

Subordinate Local Law No. 1.17 (Gates and Grids) 2019

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.17 (Gates and Grids) 2019*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
 - (a) various matters regarding the granting of approvals for prescribed activities; and
 - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
 - (a) names a prescribed activity in section 1; and
 - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.
- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity

named in section 1 of schedule 1 is a category 1 activity.

- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
 - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
 - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

Schedule 1 Gates and grids

Section 5

1. Prescribed activity

- (1) Installing a gate, or a gate and a grid, across a road.
- (2) Being a responsible person for a gate, or a gate and a grid, installed across a road.

2. Activities that do not require an approval under the authorising local law

No activities stated.

3. Documents and materials that must accompany an application for an approval

- (1) If the installation of a gate, or a gate and a grid, are proposed—
 - (a) a plan identifying the location within the road of the proposed gate, or gate and grid; and
 - (b) particulars of all temporary and permanent warning or similar signage proposed to be erected by the applicant; and
 - (c) details of the time when the prescribed activity will be undertaken; and
 - (d) the impact, if any, of the prescribed activity on pedestrian and vehicular traffic including a plan detailing how the applicant proposes to manage traffic in the undertaking of the prescribed activity; and
 - (e) the materials, plant and equipment to be used in the undertaking of the prescribed activity; and
 - (f) make reasonable attempts to notify landholders directly affected by the undertaking of the prescribed activity; and
 - (g) particulars of livestock containment needs including alternative methods available to the applicant and feasibility of such methods.
- (2) If a gate or a grid, or a gate and a grid, are installed across a road—
 - (a) a plan detailing the design of the gate or grid, or gate and grid, including all dimensions, alignments and structural elements; and
 - (b) a plan identifying the location within the road of the gate or grid, or the gate and the grid; and
 - (c) details of all warning or similar signage erected about the gate or grid, or the gate and the grid; and
 - (d) particulars of livestock containment needs including alternative methods available to the applicant and feasibility of such methods.

4. Additional criteria for the granting of an approval

- (1) The prescribed activity must not—
 - (a) result in—
 - (i) harm to human health or safety, including the safety of vehicular or pedestrian traffic; or
 - (ii) property damage or loss of amenity; or
 - (iii) unreasonable nuisance; or
 - (iv) the unreasonable obstruction, or disruption, of vehicular or pedestrian traffic; or
 - (v) unreasonable prejudice to the proper maintenance of a road; or
 - (vi) environmental harm; or
 - (vii) environmental nuisance; or
 - (b) adversely affect the amenity of the area in which the prescribed activity is to be undertaken.
- (2) If the prescribed activity is the installation of a grid—the prescribed activity must not be undertaken unless the installation of the grid is to be undertaken—
 - (a) contemporaneously with the installation of a gate; or
 - (b) to complement the use, by a responsible person, of a gate, and the gate is identified in a current approval granted by the local government to the responsible person.
- (3) If the prescribed activity is being a responsible person for a gate, or a gate and a grid, installed across a road—the prescribed activity must not be undertaken if the removal of the gate, or the gate and the grid, identified in the application is, or is likely to become, necessary—
 - (a) because the gate, or the gate and the grid, on the road results in—
 - (i) harm to human health or safety, including the safety of vehicular or pedestrian traffic; or
 - (ii) property damage or loss of amenity; or
 - (iii) unreasonable nuisance; or
 - (iv) the unreasonable obstruction, or disruption, of vehicular or pedestrian traffic; or
 - (v) unreasonable prejudice to the proper maintenance of a road; or
 - (vi) environmental harm; or

(vii) environmental nuisance; or

(b) otherwise in the public interest.

5. Conditions that must be imposed on an approval

No conditions prescribed.

6. Conditions that will ordinarily be imposed on an approval

(1) The conditions of an approval may require the approval holder to take specified measures to—

(a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and

(b) prevent loss of amenity or unreasonable nuisance resulting from the undertaking of the prescribed activity; and

(c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic.

(2) If the approval relates to the installation of a gate, or a gate and a grid — the conditions of the approval may—

(a) require compliance with specified safety requirements; and

(b) regulate the time within which the installation of the gate, or the gate and the grid, must be carried out; and

(c) specify standards with which the installation of the gate, or the gate and the grid, must comply; and

(d) require the approval holder to—

(i) carry out specified additional work such as earthwork and drainage work; and

(ii) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance to the local government before the installation of the gate, or the gate and the grid; and

(iii) give the local government specified indemnities; and

(iv) construct the gate, or the gate and the grid, in accordance with standard plans and specifications which the local government may develop or adopt from time to time; and

(v) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and

(vi) clear and maintain the road in the vicinity of the gate, or the gate and the grid, (including the destruction of plants and vegetation); and

- (vii) remove a gate, grid or structure erected or installed, under the approval, at the end of a stated period; and
 - (viii) remove a gate, grid or structure erected or installed, under the approval, if the gate, grid or structure—
 - (A) is not effective for its intended purpose; or
 - (B) is causing unreasonable nuisance, or poses a risk of a unreasonable nuisance; or
 - (C) constitutes an actual, or potential safety hazard; and
 - (ix) if the approval relates to the installation of a grid—also erect a gate at the location of the grid to a standard, and in accordance with the requirements of, the local government; and
 - (x) maintain the road, for a distance of 5m on each side of the gate, or the gate and the grid, as the case may be, in good and sufficient repair —
 - (A) so that vehicular and pedestrian traffic is not impeded or obstructed; and
 - (B) to prevent or minimise the risk of personal injury or damage to property; and
 - (xi) exhibit specified signage warning about the conduct of the prescribed activity on the road; and
 - (xii) take specified measures to ensure the unrestricted movement of vehicular and pedestrian traffic along the road during construction and installation of the gate, or the gate and the grid, as the case may be, and minimise obstruction of vehicular or pedestrian traffic or the risk of personal injury or damage to property; and
- (3) If the approval relates to being a responsible person for a gate, or a gate and a grid, installed across a road—the conditions of the approval may—
- (a) require compliance with specified safety requirements; and
 - (b) require the approval holder to—
 - (i) carry out specified work such as earthwork and drainage work; and
 - (ii) take out and maintain public liability insurance in an amount not less than \$20,000,000.00 and produce documentary evidence of the insurance to the local government within a stated period; and
 - (iii) give the local government specified indemnities; and
 - (iv) maintain the gate, or the gate and the grid, in accordance with

- standard plans and specifications; and
- (v) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
- (vi) clear and maintain the road in the vicinity of the gate, or the gate and the grid (including the destruction of plants and vegetation); and
- (vii) remove a gate, grid or structure identified in the approval, at the end of a stated period; and
- (viii) remove a gate, grid or structure identified in the approval if the gate, grid or structure—
 - (A) is not effective for its intended purpose; or
 - (B) is causing unreasonable nuisance, or poses a risk of a unreasonable nuisance; or
 - (C) constitutes an actual, or potential safety hazard; and
- (ix) if the approval relates to a grid—also erect a gate at the location of the grid to a standard, and in accordance with the requirements of, the local government; and
- (x) maintain the road, for a distance of 5m on each side of the gate, or the gate and the grid, as the case may be, in good and sufficient repair—
 - (A) so that vehicular and pedestrian traffic is not impeded or obstructed; and
 - (B) to prevent or minimise the risk of personal injury or damage to property; and
- (xi) exhibit specified signage warning about the conduct of the prescribed activity on the road; and
- (xii) undertake compliance inspections of the structure as and when required by the local government; and
- (xiii) if the approval relates to a gate—undertake self-assessments as and when required by the local government.

7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined

by the local government having regarding to the information submitted by the approval holder.

- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

Table 1 – Third party certification

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated		

Schedule 2 Categories of approval that are non-transferable

Section 6

Every approval for the prescribed activity named in schedule 1, section 1 is transferable.

Schedule 3 Dictionary

Section 4

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

gate means a hinged or sliding barrier used to close an opening in a wall, fence or hedge.

grid has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019*.

responsible person has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019*.

structure has the meaning given in the *Local Government Act 2009*.