



LEETON SHIRE COUNCIL

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S138 Road Opening/Activity Permit Application

Made under Section 138 Roads Act 1993 (NSW)

Leeton Shire Council is the Road Authority for public roads within Leeton Shire, with the exception of freeways and crown roads. To undertake work/activity on, or alongside, public roads an S138 permit must first be obtained. This advises Council of the planned work/activity and allows Council to assess the necessary implementation of standards relevant to the work/activity being proposed. These specific standards need to be identified and adhered to, ensuring Leeton Shire roads are kept safe and well maintained.

Trim No.

Applicant details

Applicant name

Address Phone

Email

Location and specifications of proposed works (you are required to attach a plan)

Name and location of road to be affected

Details of work/activity to be carried out

Details of proposed restoration works

Duration of consent period

Commencement date Completion date

Declaration of Applicant

I/we, the applicant, apply to Leeton Shire Council, as the roads authority for the road and/or road reserve, for consent to undertake the above mentioned works and/or activity in, on or over the specified road as shown in the attached plan.

Signature of Applicant or Director

Print name

Date

Office use only

Signed for and on behalf of Leeton Shire Council by its duly authorised delegate

Manager, Design and Construction

Date

Conditions

1. Manner of Work and/or Activity

- 1.1. The Work/Activity must be conducted according to the Plan and the Specifications.
- 1.2. The Applicant must complete any backfilling of trenching works in accordance with Council's Conditions.

2. Council Requirements

The Applicant must comply with all Council requirements in relation to the Work/Activity:

- a) Contained in this Permit and annexures;
- b) Contained in any notice in writing concerning the Work/Activity given to the Applicant by the Council; and
- c) Any direction given to the Applicant by the Council.

3. Legislation

The Applicant must observe all requirements with respect to the Work/Activity imposed by any statute, regulation or ordinance or otherwise imposed by a statutory or other authority.

4. Term

The Work/Activity must not be carried out at any time other than during the Consent Period.

5. Proceed Continuously

The Applicant must carry out the Work as expeditiously and safely as practicable and proceed continuously until completion.

6. Layout of Work

- 6.1. All pipe work crossing the Road must be laid perpendicular to the direction of the Road unless otherwise consented to by Council and described in the Specifications or shown in the Plan.
- 6.2. All pipework crossing the road must be easily identified by means of boundary markers or pipe location markers. These are to be installed and maintained by the applicant.
- 6.3. If pipe is approved to be laid longitudinally with the road markings are to be placed at regular intervals (150m) along the length of the pipeline. These are to be installed and maintained by the applicant.
- 6.4. The pavement surrounding any excavation of the Road must be neatly saw-cut prior to excavation.
- 6.5. The Applicant must ensure that any cut pavement maintains a neatly finished edge at all times.

7. Advise Council

- 7.1. The Applicant must give the Council a minimum of five working days notice prior to when the Work/Activity is to commence.
- 7.2. The Applicant must notify Council as soon as the Work is completed if completion occurs during Business Hours.
- 7.3. The Applicant must notify Council during the next Business Hours if the Work is completed outside of Business Hours.

8. Expense

The Work is carried out at the Applicant's expense.

9. Consent and Acknowledgement

This Permit must be signed for and on behalf of Council in order for consent to be granted; and must also be signed by the Applicant in acknowledgement of the conditions under which this consent is granted.

10. Service Conduit

Any Service Conduit placed across the Road must have at least 600mm of fill cover.

11. Footpaths

Where any footpath is disturbed it must be restored to the original condition by the Applicant at the Applicant's cost.

12. Fee

The Permit Fee is to be paid for the issue of this Permit.

13. Restoration Fees

- 13.1. Where Council is required to undertake Restoration works, determination of the Restoration Fees is governed by Section 67 of the Local Government Act.
- 13.2. Where a Restoration Fee is applicable the Applicant must pay the Restoration Fee:
 - a) As soon as the Work is completed if completion occurs during Business Hours; or
 - b) During the next Business Hours if the Work is completed outside of Business Hours.
- 13.3. If disturbance to the Road exceeds that shown on the Specifications, the Applicant must pay the additional cost to Council for restoration.

14. Indemnity

The Applicant indemnifies and holds Council harmless against all Claims by any person arising in connection with any acts or performance of an obligation under this Permit.

- 14.1. Specific Indemnities: - Without limiting clause 13.5 the Applicant indemnifies and holds Council harmless against any Claim arising directly or indirectly out of the following:
 - a) The construction and installation of the Work;
 - b) Conduct by the Applicant which amounts to a breach of any license, permit, approval or legislation;
 - c) Council granting consent to the Applicant to carry out the Work;
 - d) Failure to comply with any obligation of the Applicant under this permit.
- 14.2. Applicant to Maintain Insurance
 - a) The Applicant must maintain a public liability insurance policy with an insurer approved by Council with a limit for any one event of not less than twenty million dollars (\$20,000,000).

- b) The Applicant must produce evidence of the currency and terms of insurance as part of each permit application.
- c) The insurance must be on terms to the reasonable satisfaction of Council and name Council as an insured party

15. Traffic Management Plan

- 15.1. The Applicant must ensure that a Traffic Management Plan is in place whilst the Work is being carried out.
- 15.2. The appropriate traffic control measures must be established at the Applicant's cost.
- 15.3. The traffic control measures must be in accordance with the current RMS Guidelines "Traffic Control at Work Sites".
- 15.4. The Applicant must not interrupt or otherwise disturb the traffic flow on the Road without the written consent of Council.

16. Responsibility for Restoration works

- 16.1. Where the applicant is not able to meet the standards required, the applicant can contract the services of another provider that can.
- 16.2. Where council is required to undertake the restoration works, the Applicant is responsible for the Works until Council's road maintenance service provider completes the standard road pavement restoration. Where the applicant undertakes to do the restoration work themselves, then the applicant is responsible until Council agrees to the standard of that restoration work

17. Responsibility in the event of absence or emergency.

- 17.1. In the Applicant's absence from the site of the Work, or in the event of any emergency (for which the Council has sole right of decision), Council may take such action as it considers necessary to prevent:
 - a) Loss of or damage to the whole or any part of the Work;
 - b) Loss or damage to the Road or any property adjacent to the work; or
 - c) To prevent personal injury to any person;
- 17.2. Any such action (under sub-clause 15.2) is at the Applicant's expense.

18. Safety

The Applicant must:

- 18.1. Carry out the Work with due regard to the safety and rights of the public;
- 18.2. In addition to clauses 0 and 3 comply with the requirements of the NSW Workcover Authority, the Department of Industrial Relations & Employment, and the Police Service of NSW.

19. Relocation

- 19.1. If it is necessary in the reasonable opinion of Council:
 - a) To relocate or remove any portion of the Work; or
 - b) Carry out any additional work for the safety and protection of the public, Applicant must relocate or carry out such removal or additional work as reasonably determined by the Council.
- 19.2. Any such relocation and/or additional work required to be carried out is at the Applicant's expense.

20. Public Risk

Nothing in this consent shall be deemed to:

- a) Prejudice or affect the rights of the public to free passage upon or along the Road;
- b) Authorise any nuisance to, or permanent obstruction of, the Road or public places;
- c) Confer upon the Applicant exclusive right or title to that part of the Work within the boundaries of the Road, or
- d) In any way restrict or limit the powers of the Authority and the Council in respect of the Road.

21. Deemed Acknowledgement

Upon commencement by the Applicant of any part of the Work it shall be deemed that the Applicant has agreed with the Council to comply with the conditions of this consent.

22. Conditions for moving or grazing stock on Council roads

- a) That stock warning signs as described in the Local Land Act 2013 indicating the presence of stock on the road shall be prominently displayed 200 metres before and after the section of road being used;
- b) Stock signs must be displayed at all times when stock are on or adjacent to a roadway, and removed when stock are no longer present;
- c) That the distance over which stock are being grazed does not exceed 2kms at any one time;
- d) When stock are being moved along the road, warning signs shall be no further than 5kms apart;
- e) That at least one person shall be attending the stock at all times;
- f) That the stock may only be present on a public road during daylight hours.

See Privacy Notification on page 3.

Recitals

- A. The Council is a public roads authority for the Road under s7(4)(b) of the Roads Act 1993 (NSW).
- B. The Council consents to the Applicant placing, installing or erecting the Work within or across the Road under the conditions contained in this Permit.
- C. The consent is granted under s138 of the Roads Act 1993.

Definitions

“**Act**” means Roads Act 1993 (NSW)

“**Applicant**” means the signatory on the application being the individual(s) with the authority and the responsibility for the carrying out of the work;

“**Business Hours**” means the opening hours of Leeton Shire Council Administration Centre;

“**Claims**” means any loss, damages, claims, demands, causes of action or suits of any kind;

“**Consent Period**” means dates as per the dates on the application;

“**Council**” means Leeton Shire Council;

“**Council Officer**” means the Leeton Shire Council’s nominated officer;

“**Permit Fee**” means the fee paid by the Applicant to Council for the administrative costs associated with the issue of the Permit and shown in the Specifications;

“**Pipe work**” means pipes, conduits, hoses, tubing, cables and wires;

“**Plan**” means the plan attached and marked Annexure “A”;

“**Restoration Fee**” means a fee paid to Council in consideration for the Council restoring the Road surface after completion of the Work;

“**Road**” means the listed road in the application including the road reserve.

“**RMS**” means Roads and Maritime Services;

“**Service Conduit**” means conduits used to run service wires and cables underground;

“**Traffic Management Plan**” means the Traffic Management Plan (also referred to as Traffic Control Plan or TCP) as required by Council; and

“**Work**” means the plan of works described in application, including any restoration whether by the applicant or Council, and special instructions as deemed required by Council.

Notes

An Application should be lodged for Consent to Carry out a Section 138 Roads Act Activity if the Applicant proposes to:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road being a main road, a state highway, a controlled access road or a secondary road.

The applicant must lodge with the application the following:

- A plan showing the exact location of the proposed Road Works
- Specifications of the proposed Road Works
- Evidence of suitable public liability insurance
- Traffic control plan
- The application fee of \$ (the current fee as set by Council)

Any permit issued will not be valid without the above information and the original application attached

Payment methods

cash cheque Mastercard Visa credit card no.

Card holder's name Expiry date

Signature Today's date

Daytime ph
(for payment processing queries)

Amount \$

Privacy notification

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998.

The intended recipients of the personal information may be:

- Officers within the Council
- Data service providers engaged by the Council from time to time
- Any other agent of the Council
- Financial institute involved in the process

The supply of the information by you is/is not voluntary. If you cannot provide or do

not wish to provide the information sought, the Council may/will be unable to process your application.

Council is collecting this personal information from you in order to provide Council approved services.

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the Act.

Address enquires concerning this matter to the Public Officer.



S138 Permit frequently asked questions

When and why is a Section 138 Permit required?

Section 138 of the Roads Act (NSW) requires that all work undertaken within Council's road reserves must have Council consent prior to work being undertaken. Council is the appropriate roads authority responsible for implementing the provisions of the Roads Act. This includes all the Shire's local roads, Main Avenue, Yanco Avenue, Pine Avenue, Kurrajong Avenue and Wamoon Avenue or RMS Irrigation Way (MR80).

To conduct work/activity on Irrigation Way (MR80) which includes the local roads listed above apply for a 'Road Occupancy License' (ROL) through the Roads and Maritime Services (RMS). Phone the RMS on (02) 6938 1183.

Who is responsible for safety and public road assets during work/activity?

Any persons undertaking works/activities within the road reserve has a duty of care to ensure the safety of all affected persons, including motorists and pedestrians. Adequate safety systems, documentation and insurance should be implemented in order to avoid or handle an incident should an injury or property damage occur.

The person undertaking the work/activity needs to be aware of their obligations to minimise the risk to themselves, the general public and Council. An essential part of the process is the provision of a fully compliant Traffic Management Plan. This must be included in the application for an S138 permit.

How do I address traffic management?

Traffic Management involves the preparation and selection of a Traffic Control Plan followed by the onsite implementation of the adopted plan's requirements.

Traffic Control Plan (TCP):

- Selection or design and implementation of TCPs must only be undertaken by qualified and authorised person/persons who have passed RMS approved training courses.
- The TCP must include the name, certificate number and expiry date from the accredited person's certificate.

Options for Traffic Control:

- You can search for Certified Traffic Control providers through phone directories or the internet.

What restoration works am I responsible for?

The applicant will be responsible for restoration of the site until Council is satisfied that the standards have been met.

Additional specifications may be required

You may receive additional specification and conditions, in addition to the Council standard. These will be provided with your S138 permit.

Interim restoration works

If completing the restoration works to the set standards will cause significant delays a temporary solution may be implemented. Safety is paramount. The applicant remains responsible for the area until the fully accepted restoration has been completed.

Who is the Applicant?

The Applicant is the company/person undertaking the work and/or activity – and who is seeking the consent to do so.

Whose name does the Certificate of Currency (for Insurance) need to be in?

The Certificate of Currency for Insurance must be in the same name as the applicant, and be applicable for the construction work and/or other activity on or in the road reserve (Leeton Shire Council must be noted as an interested party).

What is the time frame for lodging the application to obtain the necessary consent/permit?

Applicants must ensure their applications are lodged at least ten (10) working days (Monday to Friday) prior to the proposed date of commencement. Ensure all required documentation is attached to avoid unnecessary delays. (A checklist is available on page 3 of the application form for your convenience).

When is a Section 138 Works in Road Agreement not required?

The only time this is not required is when all works (including all loading and unloading with the use of machinery, shifting of the machinery e.g. backhoes, cranes, concrete trucks, mine vehicles etc) being undertaken are carried out within the boundaries of private property.

Should this be the case, Council requires written notification to this effect.

Please contact Leeton Shire Council on (02) 6953 0911 if you need further clarification or assistance.