

Gladstone Regional Council

Council Policy

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| Title | GATES AND GRIDS POLICY |
| Policy Number | P-2023-03 |
| Business Unit/s | STRATEGIC ASSET PERFORMANCE |
| Date of Adoption | 16 MAY 2023 |
| Resolution Number | GM/23/4995 |
| Review Date | 16 MAY 2028 |
| Date Repealed | |

1.0 PURPOSE:

This Policy sets out Council's approach to the management of Gates and Grids in Roads in the Gladstone Region.

2.0 SCOPE:

This Policy applies to Council controlled Roads in the Gladstone Region.

3.0 RELATED LEGISLATION:

- *Local Government Act 2009*
- *Transport Infrastructure Act 1994*
- *Transport Operations (Road Use Management) Act 1995*

4.0 RELATED DOCUMENTS:

- Capricorn Municipal Development Guidelines (Standard Drawings and Specifications for Gates and Grids (CMDG-G-019 and CMDG-G-020)
- Gates and Grids Corporate Standard

5.0 DEFINITIONS:

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

Accompanying Gate means the gate installed in the fence adjoining a grid to facilitate the movement of stock, machinery or traffic around a grid in a Formed Maintained Road

Approved Gate means a gate that has Council approval to be placed across a Formed Maintained Road

Approved Grid means a grid that has Council approval to be placed in a Formed Maintained Road

Existing Privately Owned Gates and Grids means gates (excluding Accompanying Gates) and grids that are located on Formed Maintained Roads where ownership has not transferred from the Landholder to Council at the time of adoption of this Policy

Formed Maintained Road means that part of a Maintained Road which is constructed/formed for traffic to drive on (ie. the bitumen or gravel Road pavement)

Landholder means the person (or entity) who would normally be considered the property owner deriving the benefit from a gate or grid in a Formed Maintained Road to contain livestock. Note: Grids that are shared by more than one property may have multiple Landholders

Maintained Road means a Road or parts of a Road that are included in Council's regular Road Maintenance Program

Road has the meaning as set out under Section 59(2) & (3) of the *Local Government Act 2009* –

(2) *A Road is –*

- (a) *an area of land that is dedicated to public use as a Road; or*
- (b) *an area of land that –*
 - (i) *is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and*
 - (ii) *is open to, or used by, the public; or*
- (c) *a footpath or bicycle path; or*
- (d) *a bridge, culvert, ford, tunnel or viaduct.*

(3) *However, a Road does not include –*

- (a) *a State-controlled Road; or*
- (b) *a public thoroughfare easement.'*

Unmaintained Road means a Road that is not maintained by Council under its Road Maintenance Program

Useful Life means an estimate of the average number of years an asset is considered useable before its cost to maintain exceeds the cost to replace, as determined at the sole discretion of Council

Works on Roads Permit means a Council approval under *Local Law No. 1 (Administration) 2011* and *Subordinate Local Law No. 1.15 (Carrying out Works on a Road or Interfering with a Road or its Operation) 2011* to perform works on Council controlled roads.

6.0 POLICY STATEMENT:

6.1 BACKGROUND

The control of all Roads in Queensland (other than State and National controlled Roads) rests with local government and therefore local government has the responsibility for the control of gates and grids on Roads.

To minimise hazards to motorists, it is preferred that no gates or grids be installed on Roads in the Gladstone Region. It is acknowledged however, that it is not always reasonable or practical for

Landholders to fence rural properties adjoining Roads to control stock and prevent stock entering Roads. In some instances, a gate or grid may provide the best overall outcome.

In June 2020, following extensive community consultation in 2019 and 2020, in response to community concerns on landholders being unable to secure public liability insurance for their gates and grids installed on public roads, Council adopted a policy position that gave landholders the ability to transfer ownership of all existing gates and grids in Maintained Roads to Council. Once transferred Council was to insure and maintain the structures at Council's cost. Once a grid or gate reached the end of its useful life, the landholder/s that derives the benefit of the gate/grid was required to pay the cost for Council to replace the gate or grid to Council standards or it would be removed. The Policy replaced Council's Gates and Grids Subordinate Local Law and Council's permit system for gates and grids ceased. During the implementation of the 2020 Policy, Council received complaints regarding the cost for Council to purchase and install gates and grids to Council adopted standards which resulted in some landholders with gates and grids refusing pay for the replacement. As there was no longer a permit system, Council bears some liability for these structures.

To minimise the risks Council resolved to adopt a gates and grids management strategy that accommodates both a Council and Landholder responsibility model as set out in this Policy, that allows landholders to either:

1. Maintain ownership of Existing Gates and Grids in Council controlled Roads subject to the Landholder maintaining a Council permit for each structure which places the maintenance, repair, insurance, liability and replacement responsibilities with the Landholder; or
2. Transfer Existing Gates and Grids to Council, subject to the Landholder paying for Council to replace the structure/s (if approved) at the end of Useful Life.
3. Any proposed new gates and grids in Maintained Roads (if approved) once installed being immediately transferred to Council for ongoing management, with replacement at the cost of the benefiting Landholder/s at the end of Useful Life.

6.2 EXISTING PRIVATELY OWNED GATES AND GRIDS IN ROADS

6.2.1 Permit System for Existing Privately Owned Gates and Grids

Landholders that have Existing Privately Owned Gates and Grids in Maintained Roads will be required to obtain and maintain a permit from Council for the structures under Council's Gates and Grids Subordinate Local Law once adopted.

In the interim until a Gates and Grids Subordinate Local Law is in place, Landholders that have Privately Owned Gates and Grids in Maintained Roads should ensure that they:

- a) Have an appropriate level of public liability insurance for their Privately Owned Gates and Grids in Maintained Roads
- b) Maintain gates and grids in a safe and trafficable condition through regular inspection, maintenance and repair work

- c) Prior to carrying out any maintenance and repair work to Existing Privately Owned Gates and Grids, obtain a Council Works on Roads Permit and comply with the conditions of the permit when performing permitted works
- d) Comply with any Compliance Notices issued by Council.

6.2.2 Replacement of Existing Privately Owned Gates and Grids

- a) The replacement of Existing Privately Owned Gates and Grids will be subject to an assessment in accordance with the dot points set out in Section 6.4.2 a)
- b) Existing Privately Owned Gates and Grids must be replaced at the Council adopted standards
- c) Replacement of Existing Privately Owned Gates and Grids under this section can be performed by the Landholder subject to the Landholder obtaining and complying with a Works on Roads Permit.

6.2.3 Transfer of Existing Privately Owned Gates and Grids to Council

Landholders may transfer Existing Privately Owned Gates and Grids to Council at any time, at which time any Gate and Grid Permit issued under the Gates and Grids Subordinate Local Law will lapse.

6.3 GATES AND GRIDS TRANSFERRED TO COUNCIL

Council will manage those gates and grids in Formed Maintained Roads where ownership has been transferred to Council in accordance with Section 6.4.3.

6.4 MAINTAINED ROADS

6.4.1 Maintained Roads – Standard for Gates and Grids

- a) All grids in Council controlled Maintained Roads must have an Accompanying Gate in the fence adjoining a grid, to facilitate the movement of stock, machinery or traffic around the grid should it be required, unless Council provides an exemption due to the nature of the surrounding terrain, or, on other reasonable grounds.
- b) Gates across a Formed Maintained Road will generally only be considered where:
 - The Maintained Road is not a through Road; and
 - The Maintained Road past the point of the gate only serves the applicant Landholder's property

Approved Gates across a Formed Maintained Road must not to be locked to prevent public access.

- c) Grids in Maintained Roads are to be progressively upgraded generally at the end of their Useful Life, to comply with Council's adopted standards.

6.4.2 Maintained Roads - Key Principles for the Assessment of New Requests

- a) Council will apply the following key principles when assessing requests to install a new grid and Accompanying Gate, or a gate only, in a Maintained Road at a location that does not already have a gate or grid installed, or where it is proposed to include a section of Unmaintained Road that contains gates or grids, into the Maintained Road network:
- It is Council's long-term goal to have no gates or grids on Maintained Roads under its control except where it is the best overall outcome
 - The visibility, safety and risks in locating a gate or grid at the requested location
 - The Road classification and the level and type of traffic using the Road (current and projected for the term of the gate or grid's Useful Life)
 - What alternative options have been investigated by the Landholder to contain stock on their property (for example: fencing)
 - Any other factors or issues that the Landholder or Council considers relevant to the request.
- b) Where a new grid and Accompanying Gate is approved:
- The Landholder is responsible for funding the cost for Council to provide and install the grid to Council's standard in the Formed Maintained Road
 - The Landholder is responsible for installing the Accompanying Gate in the fence adjacent to the grid, at the location and width required by Council.
- c) Where a gate only has been approved across the Formed Maintained Road, the Landholder is responsible for funding the cost for Council to provide and install the gate across the Maintained Road to Council's standard.
- d) Once installed, all gates and grids in Formed Maintained Roads will become the property of Council and will be managed in accordance with Section 6.4.3.

6.4.3 Maintained Roads – Transferred Approved Gates and Approved Grids

Council will manage Approved Gates and Approved Grids in Formed Maintained Roads transferred to Council on the following basis:

Council will insure, inspect, maintain and repair existing Approved Grids and Approved Gates in Formed Maintained Roads until the end of the structure's Useful Life

- a) Landholders are to inspect, maintain and repair the Accompanying Gate in the adjoining fence to an Approved Grid
- b) At the end of an Approved Gate or Approved Grid's Useful Life, Council will work with the Landholder to assess if it should be replaced or removed, applying the principles set out in the dot points in Section 6.4.2 a)
- c) Where Council determines, on balance, that it is the best overall outcome for an Approved Gate or Approved Grid in the Formed Maintained Road to be replaced, the Landholder is responsible for the cost of Council replacing and installing the structure.

6.4.4 Maintained Roads – Unapproved Gates and Grids

Council reserves the right to remove any gate or grid from a Formed Maintained Road that has not previously been approved by Council, or following adoption of this Policy, a gate or grid that has been installed in a Formed Maintained Road without Council approval.

6.4.5 Maintained Roads – Approved Gate and Approved Grid Removal

Where Approved Gates or Approved Grids are at the end of their Useful Life and won't be replaced, or are no longer required, Council will remove the structures and reinstate the Formed Maintained Road at Council's cost. Landholders may elect to salvage materials from the removed gate and/or grid at the landholder's cost.

6.5 UNMAINTAINED ROADS

For gates or grids on Unmaintained Roads, no application process or prescribed design and construction standards will be applied provided that:

- a) A sign is installed at the end of the Maintained Road prior to the gate or grid with the following words 'End of Council Maintained Road. Continue at your own risk.'
- b) The Landholder is responsible for insuring, inspecting, maintaining, repairing and replacing the gates and grids in a safe and trafficable condition
- c) As a safety precaution in the event that the public elect to use an Unmaintained Road, when the Landholder is carrying out work on a gate or grid on the Unmaintained Road, they must erect temporary warning signs advising that work is in progress, in advance of the location where the work is being carried out.

Before an Unmaintained Road will be accepted onto a Council Road Maintenance Program, any gates (excluding an Accompanying Gate) and grids installed on this section of Road must be approved applying Section 6.4.2, and if approved upgraded to Council's standards at the Landholder's cost, or alternatively, be removed and the Road fenced.

7.0 ATTACHMENTS:

Nil

8.0 REVIEW MECHANISM:

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

1. The related legislation or governing documents are amended or replaced; or
2. Other circumstances as determined by resolution of Council or the CEO; or
3. Five (5) years from date of adoption.

| TABLE OF AMENDMENTS | | | |
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| Document History | Date | Council Resolution No. | Notes (including the prior Policy No, precise of change/s, etc) |
| Originally Approved | 17 June 2014 | G/14/2033 | |
| Amendment 1 | 17 November 2015 | G/15/2645 | P-2015/27 |
| Amendment 2 | 16 June 2020 | G/20/4221 | Formerly P-2015/27 New policy based on new position for responsibility and changes made to Subordinate Local Laws. |
| Amendment 3 | 16 May 2023 | G/23/4995 | Formerly P-2020-03 New policy that reintroduces a Subordinate Local Law and provides two options for landowners – retain responsibility for Gates and Grids under permit or transfer responsibility to Council |

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 LEISA DOWLING
 CHIEF EXECUTIVE OFFICER