provided all of the requirements of this Policy are complied with.

3.2 The animals that may be grazed on road reserve, behind a temporary fence, are cattle (excluding bulls) horses and sheep. Permission must be obtained from Council for any other type of livestock.

3.3 The Council may revoke the occupation at any time. If revoked the occupier shall immediately remove the fence and cease occupation of the road reserve, without compensation.

3.4 The occupier shall at all times indemnify the Council in respect of any loss, damage or expense suffered or incurred by the Council as a direct or indirect consequence of any act, error or omission by the occupier and for which the fence owner is legally liable.

3.5 The occupier shall take out and maintain at his own cost, for the duration of the approval, Public Liability insurance for an amount of not less than \$2,000,000. All such insurance shall be for such terms and with such insurers as the Council may reasonably require. The occupier shall, if reasonably requested by the Council, provide evidence that the insurance required is in force and current premiums are paid.

3.6 Any costs incurred by the Council arising from this Policy shall be recoverable from the occupier by the Council as a debt.

4. Location

4.1 Temporary grazing of the road verge is permitted only in rural areas.

4.2 Temporary grazing of the road reserve will only be permitted where the occupier also owns the adjoining land.

4.3 Temporary fences are not permitted on both sides of the road at the same time.

4.4 Steep embankments shall not be fenced.

5. Fence Setting Out and Construction

5.1 Temporary fences shall be installed a minimum of one metre from the carriageway or further if traffic or pedestrian safety considerations require it.

5.2 The maximum of any length of temporary fence is 200m.

5.3 Waterways shall be fenced 2m back from the top of the bank to prevent stock intrusion.

5.4 Temporary fences shall be stock proof for the type of stock to be retained and electric fencing shall be a minimum of one wire for cattle and horses, and three wires for sheep. The fence shall be continuously electrified.

5.5 Temporary fences shall be constructed of electrified wires and plastic stakes only. Steel waratahs are not permitted. Wooden posts may be used at corners for tensioning purposes provided they are no larger than 100mm diameter.

5.6 Temporary fences shall remain in place for no longer than three months and the Council shall retain the right to have temporary fences removed at any time.

5.7 Cattle and horses shall be removed from the road reserve area during the hours of darkness.

6. Use and Care of Fenced Off Land

6.1 The land shall be used for grazing purposes only and shall not be cultivated.

6.2 The land shall be kept clear of noxious and brush weeds.

6.3 No structure, farm implement or fodder etc. shall be placed or stored on the land.