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# ASHBURTON DISTRICT COUNCIL BYLAW

## CHAPTER 15 - STOCKWATER RACES

### SCOPE

- 1500** The purpose of this chapter is to:
- (a) define the Council's requirements for the protection of the District's stockwater races and maintenance of water quality.
  - (b) provide for the safety of the public and minimise disruptions to the supply of stockwater to customers.
  - (c) Prescribe the conditions that shall apply to the stockwater race system which is to be developed, maintained and operated to minimise damage to the system and adverse impacts on water quality.
- 1501** This chapter of this Bylaw is to be read in conjunction with the requirements of the Local Government Act 2002. Where any conflict occurs the provisions of that implicit Act take precedence.

### INTERPRETATION

- 1502** In this Part of the Bylaws, unless the context otherwise requires:-

**ASSET MANAGER** means the person from time to time appointed by the Council to that or its replacement position who has delegated authority from the Council to determine specific issues regarding stockwater races and who has responsibilities for the administration, operation and maintenance of the District's water races.

**WATER RANGER** means the person appointed by Council to monitor, inspect and ensure the stock water race system is maintained and an adequate supply of stockwater is available to customers.

**SERVICE** means a pipe, pump, pond or any other extension to the water race.

**MAIN RACE** means a race used to supply bulk stock water for distribution to properties through branch/lateral stockwater races. These races are operated and maintained by the Council.

**POLLUTION** includes the discharge whether directly or indirectly into water of any matter that when added or mixed with any water within a water race, will contaminate that water so as to change the physical condition thereof in such a manner as to

- make the water unclean, noxious or impure; or be detrimental to the health, safety or welfare of the persons using the water; or render the water undrinkable to farm animals; or be poisonous or harmful to animals, birds or fish around or in the water

**POLLUTION** shall also include any other action or inaction which renders water race water to be classified as all or any of the sub clauses above.

**1503** The words shall and will are imperative. The word may is optional.

### **APPLICATION FOR CONSTRUCTION, ALTERATION OR DIVERSION OF A WATER RACE**

**1504** Upon application for any of the above the person applying shall provide the Council with:

- (a) the application fee from time to time fixed by the Council;
- (b) the sum equal to the quote of the applicant's preferred contractor to carry out all the works to Council standards;
- (c) drawings sufficient to indicate the extent of the works, proposed alignment/realignment, cross and longitudinal sections and grades for all proposed works;
- (d) an agreement upon terms acceptable to the Council signed by all parties affected by the works.

**1504.1** **Where** the work is required by joint applicants each applicant shall be required to meet the requirements of 1504 before the application is considered. Upon granting an application for any of the above for the supply of stockwater the Asset Manager shall (subject to the right of the applicant or applicants if dissatisfied with the decision to appeal to the Council) determine the quantity of water to be supplied to each applicant/applicants and shall also determine the point on the boundary of the land of the applicant/applicants at which the water shall enter the land and the direction of flow.

**1504.2** Upon completion of the works the applicant/applicants are to provide Council with an "As Built" plan clearly indicating the alignment, grade and services/fittings for all completed works.

### **INSTALLATION OF SERVICES**

**1505** The installation of services permitted by this Bylaw for which an application to Council is required are as follows:

- (a) A pipe service which is a pipe of internal diameter less than or equal to 40mm used to convey water under gravity flow from a water race via a standard "take off" to a storage tank and or trough. The installation is to be constructed in such a way as to prevent the wasting of water.
- (b) Pump service consists of a suction pipe fitted to the outlet of a standard "take off" cylinder. In all cases the cylinder is fed from the water race via a 40mm I.D. pipe with the cylinder capacity sufficient to match the pump performance. The suction pump may be used to convey water from the cylinder to a storage tank. Dwellings, outbuildings or stockwater troughs may be supplied from the storage tank.
- (c) Pond service consisting of a pond of -  
a maximum depth of 0.6 m  
a maximum surface area of 35m<sup>2</sup>  
a maximum capacity of 21m<sup>3</sup>

The pond is to be constructed of impervious material and connected to a water race via a small loop race having adjustable control gates fitted at the intakes and outlet at the junctions with the principle race. The supply of water to any pond service may be temporarily closed during drought or be terminated in writing by the Asset Manager at any time.

- (d) Extension services apply to pipe and pump services. Where approved by the Asset Manager each extension service granted shall permit the supply of water to one additional trough.

### **WATER RACES CONSTRUCTED IN ROAD RESERVE OR UNDER CARRIAGEWAYS**

**1506** Under certain circumstances and subject to an application approved by the Asset Manager a new stockwater race may be constructed along a public road and abutting the frontage of private properties. The applicant shall ensure there is reasonable access provided to any fronting property by means of culverts or pipes. Such access shall be kept in reasonable repair by the occupier/owner of the land adjacent to the water race where that occupier/owner uses that stockwater race.

**1506.1** Where pipes or channels are constructed for the purposes of carrying stockwater from a water race to or through Council land, upon or under any public road or highway the works shall be carried out to Council standards or the standards of the authority having control of the road or highway. Where the occupier/owner will be using the stockwater race all works are to be carried out at the applicant's expense.

### **STOCKWATER RACE MAINTENANCE**

**1507** The maintenance of main stockwater races and road crossings is the responsibility of the Council. All other stockwater races and associated equipment shall be maintained and kept in proper repair and condition by the occupier/owner of whose land

- (a) the stockwater race is located
- (b) is adjacent to a stockwater race that is running along the property boundary located on a road or highway and where that occupier/owner uses that stockwater race
- (c) The occupier/owner shall
  - (i) at the most effective frequency and time for water race maintenance, clean and maintain the water race in good order and repair and free from all vegetative growth, obstructions, hedge or tree cuttings, race cleanings or other restriction whatsoever
  - (ii) ensure that any water race bank damaged by cattle, stock or wildlife or otherwise howsoever is promptly and properly repaired.
  - (iii) The occupier/owner may at the written direction of the Asset Manager be required to erect a fence constructed and located

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in such a way that animals only have access to the water race for drinking purposes only. Watering bays of a design and location approved by the Asset Manager may be provided for the sole purpose of allowing limited, controlled access for stock drinking purposes only.

- 1507.1** All stockwater culverts are to be maintained and kept in proper repair and condition by the occupier/owner at the downstream end of the culvert.
- 1507.2** In the event that the occupier/owner fails to satisfactorily clean, repair or fence a water race the Council may carry out the maintenance work, or fencing and recover the cost from the occupier/owner of land requiring the race cleaning, repair or fencing.
- 1507.3** If an occupier/owner fails to keep and maintain the stockwater race and culverts in good condition maintenance works will be arranged and carried out by the Council. The cost of all such works shall be payable by the occupier/owner.
- Provided however that should the Council consider such cost is more than should be borne by the occupier/owner of land responsible for such cleaning, repairing or fencing, the Council may, if it thinks fit, clean, repair or fence the water race and recover from such occupier/owner such proportionate part of the total cost of such works as it shall consider fair and just.
- 1507.4** When a water race for the supply of stockwater is to be constructed through Crown land, public reserves or other private land Council shall determine the construction, repair and maintenance liability/obligations for each owner or occupier after liaison with the owners of the land over which the race passes.
- 1507.5** Water is to be contained within the race banks and is to flow freely along the length of water race at all times. The occupier/owner is to
- (a) ensure all material obstructing or polluting the flow of water is removed from the race and disposed of in such a way as not to cause further pollution or obstruction.
  - (b) ensure that the original depth and width of the stockwater race is not increased as a result of the maintenance work unless approved in writing by the Asset Manager.
  - (c) ensure water quality does not deteriorate as it passes across their property.

**1507.6**      **When** the water race or channel is on the boundary or immediately adjacent to the boundary of the land of two adjoining occupiers so that the occupier of the land on which the race is not constructed shall have the use of the race by a loop service or by some other means then the two adjoining property owners shall be liable for the maintenance and repair of the water race. If the land is unoccupied the obligations imposed upon the occupier shall be carried out by the owner.

**1507.7**      The occupier/owner is to maintain and repair all water race crossings over which they may pass or are adjacent to. Crossings are to be maintained and repaired using materials, dimensions, grading and levels as may be approved by the Asset Manager.

#### **DISCONTINUANCE OF THE WATER SUPPLY**

**1508**      Council may stop the flow of water in any water race for the purposes of carrying out extensions, alterations, enlargements, repairs, maintenance or any other purpose deemed necessary by the Asset Manager.

**1508.1**      At any time the Asset Manager may stop, reduce or alternate the flow of water in any water race so as to manage the distribution of water.

**1508.2**      The Asset Manager may prevent the use of any water from the stockwater race system if the occupier/owner of the land receiving the water fails to comply with provisions of this Bylaw or fails to pay the annual charges for the supply of water race water.

#### **SUPPLY OF WATER**

**1509**      No occupier/owner of any land shall direct, consume or use any water from any water race without the permission in writing of the Asset Manager and without first having paid the appropriate charges.

**1509.1**      An occupier/owner may make application for an additional quantity of water from the water race for special purposes. This may be granted by the Asset Manager subject to agreement by the applicant to meet all costs associated with the application and payment for the additional water to be taken.

**1509.2**      No occupier/owner of land through which the water race is situated or adjacent shall cause or permit water to run to waste from any water race, pump, pond, pipe, trough, tank or reservoir or other service connected to the water race.

#### **PROTECTION OF WATER RACES AND WATER QUALITY**

**1510**      The occupier/owner shall not:

- (a)      Allow the pollution of the water in any stockwater race.
- (b)      Do anything that will increase or decrease the flow of water in the water race without the consent of the Asset Manager.

- (c) Obstruct the flow of water in any water race by any means whatsoever.
- (d) Remove, displace, alter or interfere with any gauge, dam, reservoir, crossing, culvert, pipe, headworks, gate, building or structure which is part of the stockwater race network.
- (e) Obstruct or interfere with any person employed by Council in connection with the water races in the discharge of their duties.
- (f) Widen or deepen any water race or alter its course without the consent of the Asset Manager.
- (g) Allow any horse, cattle or any other animals in their custody to trespass or have access on any water race.
- (h) Wash or cleanse any vehicle, plant, equipment, animal carcass, hide or skin or any other substances in any water race or place or allow to remain any animal alive or dead in any water race or on the bank thereof.
- (i) Place or cause to be placed any substance whatsoever in the water race.
- (j) Obstruct any crossing over the water race.
- (k) Ride, drive or lead any horse, cattle or other animal into or through any water race other than at the appointed crossing points.
- (l) Ride or drive any vehicle or machine across or through any water race other than at the appointed crossing points.
- (m) Allow any person to bathe in any water race, reservoir or pond.
- (n) Allow domesticated ducks, geese or exotic fish access to the water race
- (o) Allow the disposal of cuttings or clippings from any plant or hedge to remain in a water race, culvert, channel or the bank adjacent to any water race, culvert or channel.
- (p) Plant or sow any tree, shrub, gorse, broom or thorn within two metres of the edge or bank of any water race.
- (q) Permit any gorse, broom, tree, plant or other vegetation to spread into or over land reserved or used for the purpose of a water race.

**1510.1** No person shall direct, divert or cause or permit direction or diversion of the water of any stream, water course, pond, swamp or stormwater runoff from its natural flow into any water race, associated structure or piece of equipment without written permission of a Council Officer.

**ACCESS**

**1511** Where a water race has been constructed, altered or deviated Council Officers shall have rights of unrestricted access to the water race and other occupied land for the purposes of construction, maintenance, alteration, deviation and inspection of water races and associated structures.

It shall be lawful for Council Officers or Council's appointed agents to carry out construction, maintenance, alteration, deviation and inspection work on private property.

**NON-COMPLIANCE WITH THE BYLAWS**

**1512** Any person breaching these Bylaws shall for each breach be liable to a maximum penalty as set out in Clause 111; when the breach continues an additional penalty shall be applied for every day or part of a day the breach continues.

In addition to the above penalties the Council may seek to recover the cost of any remedial works carried out by Council or to cover the cost of water taken in breach of this Bylaw.

**ANNUAL CHARGES**

**1513** Annual charges for the supply of water race water within the District shall be payable annually or by instalments on such date or dates as Council may determine by resolution publicly notified.