Procedure

Procedure Title:Public Gates and Bypasses (Cattle Grids)Procedure Number:11.10Focus Area:CS2 Great SupportResponsibility:Asset PlanningAuthorisation:12 August 2021



Purpose

To reduce the exposure of the landowner and Council to the possibility of a claim through the management of the risks associated with Public Gates and Bypasses.

Scope

All matters relating to the administration and management of Public Gates and Bypasses (Cattle Grids) on the Richmond Valley Council Road Network.

Procedure

1. Approval

Council is given the ability to issue Public Gate Permits under the *Roads Act 1993* and the Roads (General) Regulation 2008. A Public Gate Permit can only be granted where the following conditions are met:

- i. The road must be unfenced.
- ii. The road must pass through a parcel of land owned by the applicant.
- iii. The public gate must be placed at a point where the road intersects a boundary fence.
- iv. Is not an excluded road as defined in Table 1 below:-

Table 1 – Bypass Requirements/Exclusions

Road Classification	Bypass Type Required	
State Highway or Regional Roads	Not Permitted	
Arterial and Sub-arterial	Not Permitted	
Collector	Not Permitted	
Major Local (AADT>200)	Double Cattle Grid and Gate	
Minor Local (AADT<200)	Single Cattle Grid and Gate	
	Public Gate or Grid	

All costs associated with the construction and maintenance of a Public Gate and Bypass is the responsibility of the owner of the land parcel the Public Gate Permit has been granted to. <u>The responsibility for the Public Gate Permit is also transferred with the sale of the land</u>. Refer to Attachment A for Relevant Legislation for Approvals.

2. Application for Public Gate Permit

2.1 <u>Submitting an Application</u>

To apply for a Public Gate Permit the owner of the land through which the public road passes must complete the Public Gate Permit Application Form and pay the applicable Application Fee and Construction Bond as set down annually in Council's Revenue Policy.

For further explanation of the procedure to be followed refer to Attachment B - Flowchart for Permit Applications and Attachment C - Public Gate Permit Application Form.

2.2 Application Refused

If an application is refused, the application fee will not be refunded but the construction bond will be refunded, and the application advised in writing that the application has been rejected and reasons will be outlined.

2.3 <u>Unregistered (Illegal) Public Gates and Bypasses</u>

Owners of existing unregistered Public Gates and Bypasses will be required to lodge a Public Gate Permit Application with Council. The applicant will be required to identify whether the current condition of the structure complies with the defined standard and to advise current Public Liability Insurance details for the structure.

The condition of the structure must comply with the standard to enable a permit to be issued. In cases where the current condition of the structure does not comply with the standard and presents a significant Public Liability risk to the owner, Council will negotiate with the owner to identify appropriate measures to be taken. These may include:

- i. Elimination of the Public Gate and Bypass by fencing the road reserve.
- ii. Upgrading the Structure to current Standards.
- iii. Replacing the Structure to current Standards.

2.4 <u>Request for Submissions</u>

When an unregistered Public Gate or Bypass is bought to Council's attention a standard letter is to be sent to all surrounding land owners requesting submissions concerning the removal of the specified structure within a period of 30 days. The letter may also indicate the results of the field inspection which initiated the letter. In conjunction with the issuing of the letter to the responsible parties a notice will be placed on the specific grids/gates. All responses received will be judged on merit and a decision on the future of the grid will be made by the Director Projects and Business Development.

2.5 <u>Removal of Unregistered Public Gates and Bypasses</u>

If no response is received following a Request for Submissions, Council will take action to remove the structure from the road reserve. The adjoining land owners are to be notified a minimum of 30 days prior to the removal of the structure to allow provisions to be made for the containment of stock. The containment of any livestock always remains the responsibility of the land owner and Council bears no responsibility for damage or injury arising from loose livestock.

The costs of removing the structure and impounding of livestock, are able to be recovered by Council from the adjoining land owners. Where the adjoining landowner has fully fenced the road frontage of their property, they will not be required to contribute to the costs of removing the structure. Any materials salvaged will remain the property of Council.

3. Construction Standards

All work is to be carried out in accordance with the NSW Occupational Health and Safety Requirements, the *Roads Act 1993*, Roads (General) Regulation 2008, Industry Standards and applicable Australian Standards. Council will provide guidance if required. In certain circumstances it may be necessary to provide design details for the structure to cater for HS20-T44 and be certified by a Structural Engineer. A number of companies manufacture prefabricated cattle grid units. Subject to their design specifications being referred to Council, such units will be approved for use. Council may be able to provide details of manufacturers if required.

Attachment D shows the Public Gate Construction Specification and Attachment E shows a Diagrammatic Representation of the Construction of a Public Gate and Bypass (Cattle Grid).

3.1 <u>Trafficable Width</u>

The trafficable width of any cattle grid bypass shall be the greater of the minimum standard trafficable width of the road class and the existing formation width. Where an existing Public Gate and Bypass has been constructed with a width less than this, the signage provided should include a "NO OVERTAKING OR PASSING" warning sign (R6-1A) on each approach.

3.2 <u>Public Gate</u>

The Public Gate shall be made of resilient material of a minimum width 3.6 metres and should be arranged to be free swinging and shall remain unlocked. The gate, any support structures and fencing within the road reserve must be painted white.

3.3 <u>Cattle Grid Side Track</u>

The cattle grid side track which services the Public Gate is to be constructed to a Standard such that it is negotiable by normal two-wheel drive vehicles in all weather.

3.4 <u>Signage</u>

Signage is to be erected as per AS1742.2 Manual of Uniform Traffic Control Devices – Traffic Control Devices for General Use. This required a "GATE" (W5-15) or "GRID (W5-16) warning sign on either side of the Public Gate between 50m and 200m from the structure. A "Public Gate" sign is also to be displayed on the gate clearing showing the Permit Number. A set of G9-206 (L) and G9-206 I chevrons are also required on either side of the structure. Where the trafficable width is less than the width of the road approaches signage provided much include a "NO OVERTAKING OR PASSING" warning sign (R6-1A) on each approach.

4. Maintenance Standards

4.1 <u>Structural Components</u>

The Public Gate Permit holder is responsible to maintain the structure and signage of the Public Gate and Bypass to ensure compliance with the Construction Standards. All maintenance work is to be carried out in accordance with the NSW Work Health and Safety 2011 requirements, the *Roads Act 1993*, Road (General) Regulation 2008 and applicable Australian Standards.

4.2 Road Carriageway

The owner may not carry out maintenance works on a carriageway unless previously approved by Council. Maintenance of sealed road pavements shall be carried out by Council only. Council may carry out maintenance of the carriageway within this distance from the structure at the owner's expense.

4.3 Failure to Maintain

Failure to ensure that maintenance on grids is carried out may result in Council revoking the Public Gate Permit and removing the structure from the road reserve. Council will order the Public Gate Permit Holder to conduct repair works prior to taking any such action. If the Public Gate Permit Holder fails to meet the requirements of an Order, then the Permit will be revoked, and the structure removed from the road reserve.

All costs associated with the removal of structures will be recovered from the Permit Holder and all materials salvaged shall remain the property of Council.

4.4 <u>Public Gates and Bypasses in a Dangerous Condition</u>

Where a Public Gate or Bypass is deemed to be in a dangerous condition and the Public Gate Permit holder cannot be quickly contacted, the grid will be temporarily repaired by Council at the Public Gate Permit Holders cost. This will include any steps the Director Projects & Business Development deems as necessary to make the structure safe for traffic and may include temporary filling the cattle grid with compacted gravel or complete removal of the grid. The Public Gate Permit Holder will be held solely responsible for any damage or injury caused by the structure.

4.5 <u>Penalty for Non-Compliance</u>

If any person fails to carry out their obligations under this procedure following the serving of the various notices and requests from Council Officer, the statutory procedures for compliance and the levying of penalties as contained in the *Roads Act 1993* will be applied.

5. Inspections

5.1 <u>Proactive Inspections</u>

The owner is responsible for carrying out regular inspections to ensure the facilities comply with specified Standards. Council staff will inspect Public Gates and Bypasses as part of scheduled Road Network Inspections. Any identified condition defects will be advised to the owner for attention.

5.2 <u>Reactive Inspections</u>

Council staff will respond to Council's Request Action Management System (CRMS) and any defects observed during the course of such inspections, will be advised to the owner for attention.

6. Annual Compliance Review

Compliance of the structures with the Construction and Maintenance Standards will be reviewed annually. Council will advise the owner when the review is due in writing including providing a Public Gate and Bypass Inspection Report (Refer to Attachment F). The owner is required to carry out a condition inspection of the structure and submit a Certificate of Currency of Public Liability Insurance with a minimum cover of \$20,000,000 for the structure and return the forms to Council within 14 days. Council will conduct a quality audit check of the information submitted and inspections of structures at random to check accuracy of condition inspections. If the structure is found not to comply with requirements, or the Public Liability Insurance is invalid or inadequate, Council may revoke the Public Gate Permit and the owner asked to remove the Structure.

7. Public Gates Records

The following list provides a guide to Council Staff and Public Gate Permit Applicants to the documents and information to be tracked and recorded in relation to the issuing of Public Gate Permits.

7.1 Upon Application

- i. Application form(s) (ensuring all information is completed as required)
- ii. Associated plans
- iii. Details of fees paid and receipt numbers.

7.2 Initial Inspection

- i. Inspection Report
- ii. Photos or drawing made during inspection
- iii. Supporting information in relation to site suitability (e.g. site distance measurements, road width etc.)
- iv. If site found unsuitable, a record of the written reply and refund of construction bond should be kept.

7.3 <u>Community Consultation</u>

- i. Copies of advertisements requesting submissions
- ii. Any submissions received
- iii. Any written or verbal replies to submissions
- iv. Brief report on the review of submissions and bypass determination.
- 7.4 Conditional Approval
- i. Written notification to applicant detailing conditions and bypass requirements.

7.5 <u>Construction Approval</u>

- i. All documentation submitted by the applicant. As a minimum must include:
 - a. Design and layout of proposed structure
 - b. Construction contractors' insurance details
 - c. Traffic Management Plan
 - d. Certificate of Currency of Public Liability Insurance for the proposed structure with a minimum cover of \$20,000,000
- ii. Notification to Applicant for approval of design and Traffic Management Plan and acknowledgment of receipt of insurance details.
- 7.6 <u>Construction Inspection/s</u>
- i. Inspection Report
- ii. Photos or drawings made during inspection
- iii. If construction is found to be below standard or not to specifications
 - a. Detailed list of defects identified during inspection
 - b. Written or verbal notification to applicant or Construction Contractor
 - c. Follow up inspection details.

7.7 Final Approval

- i. Written notification to applicant including Public Gate Permit Number
- ii. Authorisation of Release of Construction Bond
- iii. Update Register of Public Gates with the following minimum information:
 - a. Permit Number
 - b. Applicant's Name
 - c. Date of Application
 - d. Date of Advertisement
 - e. Date of Determination
 - f. Construction and Bypass requirements
 - g. Location of Public Gate
 - i. Road name and chainage from start datum or cross road
 - ii. Legal description of properties adjoining structure (Lot/Section/DP)
 - h. Legal description of responsible land parcel (Lot/Section/DP).
- 7.8 Periodic Inspections
- i. Any inspection reports submitted by Permit Holder
- ii. Council Officer inspection reports
 - a. Inspection report, photos, drawings etc.
 - b. Written advice to Permit Holder of any defects identified
 - c. Reference to Council's Request Action Management System (CRMS)
- 7.9 Annual Compliance Review
- i. Copy of Public Gate and Bypass Inspection Report Form completed by applicant
- ii. Certificate of Currency of Public Liability Insurance to a minimum cover of \$20,000,000 for the proposed structure
- iii. Any inspection report completed if a quality audit check is conducted.

References

Council Policy - Public Gates and Bypasses (Cattle Grids) *Roads Act 1993* Roads (General) Regulation 2008

Review

This policy will be reviewed at the time of any relevant legislative changes, compliance requirements or at least every two years.

Version Number	Date	Reason / Comments
1	03/06/2015	New procedure
2	12/08/2021	Review (minor changes)

Attachment A

Relevant Legislation

Extracts from the *Roads Act 1993* and Roads (General) Regulation 2008

Roads Act 1993 Division 2 Public gates

128 Roads authority may grant permit

- (1) A roads authority may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.
- (2) A permit may not be granted with respect to a classified road except with the concurrence of the TfNSW.
- (3) A roads authority must cause notice of the granting of the permit to be published in a local newspaper.
- (4) The occupier for the time being of the land to which a permit relates is taken to be the holder of the permit.

129 Erection and maintenance of public gates

- (1) The holder of a public gate permit may, at any time after one month from the publication of the notice of the granting of the permit, erect a gate in accordance with the permit.
- (2) The holder of a public gate permit must ensure that:
 - (a) a notice is attached to both sides of the gate bearing the words "PUBLIC GATE" in letters at least 75 millimetres high, and
 - (b) both the gate and the notice are maintained in good condition.

Maximum penalty: 10 penalty units.

130 Revocation of permit

- (1) The roads authority may at any time revoke a public gate permit.
- The occupier of the land the subject of a public gate permit that has been revoked must remove the gate within one month after notice of the revocation is served.

Maximum penalty: 10 penalty units.

131 Effect of permit

While a public gate permit is in force, the public gate to which it relates is taken not to constitute a public nuisance and does not give rise to an offence against this or any other Act.

132 Offences with respect to public gates

 A person must not cause any damage to a public gate or to any notice attached to the gate in accordance with this Division.
Maximum penalty: 10 penalty units.

- A person who opens a public gate must cause it to be closed again immediately after it has been used.
 Maximum penalty: 10 penalty units.
- (3) A person who fails to cause a public gate to be closed is liable for any loss or damage suffered by the occupier of the land adjoining the public road on which the gate is situated as a result of the gate having been left open.

133 Construction of by-pass around road gate

- (1) An occupier of land adjoining an unfenced public road across which a public gate is situated at the point where the road intersects a boundary fence:
 - (a) must not, unless the appropriate roads authority so permits, and
 - (b) must, if the appropriate roads authority so requires, construct a by-pass for vehicles at the intersection of the road with the boundary fence.

Maximum penalty: 10 penalty units.

- (2) The roads authority may not permit or require the construction of a by-pass:
 - (a) if the by-pass is to be used in connection with a public gate across a main road, except with the concurrence of the TfNSW, and
 - (b) if the public gate is part of a rabbit proof, dog proof or marsupial proof fence, except with the concurrence of the local rural lands protection board.
- (3) A by-pass is to consist of:
 - (a) a ramp to allow vehicles to be driven over the top of the boundary fence, or
 - (b) a cattle grid or sheep grid located beside the gate and must be constructed in accordance with such specifications as may be approved by the roads authority.
- (4) If the appropriate roads authority so requires, the person permitted or required to construct a by-pass:
 - (a) must construct the by-pass along the line of the road, and
 - (b) must re-locate the gate beside the by-pass.
 - Maximum penalty: 10 penalty units.
- (5) The occupier for the time being of land to which a permit relates is taken to be the holder of the permit.

134 Notice board to be erected at by-pass

- (1) The occupier of land on which a by-pass is constructed must ensure that:
 - (a) a notice, in the form required by the appropriate roads authority, is exhibited on a conspicuous notice board near each end of the by-pass, and
 - (b) both the by-pass and the notice are maintained in good condition.
 - Maximum penalty: 10 penalty units.
- (2) A notice may prohibit vehicles exceeding a specified laden weight from being driven over the by-pass.
- (3) If the appropriate roads authority requires a person to construct a by-pass, that authority may contribute to the cost of construction and erection of the notices.

135 Closing of by-pass

- (1) A by-pass may be closed and the notices relating to the by-pass may be removed:
 - (a) if the public gate in connection with which the by-pass was constructed is removed, or
 - (b) if the fence of which the by-pass forms part is made rabbit proof, dog proof or marsupial proof.
- (2) A person who closes a by-pass:
 - (a) must give notice of the closure to the appropriate roads authority before or immediately after the closure, and
 - (b) must take such steps as the appropriate roads authority directs to ensure the safety of persons using the road.

136 Revocation of by-pass permit

- (1) The roads authority may revoke a permit given with respect to a by-pass by means of a notice served on the holder of the permit.
- (2) The occupier of the land the subject of the permit must, within the time specified in the notice:
 - (a) remove the by-pass and its notices, and
 - (b) take such steps as are specified in the notice to ensure the safety of persons using the road.

Maximum penalty: 10 penalty units.

137 Offences

- (1) A person must not:
 - (a) drive a vehicle over a by-pass in contravention of a notice displayed in connection with the by-pass, or
 - (b) willfully damage or remove a notice displayed in connection with a by-pass, or

(c) willfully obstruct or damage a by-pass.

Maximum penalty: 10 penalty units.

- (2) A person who causes damage to a by-pass as a result of driving a vehicle over the by-pass in contravention of such a notice is liable for:
 - (a) the cost of any repairs to the by-pass necessary as a result of the contravention, and
 - (b) any loss or damage suffered by any other person as a result of the damage to the by-pass.

Roads (General) Regulation 2008 Part 6 Public gates

67 Consent of adjoining landowner to be obtained

An application for a public gate permit that is made by a person who owns land on one side only of the road across which the proposed public gate is to be erected must be accompanied by the written consent of the owner or owners of the land on the other side of the road.

68 Notice inviting objections

Before determining an application for a public gate permit, the roads authority:

- (a) must cause notice of the proposal to erect a public gate (including, particulars as to the proposed location of the gate) to be published in a local newspaper, and
- (b) must allow sufficient time (being not less than 28 days from the date of publication of the notice) for written submissions on the proposal to be made to the roads' authority, and
- (c) must have due regard to any written submissions on the proposal that are made to the roads authority within that time.

69 Maintenance of public gates

The holder of a public gate permit must ensure that:

- (a) the gate is white, and
- (b) the posts on either side of the gate are fitted with reflectors facing along the road in each direction.

Maximum penalty: 10 penalty units.

70 Road near gate

The holder of a public gate permit must ensure that the road approaches to the gate are maintained in good condition for such distance (not exceeding 20 metres) from each side of the gate, and for such width, as the roads authority may determine when granting the permit.

Maximum penalty: 10 penalty units.

Attachment B

Flowchart for Permit Applications



Richmond Valley Council - 11.10 Public Gates and Bypasses (Cattle Grids)

Attachment C



Application for Erection of Public Gate or Bypass (Cattle Grid)

(Sections 128 to 133 Roads Act 1993)

Name of Applicant:			
Address of Applicant:			
Telephone:	Home:	Work:	Fax:
I wish to install a combination	tion Public Gate	and Motor Bypass as desc	ribed and shown below:
Lot No.:	_ Deposited	Plan No.:	
Location Sketch:			
Adjoining Owner's Con			
I am the owner of land ac agree to its installation by		c Gate and Motor Bypass s	ubject of this Application and
Name of Adjoining Owne	r (Block Letters)	Signature of Adjoining Ov	vner
Date			
Property Name/Address:			
FOR OFFICE USE:			
Amount: \$	Receipt No:	Date:	Cashier:

I understand that the Application and Approval (if granted) will be subject to the conditions set out below:

- 1. Provision of adequate description and sketch for consideration of this Application.
- 2. The Applicant indemnifies Council against any Claims made against Council and which arises directly from the acts or omissions of the Applicant, its employees, agents, contractors and/or invitees on Council's property, arising out of the construction, installation and maintenance of the public gate or bypass. "Claims" means all claims, demands, proceedings, litigation or other action a party is entitled to bring in relation to all losses (including profits and consequential losses), damages, cots, expenses, fees and charges of any nature whatsoever suffered or incurred by that party.
- 3. Payment of a fee as listed in Council's Revenue Policy.
- 4. Following approval:
 - a. Provide engineering plans for approval which include:
 - i. Minimum clear width of 3.6 metres
 - ii. Signage in conformance with Australian Standards
 - b. Provide a Certificate of Currency, from an authorised Insurer; confirming public liability insurance in the sum of \$20,000,000 noting cover for the public gate and motor bypass subject of this application and noting Council's interests.
- 5. During construction the applicant will:
 - a. Accept responsibility and indemnify Council, as identified above, for damage to power lines, water mains, telephone/communication lines, road surfaces or other services.
 - b. Undertake all work in compliance with Occupational Health and Safety legislation and Roads Act in force in NSW at the time and Australian Standards for signage.
- 6. Following construction the applicant agrees to:
 - a. Insurance
 - i. Maintain insurance as described above.
 - ii. Provide Council with a Certificate of Currency following each renewal period or annually for a minimum liability limit of \$20,000,000.
 - b. Maintenance
 - i. Maintain the public gate and motor bypass in line with the approved plans and standards.
 - ii. Maintain signage in line with Australian Standards
 - iii. Undertake maintenance, or other work, on the public gate and motor bypass as directed by Council.
 - c. The applicant agrees to pay Council for any work done on the public gate and motor bypass as a result of the applicant's failure to maintain or undertake work as required/directed.

If the Applicant fails to pay Fees and Charges on the due date, the Applicant agrees to pay all legal costs and collection charges incurred in the recovery of the debt. If the Applicant fails to pay Fees and Charges on the due date Council may also charge the Applicant a commercial rate of interest on any amount owing.

I have read and understand the conditions set out above and wish to proceed with my Application under those conditions

Signature of Applicant

Date

Attachment D - Public Gate Construction Specification



NOTES:

- 1. ALL TIMBER shall be an approved hardwood.
- FIELD GATE CHS to be grade C350 to AS 1163 and gate hinges to manufacturer's specifications,
- 3. BOLTS, NUTS AND WASHERS to be hot-dip galvanized to AS 1214.
- 4. ALL STEELWORK AND FITTINGS to be hot-dip galvanized to AS/NZS 4680.
- 5. GALVANIZED FENCING WIRE to AS 2423.
- 6. DIMENSIONS are in millimetres, unless shown otherwise.
- SIGNAGE is to be erected as per AS 1742.2. This requires a W5-14 warning sign on either side of the Public Gate between 50m to 200m from the structure. A "Public Gate" sign is also to be displayed on the gate clearly showing the Permit Number. A set of G9-206(L) and G9-206(R) chevrons are also required on either side of the structure.



Field gate 33.7 x 2.0 CHS frame.

and bracing grade C350

REFERENCED DOCUMENTS:

Australian Standards:

- AS 1163 Structural Steel Hollow Sections
- AS 1214 Hot-Dip Galvanized Coatings on Threaded Fasteners

(ISO metric coarse thread series)

- AS 2423 Galvanized Wire Fencing Products
- AS/NZS 4680 Hot-Dip Galvanized (zinc) Coatings on Fabricated Ferrous Articles
- AS 1742.2 Manual of uniform traffic control devices Traffic control devices for

general use

Attachment E - Diagrammatic View of Public Gate and Bypass (Cattle Grid)

Notes:

- GRID SURFACE to be at a width specified by Council and a minimum 2.1m long along road
- GRID to have at least 300mm clearance underneath the entire GRID
- · Where possible the roadside drainage should be directed under the GRID to aid in self cleaning of GRID
- PUBLIC GATE PERMIT HOLDER is responsible for the maintenance of the road for a specified length either side of the GRID
- "GRID" (W5-16A) 750mm x 750mm signs to be erected on both approaches to the GRID 50m to 200m from the GRID
- WIDTH MARKER (G9-206(L) and G9-206(R)) to be erected in pairs on each side of the GRID structure to indicate the narrowest part of the GRID SURFACE
- The SIDE TRACK is to be of a two-wheel drive all weather standard subject to Council approval



Attachment F

Public Gate and Bypass Compliance Review Form



Richmond Valley Council Inspection Report for Public Gates and Bypasses

Inspected By:		Insp	ection Date	1	/	
				1	1	
Grid No.:	Road Name:					
Distance From		is	3			km
Area:	Location:					
Grid Field Ins	pection					
Grid Descripti	i on: (materials used, rail spa	acing etc)				
Grid Condition	n.					
Is grid level wit Are any rails m	h road surface? hissing?	YES YES				
	sive build up under grid?	YES	NO			
Repairs require	ed					
Signage:						
Are signs on a	pproach in place?	YES	NO			
Repairs require	ed					

Richmond Valley Council - 11.10 Public Gates and Bypasses (Cattle Grids)

Gate/Bypass	Condition:
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s gate construction adequate? Are "Public Gate" signs on gate? s Bypass trafficable?
Repairs required
Road Approach Condition: Owner is responsible for 20m either side of grid
Repairs required
nspectors Comments:
Rating (1 = New to 10 = Unsafe)
Public Liability Insurance Details:
nsurance Company:
Amount Covered:
Expiry Date: