

# STRATFORD DISTRICT COUNCIL

## **POLICY: OCCUPATION OF UNUSED ROAD RESERVE**

<b>DEPARTMENT:</b> Assets	<b>RESPONSIBILITY:</b> <ul style="list-style-type: none"><li>• Director Assets</li><li>• Roading Assets Manager</li></ul>
<b>SECTION:</b> Roading D19/7184	
<b>REVIEW DATE:</b> 2018/2019	<b>NEXT REVIEW:</b> 2021/2022
<b>VERSION:</b>	<b>APPROVAL DATE:</b> 2018/2019

### **PURPOSE**

1. To provide a framework for a consistent approach to the granting of Licences to Occupy for grazing, or other purposes, over road reserve not currently utilised for roading purposes in terms of Section 45 of the Public Works Act 1981.
2. This includes road reserve adjoining Council maintained roads, in excess of what is required for the operation of these roads.

### **1. IF THE APPLICANT IS A SOLE ADJOINING LAND OWNER**

- 1.1 A Licence to Occupy may be granted for a maximum term of five years with a right to terminate in favour of either party at any time on the giving of one months' notice.
  - 1.2 The Licensee shall be responsible for the good husbandry of the land, the maintenance of all fencing and other improvements and the installation of any additional fencing to prevent stock from migrating onto any maintained public roads, or other properties.
  - 1.3 The Licensee shall meet the cost of any survey required to determine the position of any boundary. In most cases this will not be necessary as the land will already physically be included within the adjoining land holding.
  - 1.4 The Licence shall include a clause making it clear that the land is public road and the public has a right of reasonable access should it be demanded.
  - 1.5 The License to Occupy may not be transferred, where the Licensee ceases to own the adjoining land.
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## **2. IF THE APPLICANT IS ONE OF MULTIPLE ADJOINING LAND OWNERS**

- 2.1 Before any Licence is granted the applicant must provide the written consent from all other adjoining land owners.
- 2.2 Should such consent be obtained, then the conditions outlined in Section 1 above shall also apply.
- 2.3 If the required consent is not obtained, the non-consenting adjoining owner(s) shall be invited to state their reasons for withholding consent for consideration. If the reasons are considered reasonable and sustainable the matter shall proceed no further. If the reasons are not considered to be reasonable or sustainable, the matter shall be reported to Council for a decision to proceed with a grant of a licence or otherwise.
- 2.4 The Council's decision to grant the licence, or otherwise, shall be final.

## **3. IF THE APPLICANT IS NOT AN ADJOINING LAND OWNER**

- 3.1 Before any Licence is granted, the applicant must provide the written consent from all adjoining land owners.
- 3.2 Should such consent be obtained, then the conditions outlined in Section 1 above shall also apply.
- 3.3 If consent is not obtained the non-consenting adjoining owner(s) shall be invited to state their reasons for withholding consent for consideration. If the reasons are considered reasonable and sustainable the matter shall proceed no further. If the reasons are not considered to be reasonable or sustainable, the matter shall be reported to Council for a decision to proceed with a grant of a licence or otherwise.
- 3.4 The Council's decision to grant the licence, or otherwise, shall be final.

## **4 LICENCE TO OCCUPY**

The Licence to Occupy shall generally be in the form attached.

## **5 FEES AND CHARGES**

- 5.1 The applicant shall pay an Application fee for the Licence to be processed and a Rental fee for the 5-year term of the Licence, which shall be as per the Council's fees and charges in the Long Term Plan / Annual Plan.
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## **LICENCE TO OCCUPY**

Assessment Number:

Property Number:

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_  
BETWEEN THE **STRATFORD DISTRICT COUNCIL** (hereinafter called "the Licensor") and  
(hereinafter jointly called "the Licensee") is intended to record the intentions of the parties as a  
binding tenancy agreement pursuant to Section 45 Public Works Act 1981.

### **A. PROPERTY**

Legal Road not currently utilised for roading purposes, containing approximately  
\_\_\_\_\_ hectares and shown edged red on the attached plan.

### **B. TERM OF LICENCE**

The term of the Licence shall be five years

### **C. COMMENCEMENT DATE**

The commencement date of the Licence is

### **D. FEE**

A one-off rental fee of \$ \_\_\_\_\_ shall be payable by the Licensee upon the granting of this Licence.

### **E. PROPERTY OUTGOINGS**

Property outgoings payable by the Licensee during the term of this agreement include:

- All water consumed within the licensed area.
  - All power consumed within the licensed area.
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## **F. OTHER TERMS AND CONDITIONS**

1. The Licensee may only use the subject property for the purpose of grazing stock and shall not use the property for any other purpose nor erect any improvements on the property without first obtaining the written consent of the Licensor.
2. The Licensee shall not cut down or remove any trees currently on the property nor plant any further trees without first obtaining the written consent of the Licensor.
3. The Licensee shall farm and manage the property in accordance with good and acceptable farming practice and be responsible for the supply and application of all necessary products and equipment to carry out proper care, skilful management and attention to the property.
4. The Licensee shall, at its own expense, maintain in good order and repair any fences currently on the property and shall not at any time call upon the Licensor to join in or contribute towards the erection, maintenance or repair of any fences on the property boundaries or within the property.
5. The Licensee shall not during the term of the Licence assign this Licence or sub-let any part of the property.
6. The Licensee shall, at all times during the term of the licence and at its own expense, keep the property free and clear of all noxious weeds and will duly comply with and observe all the provisions of the Biosecurity Act 1993 and any amendment without any contribution whatsoever from the Licensor.
7. The Licensee shall, at all times during the term of the Licence and at its own expense, comply in all respects with all other relevant Acts, Bylaws and Regulations currently or hereinafter in force.
8. The Licensee shall, at all times during the term of the Licence and at its own expense, keep the property clean and tidy and free from rubbish and litter.
9. Either party hereby reserves the right to cancel this Licence for any reason on the giving of not less than one month's notice in writing to the other party.
10. Should at any time default be made by the Licensee in the observance of any of the conditions contained or implied in this Licence for a period of three calendar months and in any one such case it shall be lawful for the Licensor to re-enter and take possession of the property without giving any notice. Should the Licensor take possession of the property, all buildings and improvements on the property shall absolutely revert to the Licensor free from any payment or compensation whatsoever.
11. The Licensee acknowledges that the property is public road and, although it is not necessarily formed, or maintained, as such, the public has a legal right to reasonable access along it, should it be required.

**IN WITNESS WHEREOF** these presents have been executed the day and year first hereinbefore written.

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