

## 5.2. CATTLE GRID POLICY

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**DEPARTMENT** Infrastructure

### RECOMMENDATION

**That Council adopts the Cattle Grid Policy.**

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### EXECUTIVE SUMMARY

Prior to 2008, all grids on public roads in the shire were licensed and had to be registered with the Council. Grid owners were required to apply for a permit each year. Those wanting to install a new grid, were required to apply for approval which was granted on the condition it was designed and installed to a certain standard.

While the Local Law applicable to grids is still in place, Council has not applied the law since 2008.

By not applying the Local Law, and in the absence of a grid policy, it is unclear where responsibility for safety lies. This means there is a risk Council may be held liable for any damage to vehicles, or any personal injuries, caused by a faulty grid.

This risk can be reduced by applying the Local Laws relating to grids and adopting a Grid Policy.

### BACKGROUND

There are eleven known cattle grids in Douglas Shire. Nine are in the valleys around Daintree Village and two are on China Camp Road.

Prior to 2008, all grids on public roads in the shire were licensed and had to be registered with the Council.

Grid owners were required to apply for a permit each year which required them to maintain the grid in accordance with certain conditions. Grid owner were required to provide copies of their current public liability insurance.

Those wanting to install a new grid, were required to apply for approval which was granted on the condition it was built to an agreed standard and have RPEQ Certification.

While grids on roads are considered a prescribed activity requiring Council approval under the Douglas Shire Subordinate Local Law No. 1 (Administration) 2020, Council has not issued any approvals since 2008, nor has it requested applications for new grids be submitted.

## COMMENTS

While Council does regular grid inspections, there is no formal record kept of the defects or rectification actions completed by grid owners. As recently as October 2021, a conversation on Instagram alerted Council to a faulty grid and while the grid owner replaced the grid within a week of being notified, it was reactive, rather than proactive.

The Local Law relating to grids installed across Council-controlled roads includes a clause stating the approval holder is responsible for maintaining the grid in a condition that does not cause a potential safety hazard. It also requires the approval holder maintain the road for a distance of 10 metres on each side of the gate or the grid in good and sufficient repair and exhibit specified signage warning traffic and pedestrians about the gate or grid on the road and maintain the signs unless or until the gate or grid is removed.

At present there are no approval holders and in the absence of a grid policy to establish the framework for Council's management of new and existing grids, it is unclear where the responsibility for safety lies.

By applying the existing Local Law, the responsibility for maintaining the grids so they are safe clearly rests with the grid owner who is the approval holder. It also has the benefit of requiring Council to keep a formal register of grids and grid owners where the results of regular inspections would be kept along with confirmation of all rectification work completed. The register would also hold a copy of the current public liability insurance policies.

A Grid Policy will further clarify the Council's position and responsibility of safety around both new and existing grids.

## PROPOSAL

That Council adopts the Cattle Grid Policy.

## FINANCIAL/RESOURCE IMPLICATIONS

The financial implication for current grid owners is they will be required to pay an annual permit fee. This is currently \$55 per annum. Those wanting to install a new grid will be required to pay \$350 and the cost associated with obtaining RPEQ Certification.

The financial implication for the Council is negligible. With eleven grids, annual revenue will be around \$605, plus \$350 per new grid application, the latter which will be few and far between. There will be additional administrative duties but given the small number of grids in the shire, it will be insignificant and will be covered by existing staff within the infrastructure team.

## RISK MANAGEMENT IMPLICATIONS

The Local Law states the Approval Holder is responsible for maintaining the grid to ensure it does not cause a potential safety hazard. At present there is no Approval Holder, so if there is an issue with a grid, there is a risk Council will be held liable for any damage to vehicles, or any personal injuries caused by a faulty grid.

This risk will be reduced by applying the Local Laws relating to grids and adopting the Grid Policy.

## SUSTAINABILITY IMPLICATIONS

**Economic:** Nil

**Environmental:** Nil

**Social:** Nil

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### Corporate Plan 2019-2024 Initiatives:

#### Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

**Goal 1** - *We will conduct Council business in an open and transparent manner with strong oversight and open reporting.*

## COUNCIL'S ROLE

Council can play several distinct roles in certain circumstances, and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Regulator** Council has several statutory obligations detailed in many regulations and legislative Acts. Council also makes local laws to ensure the Shire is well governed. In fulfilling its role as regulator, Council will use an outcomes-based approach to balance the needs of the community with social and natural justice.

## CONSULTATION

**Internal:** Local Laws, Management Team, Infrastructure and Governance

**External:** Nil

## ATTACHMENTS

1. Grids Policy No. 81 2022 [5.2.1 - 4 pages]

## GRID POLICY NO.81

### Intent

This policy establishes the framework for Council's management of new and existing grids across local government-controlled roads to ensure any adverse impacts on vehicles and pedestrians are minimised.

### Scope

This policy applies:

- (a) to the installation and construction of a new grid on a local government-controlled road.
- (b) to the maintenance of existing grids on local government-controlled roads.

### Definitions

TERM	DEFINITION
<b>Ancillary Works and Encroachments</b>	For the purposes of this policy, includes grids.
<b>Approval</b>	An Approval issued by Council pursuant to Local Law No. 1 (Administration) 2020 and Subordinate Local Law No. 1 (Administration) 2020, prior to the installation of a grid on a local government-controlled road.
<b>Approval Holder</b>	The person to whom an Approval is issued by Council and is responsible for the ongoing maintenance of the grid and for ensuring compliance with the conditions of Approval.
<b>Council</b>	Douglas Shire Council
<b>Grid</b>	A structure designed to permit the movement of pedestrians or vehicular traffic along a road but prevents the passage of livestock.
<b>LGA</b>	Local Government Act 2009 (Qld).
<b>Local Government Controlled Road</b>	All roads in Council's local government area which it is responsible for controlling. This excludes State controlled roads and public thoroughfare easements.
<b>LL1</b>	Douglas Shire Council Local Law No. 1 (Administration) 2020.
<b>Required Fee</b>	The cost of applying for an Approval pursuant to Council's Fees and Charges, adopted annually.
<b>Road</b>	Has the meaning as set out in section 59 of the Local Government Act 2009.
<b>SLL1</b>	Douglas Shire Council Subordinate Local Law No. 1 (Administration) 2020 Schedule 32 Carrying out works on a road or interfering with a road or its operation.
<b>Standards</b>	The terms and conditions specified in the Approval granted to the Approval Holder by Council for the installation of a grid on a local government-controlled road.

## Policy Objectives

To provide a comprehensive standard for:

- (a) people seeking to install and construct a grid on a local government-controlled road.
- (b) the maintenance standards expected for existing grids; and
- (c) Council's enforcement response to non-compliance with an Approval and/or where existing grids become defective or fall into a state of disrepair.

## Principles

Section 60 of the Local Government Act 2009 (Qld) specifies Council has control of all roads in its local government area. Council acknowledges the power to control all roads in its local government area includes making a local law "to regulate the construction, maintenance and use of ancillary works and encroachments along, in, over or under roads" (s.60(2)(f)(ii)).

Council acknowledges its obligations pursuant to section 60 of the LGA is to allow for the safe and unimpeded movement of all traffic.

The installation of a new grid is considered a prescribed activity under Council's local laws and must be approved by Council prior to the construction.

Any cost involved in the construction of a new grid or maintenance of an existing grid will be the sole responsibility of the Approval Holder.

## Policy Statement

To ensure a consistent standard regarding the construction, maintenance and compliance requirements for all grids across local government-controlled roads, Council will ensure adherence to its Local Laws.

- (a) **New Grids – Construction and Installation**
  - A person seeking to install a grid across a local government-controlled road will be required to apply to Council on the approved Form [ISO4], pay the required fee and provide all the required information and supporting documentation requested.
  - An engineer's report is required to confirm the structural adequacy of the design to accommodate anticipated vehicle loadings.
  - Upon completion, the new grid must have Registered Professional Engineer of Queensland Certification.
  - The person seeking Approval is solely responsible for payment of the Required Fee.
  - The installation of signs associated with the grid will be to the required standard and at the cost of the Approval Holder.
- (b) **Existing Grids – Maintenance Requirements**
  - Council will do regular inspections of grids and a condition assessment report will be provided to the Approval Holder.
  - The Approval Holder is to arrange for all remedial actions identified in the condition assessment report to be completed within the timeframe specified. If an Approval Holder disputes the necessity or scope of the defects and remedial actions, the matter will be referred to Council. If agreement cannot be reached, the Approval Holder may provide independent engineering advice and certification at their cost.
  - Where removal is required, Council will remove the grid at no cost to the Approval Holder, provided that person requests Council's assistance within 60 days of being provided with the condition assessment report.
- (c) **Defective Grids – Compliance Requirements**
  - If a grid is found to be defective, Council will:
    - (i) Notify the Approval Holder by way of Compliance Notice under LL1, requiring the Approval Holder to address the non-compliance; or
    - (ii) If there is no Approval, Council will remove the grid.

## Roles And Responsibilities

- a) New Grids – Construction and Installation
  - A person must make an application to Council and pay the Required Fee prior to commencing installation and construction of a grid.
  - Council’s Authorised Persons are required to assess the application against the Local Laws and if satisfied the application meets the requirements, approve the application.
  
- b) Existing Grids – Maintenance Requirements
  - The Approval Holder must:
    - (i) Maintain the grid in accordance with conditions of Approval.
    - (ii) Maintain the road for a distance of 10 metres on each side of the grid in good and sufficient repair
    - (iii) Maintain the signs warning traffic and pedestrians about the grid on the road unless or until the gate or grid is removed
  - Council will do a compliance inspection of grids on a regular basis, usually at least every two years, unless determined otherwise by Council.
  
- c) Defective Grids – Compliance Requirements
  - Council is responsible for doing regular compliance inspection of grids and issuing a Compliance Notice to the Approval Holder.
  - The Approval Holder is required to address any non-compliance as per the Compliance Notice.
  - Council is responsible for further enforcement action if required.

## Applicable Legislation And Regulation

Applicable legislation and regulation:

- (a) *Local Government Act 2009 (Qld), section 60(1) and (2)(f)(ii).*
- (b) *Douglas Shire Council Local Law No. 1 (Administration) 2020; and*
- (d) *Douglas Shire Council Subordinate Local Law No. 1 (Administration) 2020 Sch 32.*

## Policy Review

This policy is to be reviewed whenever legislation changes or at the direction of the Chief Executive Officer.

## Policy Details

Policy Name	Grid Policy
Policy Number	81
Policy Version	1
Document Number	1068815
Endorsed by	Chief Executive Officer
Policy Type	Council
Approval Authority	Douglas Shire Council
Date Adopted	TBA
Time Period	Two Years
Policy Department	Infrastructure
Link to Corporate Plan	Robust Governance and Efficient Service Delivery

Revoked/Superseded	
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This policy is to remain in force until otherwise determined by Council.