



# Gladstone Regional Council

## Council Policy

Title	<b>GATES AND GRIDS</b>
Policy Number	<b>P-2015/27</b>
Responsible Directorate	<b>ENGINEERING SERVICES</b>
Responsible Officer	<b>MANAGER ROAD SERVICES</b>
Date of Adoption	<b>17 NOVEMBER 2015</b>
Resolution Number	<b>G/15/2645</b>
Date Review Due	<b>17 NOVEMBER 2018</b>

### 1.0 PURPOSE:

The purpose of this policy is to assist in the implementation of *Subordinate Local Law No. 1.16 (Gates and Grids) 2011* for the installation, maintenance and administration of gates and grids installed across roads under the control of Council and, thus, ensure that:-

- (a) Installation and maintenance meets appropriate safety standards;
- (b) No unreasonable interference or disruption to the use of road occurs;
- (c) Appropriate indemnities are in place to protect Council and the public against loss or damage.

### 2.0 SCOPE:

This Policy applies roads that are under the control of Council.

This policy does not apply to gates and grids at property entrances or on property boundaries where the gate or grid is not on a road under the control of Council.

This policy is subordinate to Federal, State (Queensland) and Local (Gladstone Regional Council) Laws.

### 3.0 RELATED LEGISLATION:

- Local Government Act 2009
- Local Government Regulation 2012
- Local Law No. 1 (Administration) 2011
- Subordinate Local Law No. 1.1 (Alteration or Improvement to Local Government Controlled Areas and Roads) 2011

- Subordinate Local Law No. 1.16 (Gates and Grids) 2011.

#### 4.0 RELATED DOCUMENTS:

- Council's standard drawing/specification for gates and grids (CMDG-G-017, CMDG-G-019, and CMDG-G-020).

#### 5.0 DEFINITIONS:

To assist in interpretation of this policy the following definitions apply:-

**AADT** means Annual Average Daily Traffic as determined by the Chief Executive Officer or delegate.

**Abandoned** means that no Current Approval Holder can be identified or contacted by Council.

**CEO** means Council's Chief Executive Officer or delegate.

**Council** means Gladstone Regional Council.

**Current Approval** means an approval issued by Council which has not expired.

**Current Approval Holder** means the person to whom the Current Approval has been issued by Council.

**Formed Road** means a Road that does not have gravel paving but which is formed using a grader so that stormwater will drain off laterally. Typically defined as Level of Service 4R or 5R within Council adopted level of service rating.

**Non-Compliant** means not complying with the conditions of a Current Approval.

**Relevant Person** means the person (or entity) who would normally be considered to be the property owner accepting responsibility for the gate or grid or is the Current Approval Holder.

Note: Grids that are shared by more than one property will need to identify a Primary Owner (or entity) to be the Relevant Person.

**Road** has the meaning as set out under Section 59 of the Local Government Act 2009.

**Rural Collector Road** means a Road as defined in the Road Hierarchy Performance Criteria and Conditions within Council adopted level of service rating.

**Unformed Road** means a Road that is cleared and is open to, and customarily used by the public. Typically defined as Level of Service 4R or 5R within Council adopted level of service rating.

**Unmade Road** means a Road that has had no capital improvements including clearing, formation and gravel paving. Notwithstanding, such a Road may be trafficable or un-trafficable in all weathers. Typically defined as Level of Service 4R, 5R or 6R within Council adopted level of service rating.

## 6.0 POLICY STATEMENT:

In order to minimise the potential for motorists to be exposed to hazards whilst utilising a Road, Council's preference is for no gates and grids to be installed on Roads.

Council does understand that, in some instances, the fencing of roads adjoining rural properties to control stock along Roads is not practical and, thus, the installation of gates and grids in appropriate locations may be considered.

### 6.1 Not Currently Approved, Abandoned or Non-Compliant Gate or Grid

Where Council's CEO considers that a gate and/or grid does not have a Current Approval or is Abandoned or Non-compliant, Council will commence action under its *Local Law No. 1 (Administration) 2011* by way of issue of a Compliance Notice under that Local Law to the Relevant Person once it has identified the Relevant Person that is contravening the Local Law by not holding a Current Approval for the gate or grid or not maintaining the gate or grid in accordance with the Current Approval.

### 6.2 Where Relevant Person not identifiable

6.2.1 Where the Relevant Person cannot be determined the CEO shall write to the property owner, or owners, of properties adjacent to the location of the gate or grid advising that the gate and/or grid does not have a Current Approval or is Abandoned or Non-compliant and that, in the absence of lodgement of an application with Council seeking a Current Approval for the gate or grid within 3 months of the written advice Council will consider the gate and/or grid to be *unauthorised works on a Road<sup>1</sup>* and will:-

- Place a notice in the local newspaper and notify the adjacent property owners through written notice that Council will remove the gate and/or grid and repair any damage to the Road after expiry of a further 14 day period; and
- Remove the gate and/or grid and repair any damage to the Road after the 14 day period has ended; and
- Dispose of the removed gate and/or grid to a Council waste management facility.

6.2.2 Where a Relevant Person is identified through the public notice and/or written notification process mentioned in 6.2.1 Council shall:

a) if requested by the Relevant Person **prior to the commencement of removal** of the gate and/or grid and repair of any damage to the Road by Council, allow the Relevant Person to remove the gate and/or grid and reinstate the Road and salvage the material. The Relevant Person must confirm that they are the owner of the gate or grid, indemnify Council against all claims for compensation for the removal of the gate and/or grid and obtain a Council Works on Road approval for the works to be undertaken by them on the Road to remove the gate and/or grid and reinstate the Road;

b) if requested by the Relevant Person **after the commencement of removal** of the gate and/or grid and repair of any damage to the Road by Council, require the

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<sup>1</sup> See Section 75 Local Government Act 2009

Relevant Person to reimburse Council the costs of removal of the gate and/or grid and costs of reinstatement works of the Road. The Relevant Person may salvage the material provided that the material is still on site and they confirm that they are the owner of the gate or grid and indemnify Council against all claims for compensation for the removal of the gate and/or grid;

c) In all circumstances Council will not accept liability for any loss, or provide compensation for, any removed gate and/or grid.

### **6.3 Circumstances where Council will not issue an approval**

Council's *Subordinate Local Law No. 1.16 (Gates and Grids) 2011 Clause 4* outlines additional criteria for the granting of an approval.

Council is of the view that in the following circumstances these additional criteria cannot be met and therefore an approval for a gate or grid will not be issued by Council for applications made as follows:

- a) For a gate and/or grid on a Road that Council determines to have an AADT of 200 vehicles or greater;
- b) For a gate across a gravelled or sealed Road that conveys through traffic from one part of a Road to another part of a Road.

### **6.4 Application Process - Gates and Grids**

To apply to install or renew a new gate and/or grid on a Road or transfer ownership or register an existing gate or grid, a Relevant Person must conform with the requirements of Clause 3 of Council's *Subordinate Local Law No. 1.16 (Gates and Grids) 2011* by submitting the following:-

- a completed and signed Application to Install, Renew, Transfer Ownership or Register Existing Gate and/or Grid Form;
- a cost estimate for the installation of a rural fence on the property boundary adjacent to the road that the gate and/or grid is to be installed on, to show that the applicant has thoroughly considered this option; and
- the prescribed application fee.

### **6.5 Standard Conditions - Gates and Grids Approvals**

6.5.1 Council's *Subordinate Local Law No. 1.16 (Gates and Grids) 2011 Clause 6* sets out conditions that will ordinarily be imposed on approvals issued for:

- a) installation of a gate or grid or a gate and a grid; and
- b) a Relevant Person being a responsible person for a gate or a grid, or a gate and a grid.

Council will apply the following conditions to any approvals:

#### 6.5.1.1 General Conditions

- (i) The applicant must provide Council with a minimum of five (5) business days' before undertaking any work (installation and maintenance) in relation to a gate and/or grid on a Road. This is achieved by calling Council's Call Centre on (07 4970 0700).
- (ii) All work by the applicant (installation and maintenance) must be carried out by appropriately qualified and experienced entities to the satisfaction of Council's CEO. (Failure to do so will result in the issue of a Compliance Notice - See Section 6.1).
- (iii) A copy of an Australian Prudential Regulation Authority (APRA) approved Public Liability insurance policy to the value of \$20,000,000 for the term of the approval for the gate and/or grid, indemnifying Council from any liability associated with the gate and/or grid is to be provided to Council (and accepted as satisfactory) before any work to install a gate and/or grid on a Road commences.
- (iv) Council will not accept liability for any loss of, or provide compensation to, any entity when Council removes a gate and/or grid in accordance with this policy.
- (v) Council accepts no responsibility or liability for any damage caused to a gate and/or grid by entities other than Council.
- (vi) The liability for livestock will remain the responsibility of the property owner and the approval by Council for the installation and/or maintenance of a gate and/or grid on a Road does not constitute acceptance by Council of any liability for loss or damage arising from stock on a Road.
- (vii) Council may, in accordance with the grounds set out in *Local Law No. 1 (Administration) 2011 Clause 17*, amend, suspend or cancel an approval. In such cases any application fees paid, or approval renewal fees paid will not be refunded.

#### 6.5.1.2 Standards

- (i) The gate and/or grid must be installed in accordance with Council's standard drawings (CMDG-G-017, CMDG-G-019, and CMDG-G-020). In addition, for an 8m wide grid on a gravel Road, the road surface 10m either side of the grid is to be sealed with a two coat sprayed seal (or other emulsion seal considered as an alternate to C170 hot bitumen seal subject to Council approval).
- (ii) A gate shall be located to the side of the grid at an approved location. A grid must be installed in accordance with manufacture's specification "APRILLA GRIDS" or approved equivalent. All gates are to remain shut and unlocked. The minimum width of a gate opening adjoining a grid shall be 6m and be of stock proof construction on swinging hinges.
- (iii) All signage and guide posts must be installed in accordance with current DTMR (Department of Transport and Main Roads) Manual of Uniform Traffic Control Devices (MUTCD).

- (iv) Grids are to be "Heavy Duty" with a minimum width as follows:-
  - (a) 4 m for roads with an AADT of no more than 50 during the proposed life of the grid.
  - (b) 8 m for roads with an AADT of 50 or greater during the proposed life of the grid.

#### 6.5.1.3 Installation

- (i) Prior to the installation of a gate and/or grid, Council will carry out maintenance on a gravel surfaced road to ensure that there is an appropriate coverage and shape of gravel so that the road can receive the grid. This will be done at no additional cost to the applicant.
- (ii) All costs associated with the installation of a new gate and/or grid, including signage on the gate and/or grid and 10m spray seal (either side of an 8m grid), is to be borne by the applicant. Council will provide the sprayed seal at the request of a Relevant Person, at a cost of materials only basis, as per Councils' fees and charges. Advance signage will be installed by Council at Council's cost.

#### 6.5.1.4 Inspections

- (i) The Relevant Person will be responsible for carrying out regular proactive inspections to ensure that the gate and/or grid continues to comply with the Current Approval. The frequency of these inspections is at the Relevant Persons' discretion, having regard to the circumstances of each gate and/or grid.
- (ii) Council staff will carry out a compliance inspection to ensure that a gate and/or grid conforms to the Current Approval and that Council's database remains accurate. To minimise the cost of these inspections they will be conducted at the same time as scheduled road inspections. Non-compliance will be managed in accordance with Section 6.1 of this policy.
- (iii) In addition to the above, as part of Council's day to day operations gates and grids will be casually inspected wherever convenient, for compliance with Current Approvals. Non-compliance will be managed in accordance with Section 6.1 of this policy.

#### 6.5.1.5 Maintenance

- (i) Following the initial installation by the applicant to Council's satisfaction, Council will maintain associated advanced warning signage not fixed to a gate and/or grid and also maintain the sealed and gravel pavement either side of a grid at no cost to the applicant.
- (ii) Relevant Persons must maintain and repair gates and/or grids and any signage/reflectors attached to the gate and/or grid which is covered by the approval at the Relevant Person's cost. Failure to do so will result in the issue of a non-compliance notice. Non-compliance will be managed in accordance with Section 6.1 of this policy.

- (iii) Relevant Persons will be responsible for keeping the area under the grid clean and free from dirt/gravel and weeds, ensuring free drainage, so that the grid continues to function as designed at the Relevant Persons cost. Failure to do so will result in the issue of a non-compliance notice. Non-compliance will be managed in accordance with Section 6.1 of this policy
- (iv) Relevant Persons must maintain the formed, unformed, or unmade Road on each side of the gate or the grid, for a distance of at least 10m at the Relevant Persons cost, so that vehicular and pedestrian traffic is not impeded or obstructed; and to prevent or minimise the risk of personal injury or damage to property. Failure to do so will result in the issue of a non-compliance notice. Non-compliance will be managed in accordance with Section 6.1 of this policy.

#### **6.6 Approval Renewals**

- (i) Council will issue a renewal notice for the existing gate and/or grid approval approximately 30 days before the approval expires on each financial year ending 30 June. If the approval is not renewed before it expires Council will consider the gate and/or grid to be abandoned and will commence procedures as set out in Section 6.1 of this policy.
- (ii) A copy of the current Public Liability Insurance policy must be submitted with the appropriate renewal fee.

#### **6.7 Approval Transfers on property sale**

- (i) If the Relevant Person sells their property, the Relevant Person is responsible for cancelling their approval and, thus, cancelling their responsibility for the gate and/or grid that was covered by the approval.
- (ii) New property owners will have 30 days to make an application for an approval to be transferred to a new entity.
- (iii) If a transfer application has not been received by a new property owner within 30 days Council will consider the gate and/or grid to be abandoned and will commence procedures as set out in Section 6.1 of this policy.
- (iv) Fees paid by the original Relevant Person will not be refunded (wholly or partially) when the approval is cancelled.
- (v) There is no fee associated with a transfer application and approvals applied to transfers shall apply to the end of the current approval period for the approval just cancelled.

#### **6.8 Existing Gates and Grids pre- 17<sup>th</sup> June 2014**

- (i) All owners of gates and grids that existed prior to 17<sup>th</sup> June 2014 (when this policy was originally adopted by Council) will be contacted, where such contact has not already been made by Council, to verify the Relevant Person for any gate and/or grid where that Relevant Person has not yet been established.
- (ii) Once the Relevant Person is established and accepted by Council and has been able to establish continued ownership from installation prior to 17<sup>th</sup> June 2014, an approval will be issued, at no charge, to the Relevant Person. Such approval shall

be subject to the conditions of this policy excluding clause 6.5.1.2 (i) and Clause 6.5.1.3. The gate and/or grid will then be audited by Council for compliance with the conditions of the approval. If the gate and/or grid is found to be non-compliant that non-compliance will be managed in accordance with Section 6.1 of this policy.

(iii) To be clear:-

- Existing grids (prior to the adoption of the original policy being 17 June 2014) will not automatically have to be upgraded to a precast unit; and
- Existing 8m wide grids (prior to the adoption of this policy) on gravel roads will not have to have the gravel sealed 10m either side of the grid at the grid owner's expense. This will be done by Council, at Council's cost, subject to budget allocations.

(iv) Approvals issued to the Relevant Person of a gate and/or grid that existed before the original of this policy was adopted by Council (17 June 2014) will be cancelled by Council by 30 June 2017 [under *Clause 17 of Local Law No. 1 (Administration) 2011*] to allow applications to be made for a replacement approval with conditions compliant with this policy.

#### **6.9 Grids at the end of their life**

- (i) Existing grids that Council considers to be at the end of their life are to be replaced with precast units as per this policy at the Relevant Person's cost.
- (ii) A condition requiring the replacement of a grid considered to be at the end of its life by Council will be imposed as a condition of an approval in the year that it is considered by Council that the grid will need to be replaced. Failure to do so will result in the issue of a non-compliance notice. Non-compliance will be managed in accordance with Section 6.1 of this policy

#### **6.10 Fees and Charges**

- (i) Application fee applies as per Council's adopted Fees and Charges Schedule for the current financial year.
- (ii) Application fee does not apply to gates and grids that were installed prior to the adoption of the original policy (17 June 2014) where such gates and grids obtain a Current Approval from Council by 30 June 2017.
- (iii) Approval renewal fees are annual fees and are applied as per Council's adopted Fees and Charges Schedule for the current financial year.
- (iv) Application fees are not refundable if an application for an approval is refused or an application is withdrawn by an applicant.

#### **7.0 ATTACHMENTS:**

Nil



**8.0 REVIEW TRIGGER:**

This policy will be reviewed when any of the following occur:-

1. The related legislation/documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council
3. Periodic Review – 3 years from date of adoption.

TABLE OF AMENDMENTS		
Originally Adopted	17 June 2014	G/14/2033
Amendment 1	17 November 2015	G/15/2645
Amendment 2	<INSERT DATE COUNCIL MEETING>	<INSERT RESOLUTION NUMBER>
Amendment 3	<INSERT DATE COUNCIL MEETING>	<INSERT RESOLUTION NUMBER>

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STUART RANDLE  
CHIEF EXECUTIVE OFFICER