

5.7. CATTLE GRID POLICY - JUNE 2022

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RECOMMENDATION

That Council adopts the Cattle Grid Policy.

EXECUTIVE SUMMARY

There are ten known cattle grids on public roads in Douglas Shire.

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

While grids on roads are considered a prescribed activity requiring approval under current local laws, Council has not issued any approvals since 2008. This makes it unclear as to who is responsible for keeping the grids safe.

Having a grid policy and applying the existing Local Laws around grids, will remove any doubt as to who is responsible for maintaining the grids to ensure safe travel for vehicles and pedestrians. It should be noted that the intention of this policy is to establish a framework for management of new and existing grids within the Douglas Shire area.

BACKGROUND

There are ten known cattle grids on public roads in Douglas Shire. Eight are on roads up 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 applied for a permit each year which required them to maintain the grid in accordance with certain safety conditions. They were also required to provide copies of their current public liability insurance.

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.

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 in good and sufficient repair for 10 metres on either side of the grid and exhibit specified signs warning traffic and pedestrians about the grid on the road and maintain the signs unless or until the 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.

Once finalised, Council will provide a copy of the Cattle Grid Policy to all seven landowners. And to confirm ownership, landowners will be asked to lodge a Prescribed Activity Application for any grids they wish to retain. The application will need to include a copy of their current Public Liability Certificate valued at \$20 million with Douglas Shire Council noted as an interested party.

Where a person requesting retention of a grid is not an adjoining landowner, they will need to attach the adjoining landowner's consent.

Landowners proposing a new grid in a new location will also be required to lodge a Prescribed Activity Application. To be approved, all new grids will require RPEQ Certification, and the required weight limit of the grid will be determined by assessing the weight and axle configuration of all known vehicles using the road. With all grids, there is a requirement to have a gated side road to provide an alternative route for vehicles which exceed the weight limit of the grid.

Approvals will be renewed annually from 1 September through to 31 August and approvals issued between now and September 2022 will carry through until 31 August 2023.

By applying the existing Local Law and having a policy in place, the responsibility for maintaining the grid in a condition that does not cause a potential safety hazard clearly rests with the Approval Holder.

It also has the added 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.

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 are required to pay \$350 and the cost associated with obtaining RPEQ Certification.

The financial implication for the Council is negligible. With ten grids, annual revenue will be around \$550. There may be one-two new grids in the next ten years.

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 Amendment June (1) [5.7.1 - 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
Ancillary Works and Encroachments	For the purposes of this policy, includes grids.
Approval	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.
Approval Holder	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.
Council	Douglas Shire Council
Grid	A structure designed to permit the movement of pedestrians or vehicular traffic along a road but prevents the passage of livestock.
LGA	Local Government Act 2009 (Qld).
Local Government Controlled Road	All roads in Council's local government area which it is responsible for controlling. This excludes State controlled roads and public thoroughfare easements.
LL1	Douglas Shire Council Local Law No. 1 (Administration) 2020.
Required Fee	The cost of applying for an Approval pursuant to Council's Fees and Charges, adopted annually.
Road	Has the meaning as set out in section 59 of the Local Government Act 2009.
SLL1	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.
Standards	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 [IS04], 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, removal of the grid and reinstatement of the road is the responsibility of the Approval Holder.

(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 take remedial action;
 - (ii) If the Approval Holder fails to either, address the all the non-compliance issues or remove the grid, within the timeframe specified, Council will remove the grid, reinstate the road and recoup costs from the Approval Holder;
 - (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) Existing Grids – Insurance Requirements

- (i) maintain public liability insurance for an amount as determined by the local government covering the activity which indemnifies the local government in respect to any liability arising from the activity.
- (ii) the approval holder must indemnify the local government against claims for personal injury (including death) and damage to property (including economic loss) arising by, through or in connection with the activity.

d) 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	1091524
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	

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