

GATES AND GRIDS POLICY

LOCAL LAW POLICY



1 Scope

This policy applies to gates and grids across a road under Rockhampton Regional Council's control. This policy does not apply to gates and grids located on property boundaries.

2 Purpose

The purpose of this policy is to outline Council's approach for managing gates and grids installed across Council controlled roads.

3 Related documents

3.1 Primary

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

3.2 Secondary

Anti-Discrimination Act 1991

Human Rights Act 2019

Local Government Act 2009

Local Government Regulation 2012

Local Law No. 1 (Administration) 2011

Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011

Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019

Transport Operations (Road Use Management) Act 1995

Capricorn Municipal Development Guidelines – Standard Cattle Grid Standard Drawing CMDG-G-020 and 6.0m Gate Detail Standard Drawing CMDG-G-019

Fees and Charges Schedule

Gates and Grids Application Form

Gates and Grids Approval Renewal Form

Gates and Grids Cancellation or Transfer Form

Gates and Grids Fact Sheet

Gates and Grids Public Notification Guide

Gates and Grids Whole of Council Work Instruction

Queensland Manual of Uniform Traffic Control Devices Department of Transport and Main Roads

Refund, Exemption and Reduction of Fees and Charges Policy

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Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 1 of 7

4 Definitions

To assist in interpretation, the following definitions apply:

Abandoned	A structure is considered abandoned where: (a) No new responsible person is identified after 30 business days of a cancellation of an approval holder; or (b) An unapproved or non-compliant structure where a responsible person cannot be determined.
Authorised person	A person who is appointed under a Local Government Act to ensure members of the public comply with the relevant Local Government Acts in relation to the local government and the Region.
Council	Rockhampton Regional Council
Existing gate or grid, or gate and grid	A gate or grid, or gate and grid installed prior to 4 February 2020 and the responsible person has been issued a current decision notice approval from an authorised person.
Gate	As defined in SLL 1.17, a hinged or sliding barrier used to close an opening in a wall, fence or hedge.
Grid	As defined in <i>Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019</i> , a structure designed to: (a) Permit the movement of pedestrian or vehicular traffic along a road; but (b) Prevent the passage of livestock.
Local Law No. 1	<i>Local Law No. 1 (Administration) 2011</i>
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
Responsible person	As defined in <i>Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019</i> , for a gate or grid installed across a road, means each of the following persons: (a) The person who installed the gate or grid, or the gate and the grid; (b) The person for whose use or benefit of the gate or grid, or the gate and the grid, were installed; (c) The person who has the benefit of the gate or grid, or the gate and the grid installed across the road.
Road	As defined in Local Law No. 1: (a) A road as defined in the <i>Local Government Act 2009</i> , section 59; and (b) A State-controlled road: (i) Prescribed under a subordinate local law for this subparagraph as a road to which this local law applies unless otherwise provided; and (ii) In respect of which the chief executive has given written agreement under the <i>Transport Operations (Road Use Management) Act 1995</i> , section 66(5)(b).
Shared responsible person/s	Approved responsible persons sharing the responsibility for a gate or grid or a gate and a grid that benefits multiple properties.
SLL1.17	<i>Subordinate Local Law No. 1.17 (Gates and Grids) 2019</i>

LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 2 of 7

5 Policy statement

Council endeavours to minimise unreasonable nuisance and the potential for motorists to be exposed to safety hazards whilst utilising a road.

Council does however acknowledge that a gate, or a gate and a grid may be required under certain circumstances where other methods of controlling livestock, such as fencing is impractical. This policy ensures that where a gate, or a gate and a grid are permitted they are installed, managed and maintained to an acceptable and consistent standard which minimises unreasonable nuisance and safety risk to road users.

Council does not approve the installation of a grid without a gate.

5.1 Prescribed activities and compliance with local laws

The installation of a gate, or a gate and a grid across a road, and being a responsible person for a gate, or a gate and a grid installed across a road are prescribed activities within SLL1.17. Such activities must be approved and remain compliant in accordance with this subordinate law. Approvals may be transferred in accordance with Local Law No. 1.

5.2 Applications for new installations

Applicants seeking approval for new installations must complete the Gates and Grids Application Form and submit with the required supporting documentation and application fee.

Applications received are assessed in accordance with the criteria specified within SLL1.17 and this policy.

5.2.1 Public notification

Public notification is required to be completed by applicants as part of the application process. The applicant is advised when this should commence.

The public notification period must last for 15 business days and involves the erection and maintenance of a notice at the location of the proposed gate or gate and grid. The notice must be in the approved form as detailed in the Gates and Grids Public Notification Guide.

Evidence of the public notification must be supplied to Council no more than 10 business days after the public notification period ends (or a further agreed period) before the application is progressed. If not received, the application may lapse.

Submissions must be received by Council in writing within the public notification period and must:

- (a) State the name and residential address of the submitter; and
- (b) State the grounds for the submission, including facts and circumstances relied on for the grounds.

5.2.2 Application assessment

Applications are assessed in accordance with the criteria specified in SLL1.17 and with consideration to the following:

- (a) The need to contain livestock and if a viable alternative method is available;
- (b) Applications are generally only considered on roads that are unfenced, or partly fenced;
- (c) If the proposed gate or gate and grid creates an unreasonable obstruction, or disruption to vehicular or pedestrian traffic;
- (d) Submissions received during the public notification period; and

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 3 of 7

(e) The characteristics of the road assessed as follows:

Table of Assessment			
Road Class	Annual Average Daily Vehicle Count	Sealed	Unsealed/Unformed/Formed
10	≤10	Grid with Gate	Grid with Gate or Gate*
30	11-30	Grid with Gate	Grid with Gate
75	31-75	Grid with Gate	Grid with Gate
100	76-100	Consideration may be given for Grid with Gate	
125	101-125	Not Acceptable	
150	126-150	Not Acceptable	
199	>150	Not Acceptable	
*Gates are only considered where:			
(a) The use of a gate in the proposed location is considered by an authorised person to be more appropriate than a grid with a gate; and			
(b) The gate will primarily only impact the responsible person/applicant's property.			

If an application is approved, a Decision Notice Approval is issued to the applicant and is valid to 30 June, for a term of no more than 5 years.

If an application is refused, a Decision Notice Refusal and Information Notice is issued to the applicant. The applicant may request a decision review under Local Law No. 1.

5.3 Approval cancellations or transfers

A responsible person may request cancellation or transfer of an approval under the following circumstances:

- Cancel – ownership of property to which structure relates has been sold;
- Cancel – responsible person seeks to remove/relinquish an approved structure and cancel approval; or
- Transfer to a new responsible person - for example deceased responsible person or property has been sold.

In all cases, the submission of a Gates and Grids Cancellation or Transfer Form is required. Where Council determines that the approval can be transferred, the new responsible person/s will receive a Decision Notice. Any shared responsible persons will receive an updated Decision Notice listing the new shared responsible person/s.

5.3.1 Submission timeframes

The form must be submitted:

- Within 30 business days of the transfer of property ownership, or
- At least 30 business days prior to the responsible person's desired date of the gate or gate and grid removal and termination of their approval term.

Failure to submit within the specified timeframe may result in Council deeming the gate or gate and grid abandoned and initiating procedures in accordance with paragraph 5.6 of this policy.

5.3.2 Remove/relinquish approved structure

For public safety reasons:

- All works associated with the removal of a gate or grid, or a gate and a grid is the sole responsibility of Council;

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 4 of 7

- (b) Responsible person/s or any other individuals must not undertake the removal of the gate or grid or gate and grid or perform any road reinstatement works; and
- (c) Any unauthorised removal or modification of a gate or grid, or gate and grid may result in compliance action.

Council schedules the removal of approved structures within its forward works program, subject to resource availability.

5.3.3 Impact on shared responsible persons

Where a cancellation or transfer submission may affect shared responsible persons that:

- (a) Share responsibility for the gate or grid, or gate and grid; or
- (b) Where the gate or grid, or gate and grid has been declared abandoned,

Council takes all reasonable steps to:

- (a) Notify all shared responsible persons;
- (b) Provide relevant information regarding their options and responsibilities; and
- (c) Ensure transparency prior to transferring responsibility or removing any gate or grid or gate and grid.

5.4 Approval term and renewals

Approvals are granted for the approval period in the Decision Notice.

Transfer approvals remain valid until the end of the current approval period outlined in the Decision Notice.

Council issues a Gates and Grids Approval Renewal Form before the approval expires.

Council assesses renewals to ensure the gate or grid, or the gate and the grid continues to comply with SLL 1.17 and the conditions of approval before issuing a new Decision Notice Approval, however for existing gates or gate and grids refer to paragraph 5.4.1 for the renewal assessment process.

Approved gates or grids, or gates and grids may, as reasonably necessary, be subject to current engineering standards, specifications and assessment requirements where Council considers circumstances have changed and/or community concerns have arisen.

If the approval is not renewed before expiry, Council may consider the gate or grid, or the gate and the grid to be non-compliant and may commence procedures as set out in paragraph 5.6.

5.4.1 Existing gate or grid, or gate and grid

If an existing gate or grid, or gate and grid, the authorised person assesses the structure in accordance with the criteria specified in SLL1.17 and with consideration to the following:

- (a) The general condition and safety of the structure(s) and warning signage, provided existing structures are, in the opinion of the authorised person, of a safe and appropriate standard, they will not be required to meet current engineering standards and specifications;
- (b) The need to contain livestock and if a viable alternative method is available;
- (c) Whether the existing gate or grid, or gate and grid is on a road that is unfenced, or partly fenced;
- (d) If the existing gate or grid, or gate and grid creates an unreasonable obstruction, or disruption to vehicular or pedestrian traffic; and
- (e) The current road classification and usage.

5.5 Obligations of responsible person

Conditions of an approval outline all obligations of the responsible person which may include:

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 5 of 7

- (a) Carrying out all work and/or bearing all costs associated with the permanent signage, installation and maintenance of the gate or grid, or the gate and the grid in accordance with the approved specifications and to the satisfaction of an authorised person;
- (b) Ensuring compliance at all times with the standards and conditions as specified in the approval;
- (c) Constructing drainage in association with the gate or grid, or the gate and the grid to ensure no damming or ponding of stormwater run-off occurs on the road, road reserve or adjoining property or approaches;
- (d) Erecting and maintaining permanent signage in accordance with the Department of Transport and Main Roads Queensland Manual of Uniform Traffic Control Devices;
- (e) Notifying Council at the completion of the work to arrange a final inspection;
- (f) Maintaining the road, for a distance of five metres on each side of the grid in good, sufficient repair; and
- (g) Maintaining public liability insurance and providing Council with a Certificate of Currency and being personally liable for any damage or injury caused by the structure.

5.6 Abandoned or non-compliant gate or grid, or gate and grid

5.6.1 Abandoned gate or grid, or gate and grid

An authorised person may consider that a gate or grid, or a gate and a grid is abandoned for a number of reasons including:

- (a) No new responsible person is identified after 30 business days of a cancellation of an approval holder; or
- (b) An unapproved or non-compliant structure where a responsible person cannot be determined.

In these cases, Council will:

- (a) Erect a public notice at the location of the gate or grid, or the gate and the grid a minimum of 20 business days prior to its removal; and
- (b) After this time, if no application is received, may seize and impound the structure in accordance with Local Law No. 1.

5.6.2 Non-compliant gate or grid, or gate and grid

If at any time, an authorised person considers a gate or grid, or a gate and a grid to be non-compliant. Council:

- (a) Where practical and possible, will liaise with the responsible person to correct the non-compliances; and
- (b) May issue a compliance notice in accordance with Local Law No. 1.

Where non-compliances are not remedied, the structure may be seized and impounded and costs recovered in accordance with Local Law No. 1.

5.7 Fees and charges

An application fee and renewal fee applies as per Council's adopted Fees and Charges Schedule for the current financial year.

There is no fee associated with a cancellation or transfer application.

Application fees are not refundable if an application for an approval is refused or where an approval is cancelled. Fees may be refunded in accordance with Council's Refund, Exemption and Reduction of Fees and Charges Policy.

5.8 Amending, suspending or cancelling approval

Council may consider there are grounds under section 17 of Local Law No. 1 to amend, suspend or cancel an

LEGAL AND GOVERNANCE USE ONLY			
Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 6 of 7

approval. These grounds and procedures are set out in sections 17 – 19 of Local Law No.1.

5.9 Human rights considerations

Council is committed to acting and making decisions in a manner that is compatible with, and gives proper consideration to, the human rights protected under the *Human Rights Act 2019*. In administering this policy, Council ensures that any decisions relating to the approval, installation, maintenance, or removal of gates and grids are undertaken lawfully, fairly, transparently and in a way that does not unreasonably limit the human rights of individuals. Where limitations on human rights are necessary, for example, to protect public safety, maintain road infrastructure or manage risks to the community, Council ensures such limitations are reasonable, justified and proportionate as required under the *Human Rights Act 2019*.

6 Review timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Council.

7 Document management

Sponsor	Chief Executive Officer
Business Owner	General Manager Communities and Lifestyle
Policy Owner	Manager Planning and Regulatory Services
Policy Quality Control	Legal and Governance

LEGAL AND GOVERNANCE USE ONLY

Adopted/Approved:	21 June 2022	Department:	Communities and Lifestyle
Version:	3	Section:	Planning and Regulatory Services
Reviewed Date:	10 April 2026	Page No:	Page 7 of 7