

# Council Consent to Erect and Maintain a Structure on a Public Road Section 138 of The Roads Act, 1993



This consent is granted to \_\_\_\_\_ (Name) of  
\_\_\_\_\_ (Address) on \_\_\_\_\_ (Date).

Rockdale City Council (**Council**) of 2 Bryant Street, Rockdale, grants consent to erect and maintain a  
\_\_\_\_\_ (Object/Structure) on a public road under section 138 of the  
Roads Act, 1993 as shown on the photographs/diagram attached to this consent, so long as the conditions of this  
consent are met.

## CONDITIONS

### 1 Background

- 1.1 You have asked Council to allow you to use, erect and maintain a \_\_\_\_\_  
(Object/Structure) on part of the public road reserve known as \_\_\_\_\_  
(Road Name) adjacent to \_\_\_\_\_ (Property Address/Title Description)  
in the location shown on the photographs/diagram attached to this consent (site).
- 1.2 Council allows you to use the site to erect and maintain a \_\_\_\_\_  
(Object/Structure) for that purpose as long as you meet the conditions of this consent.
- 1.3 This consent is granted to you only and must not be transferred to any other person.

### 2 Period of Approval

- 2.1 This consent commences on the date shown hereon (**commencement date**).
- 2.2 The term of this consent is for seven (7) years and must not exceed this term.
- 2.3 This consent continues until:
  - 2.3.1 Council revokes it (see part 5); or
  - 2.3.2 You end it (see part 6).

### **3 Rent & Rent Reviews**

- 3.1 The rent for use of the site under this consent will be at the rate of \$\_\_\_\_\_ (Amount) per annum plus Goods & Services Tax (GST), which is to be paid by you yearly in advance.
- 3.2 The rent shall be varied annually in accordance with Consumer Price Index (CPI) (Sydney – All Groups) increases during the preceding 12 months.
- 3.3 At three (3) year intervals from the commencement date of this consent, Council will review the rent to market rental value in lieu of CPI increases.
- 3.4 You will also be responsible for the payment of any rates and taxes levied in respect to the site.

### **4 Warning Notice to Revoke Consent**

- 4.1 If, in Council's opinion, any of the requirements of this approval are not being met, Council may issue a notice to you warning that the consent may be revoked (**warning notice**).
- 4.2 You must reply to the warning notice. The reply must be by notice in writing, which reaches Council within seven days of the date of the warning notice.
- 4.3 In the reply, you must tell Council:
  - 4.3.1 What will be done to meet the requirements of the warning notice; or
  - 4.3.2 Your reasons for disagreement with those requirements.
- 4.4 If Council decides that compliance with any of the requirements in the warning notice is necessary, it will notify you within seven days after receipt of your reply.
- 4.5 As soon as you receive notice of Council's decision, you must make sure that any requirements contained in the notice are complied with within seven days or such other period as stipulated by Council.

### **5 Council May Revoke the Consent**

- 5.1 Council may revoke this consent if any of the following occur:
  - 5.1.1 In the opinion of Council you do not meet the requirements of this consent; or
  - 5.1.2 You gave Council information in your application for this consent that was untrue or incomplete or misleading; or
  - 5.1.3 You do not reply to a warning notice; or
  - 5.1.4 You do not fulfil the requirements of any Council notice within the stipulated timeframe; or
  - 5.1.5 You hinder or prevent Council carrying out any inspection of the site.
- 5.2 If Council decides to revoke this consent, Council will notify you by notice in writing.
- 5.3 When you receive a notice under 5.2 you must remove all of your structure from the site and restore the site to its previous condition.
- 5.4 If you do not remove your structure when required by Council and restore the site to Council's satisfaction, Council may remove it and recover any costs involved from you. Council may also take legal action against you.

5.5 Council is not liable to pay you compensation if it revokes this consent.

## **6 You May End This Consent**

6.1 You must notify Council at least 30 days before you want to end this consent. The consent then ends after 30 days, or on any later date requested by you.

6.2 When the consent ends you must remove your structure from the site and restore the site to Council's satisfaction.

6.3 If you do not remove the structure from the site and restore the site to Council's satisfaction when the consent ends, Council may do so and recover any costs from you. Council may also take legal action against you.

## **7 Indemnities and Insurance**

7.1 You must indemnify Council in respect of any claims, demands or actions arising out of your erection and maintenance of the structure on the road.

7.2 You must keep current at your cost an insurance policy covering liability to the public for not less than \$10,000,000 or other amount as Council may reasonably require (for each accident or event) and noting Council as an interested party.

7.3 Prior to commencement of your use of the road you must produce to Council evidence of the policy and a certificate of currency for the policy.

7.4 If you fail to keep current the insurance policy, Council can purchase an appropriate policy of insurance and require you to pay Council an amount equal to the cost of the premium.

7.4.1 You must give Council evidence of your renewal of the policy not later than the commencement date and within 14 days before each anniversary of that date.

## **8 Notices**

8.1 Notices given under this approval:

8.1.1 Must be in writing;

8.1.2 Must be delivered by post or facsimile to you or Council's respective addresses stated in this consent; and

8.1.3 If posted, are taken to have been received two business days after posting.

## **9 Resolving Disputes**

9.1 Council will attempt to resolve any disputes by discussing them with you, but if there is any dispute that we cannot resolve by discussing it together, Council's decision will be final.

9.2 You may take legal action against us if you consider Council's decision is unfair.

## **10 Special Conditions**

10.1 None.

**11 Miscellaneous**

11.1 You must:

11.1.1 Comply with all laws relating to the use of the public road;

11.1.2 Obtain any consents needed;

11.1.3 Comply with the conditions of consent; and

11.1.4 Keep current any licences or registrations needed for the use of the road in accordance with this consent.

11.2 You are responsible for any damage to Council's road through the exercise of this consent. In the event of damage arising Council will arrange repair and recover the costs of this repair from you.

11.3 If the road which is the subject of this consent is required for road construction purposes, Council may terminate this consent.

11.4 If the exercise of this consent is found to cause undue inconvenience or interruption to pedestrian or vehicular traffic as determined by Council, Council may terminate this approval on one month's prior written notice.

**12 Roads Act, 1993**

12.1 This approval is given under section 138 of the Roads Act, 1993.

**13 Definitions and Interpretation**

13.1 In this consent:

13.1.1 **Council** means Rockdale City Council;

13.1.2 **You, your** means \_\_\_\_\_ (Name) of  
\_\_\_\_\_ (Address).

**SIGNED** for and on behalf of **Rockdale City Council** in accordance with authorities delegated under the Local Government Act, 1993 and not withdrawn.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Delegated Council Officer

## ATTACHMENTS

- I Photographs/diagram showing the location of the structure adjacent to

\_\_\_\_\_ (Property Address/Title Description)

### **Rockdale City Council**

Office Hours - 8.30am to 4.30pm (Mon-Fri), 9am-1pm (Sat)

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