

# Draft Vehicle Crossings Bylaw

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October 2020

Governing body of the Far North District Council

Resolution in Council [*insert date of resolution*]

Under [*insert statutory provision that authorises the making of the bylaw*], the Governing Body of the Far North District Council made the following bylaw [or revokes and replaces bylaws about [*insert subject matter*] with the following bylaw].

The bylaw is due for review by [*insert review date*].

**Far North District Council**

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## 1. Title

This bylaw is the Vehicle Crossings Bylaw.

## 2. Commencement

This bylaw comes into force two days after the date it is made by resolution in council on [to insert date].

Related information
This bylaw is due for review by [to insert review date], 5 years from the date of the resolution making the bylaw.

## 3. Application

This bylaw applies to the district of the Far North District Council.

## PART 1: PRELIMINARY PROVISIONS

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### 4. Purpose

The purpose of the bylaw is to protect the public from nuisance, promote public safety and protect public infrastructure by regulating the use, construction and repair of vehicle crossings giving access from roads to properties located within the Far North District by requiring compliance with the council's engineering standards for vehicle crossings.

### 5. Interpretation

(1) **Related information** below is for information purposes, does not form part of this bylaw, and may be inserted, amended or removed without any formality.

(2) The [Interpretation Act 1999](#) applies to this bylaw.

(3) In this bylaw, unless the context otherwise requires:

**Approval** means an approval granted under this bylaw.

**Berm** is the area between a property boundary and the street; it can include both sides of a footpath.

**Council** means the governing body of Far North District Council, or any person delegated or authorised to act on its behalf.

**Engineering standards** mean the council's current [Engineering Standards and Guidelines](#).

**Footpath** has the same meaning as in [section 315 of the Local Government Act 1974](#).

**Motor vehicle** has the same meaning as in [section 2 \(1\) of the Land Transport Act 1998](#).

**Related information**

As at as at 07 August 2020, the definition is:

“(a) means a vehicle drawn or propelled by mechanical power; and  
(b) includes a trailer; but  
(c) does not include—  
(i) a vehicle running on rails; or  
(iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or  
(iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or  
(v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or  
(vi) a pedestrian-controlled machine; or  
(vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or  
(viii) a mobility device.”

**Occupier** has the meaning given by [section 2\(1\) of the Local Government Act 1974](#).

**Related information**

As at 22 October 2019, the definition is:

"in relation to any property, means the inhabitant occupier of that property."

**Owner** means any person, as defined in [section 2\(1\) of the Local Government Act 1974](#).

**Related information**

As at 22 October 2019, the definition is:

"... in relation to any property, means the person entitled to receive the rack rent thereof, or who would be so entitled if the property were let to a tenant at a rack rent."

**Road** has the same meaning as in [section 315 of the Local Government Act 1974](#) as modified by [section 335\(10\)](#) of that Act which for the purposes of vehicle crossings excludes access ways from the definition.

**Related information**

As at 22 October 2019, the definition is:

"...means the whole of any land which is within a district, and which—  
(a) immediately before the commencement of this Part was a road or street or public highway; or  
(b) immediately before the inclusion of any area in the district was a public highway within that area; or  
(c) is laid out by the council as a road or street after the commencement of this Part; or  
(d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or  
(e) is vested in the council as a road or street pursuant to any other enactment;  
and includes—  
(f) [modified by [section 335\(10\) of the Local Government Act 1974](#)]  
(g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—  
but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989.”

**Road corridor (or 'road reserve')** includes **roads** as defined above and includes all land from boundary to boundary (including the **berm**).

**Road Controlling Authority (RCA)** has the same meaning as in section 2 of the Land Transport Act 1998.

**Related information**

As at 1 September 2020, the definition is:

"...means the authority, body, or persons having control of the road and includes any person acting under and within the terms of any delegation or authorisation given by a controlling authority."

**Road corridor manager** means the **road controlling authority**, namely the Far North District Council, that has jurisdiction over the **road**.

**Vehicle crossing** means the area of driveway, whether temporary or permanent, between a **road** and a private property boundary, intended for use by **motor vehicles** accessing the property.

## PART 2: SUBSTANTIVE PROVISIONS

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### 6. An approval is required for vehicle crossing

- (1) Every person wishing to construct, reconstruct, widen or relocate a **vehicle crossing**, whether for a permanent or a temporary crossing, must have an **approval** from the council.
- (2) An **approval** is not required for a **vehicle crossing** constructed, reconstructed, widened or relocated as part of a subdivision or land use consent, where a resource consent has been granted for this work.
- (3) Every application for an **approval** must be made by a person who has the legal authority to deal with the property accessed by the vehicle crossing ("**the applicant**") and:
  - (a) be in the form required by the council; and
  - (b) include all the information required by the form; and
  - (c) be accompanied by the applicable fee listed in the council's Fees and Charges Schedule.

**Related information**

Forms for applying for a permit can be found on the council's website at [Vehicle Crossing Application Form](#) or picked up at any Council office.

The current [Fees and Charges Schedule](#) can be found on the council's website or a copy can be viewed at any Council office.

### 7. Assessment of an application

The council will assess the information provided in an application to determine the appropriate engineering standard that should apply to the proposed **vehicle crossing**.

### 8. Granting an approval

The council may grant an approval if:

- (a) the information provided in the application is sufficient to determine the appropriate engineering standard for the **vehicle crossing**; and
- (b) the applicable fee has been paid to the council.

## 9. Content of an approval

An approval will include:

- (1) a statement as to the appropriate engineering standard applicable for the **vehicle crossing** which must be followed in the design and construction of the **vehicle crossing**;

### Related information

The council's current engineering standards are published on the council's website at [Engineering Standards and Guidelines](#) or can be picked up at any Council office.

- (2) mention that the council will inspect the **vehicle crossing** to make sure it meets the specified engineering standard and any other conditions included in the **approval**;
- (3) information on how to obtain a Work Access Permit which is required to access the road corridor and commence construction (see clause 17).

## 10. Additional approval conditions

The council may include additional condition/s applying to an **approval**:

- (1) regarding any relevant provisions from [Chapter 15 \(Transportation\) of the Far North District Plan](#);
- (2) any other relevant conditions applying to the **vehicle crossing** e.g. placement of the crossing to avoid a sump or utility connection;
- (3) a temporary **vehicle crossing** may be subject to additional conditions relating to where the crossing is situated, the purpose of the crossing, how long the temporary crossing will be in place; the effects of the crossing on normal usage of the road; and the design and materials used in its construction.

## 11. Temporary vehicle crossings

- (1) An approval is required for a **vehicle crossing** needed for an activity, such as forestry harvesting or building construction, that will occur for no longer than twelve (12) months ("**temporary vehicle crossing**").
- (2) Once a **temporary vehicle crossing** has fulfilled its purpose, it must be removed within three (3) months. Removing this crossing and any reinstatement work must be conducted to the council's satisfaction at the expense of the owner or occupier.

## 12. Withdrawing an application

An **applicant** may withdraw their application at any time before a decision is made, but any fee paid with the application will not be refundable unless the council, in its absolute discretion, decides that a refund (or partial refund) is reasonable in the circumstances.

## 13. Duration of an approval

- (1) All **approvals** granted under this bylaw have a duration of twelve (12) months, during which time the work shall have been completed to the satisfaction of the council.
- (2) If the work is not completed to the satisfaction of the council within twelve (12) months, the owner or occupier must apply for a new **approval** before work can continue. The re-application fee is listed in the council's current [Fees and Charges Schedule](#)

## 14. Amending or transferring an approval

- (1) A person granted an **approval** may, at any time within the duration of the **approval**, apply to the council to amend the **approval** or its conditions. An application for amendment must be made in the same manner as an application for an **approval**, with any necessary modifications

specified. In this instance, council may require, at its sole discretion, a new fee to be paid depending on the nature of the amendment sought.

(2) **Approvals** are not transferable to another person or to another property.

## 15. Suspending or cancelling an approval

(1) The council may suspend or cancel an **approval** if:

- (a) the applicant has not obtained a Work Access Permit – see clause 17 of this bylaw;
- (b) a resource consent for the work has been issued and there is no need for a separate **approval** - see clause 6(2);
- (c) upon inspection, in the opinion of the council the proposed construction work is likely to be unfit for purpose, unsafe or cause damage to public assets; for example, due to the wrong material used, wrong placement of the vehicle crossing as per the approved site plan, incorrect dimensions, or insufficient compaction of the sub-surface etc.

(2) The suspension or cancellation takes effect from the date of the council's decision to suspend or cancel the **approval**. The notice must include the reasons for the council's decision.

(3) Suspending or cancelling an **approval** does not affect the council's powers to take other enforcement action under this bylaw, any other legislation or New Zealand law for the acts or omissions that were the reasons for the suspension or cancellation.

## 16. Other obligations not affected

An **approval** does not affect or limit the obligations of any person to comply with any legislation that applies to the matters covered by the **approval**.

## 17. Working in the road corridor

(1) A Work Access Permit is required before commencing any work in the **road corridor**.

### Related information

A Work Access Permit gives permission from the council as the **road corridor manager** to carry out the specified activity in the road corridor. A set of conditions is issued with the Work Access Permit, to be followed when working in the road corridor.

(2) In order to receive a Work Access Permit, the applicant must complete a Corridor Access Request including a Temporary Traffic Management Plan at least ten (10) working days before the planned commencement of any construction work. In the **Approval** notification letter the council will provide information to the applicant regarding how to apply for a Corridor Access Request and prepare a Temporary Traffic Management Plan.

(3) The Work Access Permit, together with an approved Temporary Traffic Management Plan, must always be on site for the duration of the work carried out in the road corridor.

## 18. Construction requirements

(1) Construction of a **vehicle crossing** must be managed to allow for the safe passage of pedestrians.

(2) Interruption to pedestrian and vehicular traffic must be kept to a minimum.

## 19. Vehicle crossings that are unsafe or in disrepair

(1) If at any time, in the opinion of the council, a **vehicle crossing** does not comply with the engineering standards, the council may, by written notice addressed to the **owner** or **occupier**

of the property to which the crossing gives access, require the **owner** or **occupier** to remove, repair or reconstruct the crossing within the time period specified in the notice to the satisfaction of the council.

- (2) If the recipient of such a notice fails to comply with that notice within the prescribed time, the council may arrange for such removal, repair or reconstruction to be carried out and may charge the **owner** or **occupier** for the full costs of such work, including reasonable administration costs.

## 20. Redundant or excessive vehicle crossings

Where the council is satisfied that a **vehicle crossing** is redundant or is in excess of the reasonable requirements of the owner or occupier of the property, the council may serve notice upon the owner or occupier that the council will remove this crossing at the expense of the council.

### Related information

This clause is made under [section 335\(9\) of the Local Government Act 1974](#)

## 21. The council may improve a vehicle crossing

The council may reconstruct, widen or relocate a **vehicle crossing** at the council's expense if the council is satisfied that this will improve public safety or reduce the risk of damage to the council's assets.

## 22. Objections

- (1) Any person who has the legal authority to deal with the property accessed by the vehicle crossing may object to a council vehicle crossing decision, by lodging an objection to this decision in writing to the council within 28 days of being notified of the decision.
- (2) The council will make a decision in writing on an objection including the reasons for it within a reasonable time frame.
- (3) The affected person has the right to take legal proceedings such as a judicial review of a council vehicle crossing decision.

## PART 3: COMPLIANCE AND ENFORCEMENT

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### 23. Compliance and enforcement

Council will use a range of compliance and enforcement methods as it considers appropriate under its statutory powers to respond to breaches of the bylaw. These include advice and education, issuing warnings, infringement notices, enforcement orders, injunction applications to restrain the commission of offences and breaches of the bylaw, removal of works, recovery for damage and criminal prosecution.

## PART 4: OFFENCES AND PENALTIES

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### 24. Offences and penalties

Any person who fails to comply with any condition or restriction under this bylaw commits an offence and shall be liable on summary conviction to the penalty set out in [section 242 \(4\) of the Local Government Act 2002](#) of a fine not exceeding \$20,000.

In addition, under section 22AB of the Land Transport Act 1998, the **Road Controlling Authority** may prescribe fines, not exceeding \$1,000 for the breach of any bylaw made under this section.

## APPENDIX 1: INFORMATION REGARDING WORKING IN THE ROAD CORRIDOR

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**This information will be provided to the public to give context to provisions in the bylaw relating to working in the road corridor.**

To work in the road corridor a **Work Access Permit** is required.

A **Work Access Permit** (WAP) is issued when a **Corridor Access Request** is approved. The WAP gives permission to carry out the specified activity in the road corridor. A set of conditions is issued with the WAP, to be followed when working in the road corridor.

A **Corridor Access Request** (CAR) is an application to the council for access to the road corridor in order to carry out works. It is required to ensure all work sites on roads are as safe as possible for workers, motorists, pedestrians and cyclists. The application also allows for the council to coordinate road works and allow for notification to the public, if necessary.

As per the [New Zealand Utilities Advisory Group Code of Practice](#), the following information is required in a CAR:

- A **Temporary Traffic Management Plan** (TTMP) which must include the full form from the NZTA website and any Temporary Traffic Management Diagram(s) necessary for deployment of any Temporary Traffic Management. The design of the TTMP must comply with the [Code of Practice for Temporary Traffic Management](#);
- A plan indicating the proposed scope of works including location in the road corridor and proposed dimensions and design of any excavations;
- Evidence of approvals from any other utilities operators that need to be obtained e.g. close approach approval for power lines; and
- Any other relevant additional information to supplement the application or requested by the corridor manager.

NB. Currently, those who write TTMPs must either hold the Temporary Traffic Management Planner qualification or be enrolled to attend a workshop on TTMPs.

More information on Temporary Traffic Management Plans is included in [the New Zealand Transport Agency Code of Practice for Temporary Traffic Management](#).

The length of time to process the application will depend on the type of request. The minimum processing time for a standard CAR and TTMP application is 5 working days. However, this may be longer e.g. up to 42 days if a road closure is required.