

9 Fencing

9.1 Overview

This section covers fencing in the following situations:

- Approval to install a fence within the road margin;
- Council requests a fence to be relocated due to roading improvements;
- Cost share of a new or the reconstruction of a boundary fence which is between private property and Council Reserve, but not road margin i.e. road reserve.

9.2 Purpose

The purpose of this policy is to clearly set out Council's policy on fencing property frontages on both road margin (i.e. road reserve) and council reserves. This policy covers all Type 1, 2 and 3 Roads.

9.3 Legislation References

- Fencing Act
- Section 357 Local Government Act 1974
- Tasman District Council Stock Control Bylaw 2005
- Tasman District Council Roading Policies – Stock Races and Stock Crossings

9.4 Policy

Road Boundary Fencing - Type 1, 2 and 3 Roads

All new fences including those to be renewed shall be at the cost of the land owner. In Urban areas the fence will be erected on the road property boundary.

Fencing Between Private Property and Council Reserve

All new fences including those to be renewed shall be on a 50/50 cost share basis between the Council and land owner. A reserve would include walkways, carparks and possibly service lanes if not on legal road.

Fencing in Road Margin – Type 1, 2 and 3 Roads

- Type 1 Road – The land owner is permitted to erect a fence within the road in cooperation with adjoining landowner/s however Council reserves the right to have the fence removed prior to the formation of a road. Note: The landowner is entitled to utilise the public road adjacent to his property, however they shall not limit public access. Therefore it is preferred that the fence is erected on the legal boundary or close to it.
- Type 2 and 3 Roads - The landowner shall apply to Council for a permit to erect a fence in the road margin. Note: Council reserves the right to request the fence be removed for road improvements, safety reasons or public access.

9.4.1 Process – Fencing Application to Cost Share

Where a land owner's property fronts onto Council Reserve and is not a road boundary, then they shall apply to Council for a "Fencing Application". Council will contribute 50percent up to a maximum sum per metre including GST to cover the cost of the fence (See "Fencing Application" in the appendices at the end of this section for details).

The maximum unit rate covers basically a 1.8metre high wooden paling fence of the standard expected in an urban area.

Note: Where the landowner wishes to install a decorative fence costing more than that of a standard fence then the additional cost will be at their expense.

Comment

Rate payers should not have to fund the additional cost of a fence that exceeds the standard.

9.4.2 Process – Road Improvements General

Where a fence has been erected in the road margin and Council requires the fence to be removed for either roading improvements, access to existing structures such as culverts or bridges or for road safety reasons then, the cost of removal and reinstatement shall be on the landowner.

However where the fence is located on the boundary or, the road runs over private land, then Council shall arrange and pay for the cost of relocating the fence as well as the cost of legalising the land taken for roading. In some instance compensation may be paid for the land where appropriate.

Comment

Where land is required for roading then the owner deserves some form of consideration which could involve monetary, land swap or improvements.

9.4.3 Process - Prior Notice Requiring Fences Moved for Roading Improvements

The Council shall issue to affected land owners a "**Notice of Intent**" prior to requiring the relocation of any roadside fence because of proposed road works. This notice will only advise of the intention to carryout out specific road works and of the detailed policy that will apply should the works proceed.

Once the location of the fences, road boundaries and road works are generally known then the Council will issue to affected landowners a "**Notice to Occupy**" and negotiations with the landowners regarding relocation of fences shall proceed. The landowner may be given the following period of notice in advance of the commencement of the road works.

- Desirable notice 12 months
- Minimum notice 6 months

- Under urgency 0 to 6 months

Comment

Some planned projects may not be funded for some years therefore Council will try to give landowners as much warning as possible.

Council's Network Roding Consultant managing the roading project will issue both notices of intention and liaise with affected land owners early on during the planning stage.

It may be appropriate in some instances for the local councillor to be involved in any discussions with landowners.

9.4.4 Process – Defining Legal Boundary Position

Where fences are to be relocated Council accepts responsibility to define the location of the affected road boundary associated with the proposed road works. If the landowner disputes the location of the boundary as defined, then at their cost they may wish to engage their own surveyor to check the location.

Comment

The Council will not provide a formal boundary re-definition survey.

9.4.5 Process – Land Entry and Purchase Agreements

In all cases written land entry and land purchase agreements, if applicable, will be obtained before work is carried out on private land.

Comment

Council's Property Officer will be involved during the early stages of planning where land is required.

9.4.6 Process – Request to Leave an Existing or Erect a New Fence in Road Margin

Where fences are not required to be relocated as part of roading works or a landowner wishes to erect a new fence with in the road margin then the landowner shall enter into an agreement with Council where such an agreement doesn't currently exist.

See Council's Application Form and Permit to "Application to Place a Fence on Road Margin" at the end of this policy.

Comment

An agreement is necessary to ensure that fences are not erected in unsuitable locations or constructed of unsuitable materials causing concerns for the safety or access of the public.

9.4.7 Process – New Fence Maintenance

Once the new fence has been erected and is considered completed in terms of the extent of the work and quality then the ongoing maintenance and cost is the responsibility of the landowner. However where the fence borders Council reserve land other than a road then the ongoing maintenance shall be on a cost share basis. Note: Painting of the fence is not considered maintenance.

Comment

Fencing within the district on road frontages is extensive. If Council were to except liability for sharing this cost it would create a huge burden on rate payers.

Under common law landowners are responsible for keeping stock out therefore it is to their benefit they provide and maintain a suitable fence to protect their property.