

# Toowoomba Regional Council

## Subordinate Local Law No. 1.16 (Gates and Grids) 2020

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.16 (Gates and Grids) 2020*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2020* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
  - (a) various matters regarding the granting of approvals for prescribed activities; and
  - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2020* (the **authorising local law**).

### 4 Subordinate local law repealed

This subordinate local law repeals *Subordinate Local Law No. 1.16 (Gates and Grids) 2011*.

### 5 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

## Part 2 Approval for prescribed activity

### 6 Matters regarding the prescribed activity—Authorising local law, sections 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
  - (a) names a prescribed activity in section 1; and
  - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the

authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of schedule 1 is a category 1 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
  - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
  - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

## **7 Approvals that are non-transferable—Authorising local law, section 15(2)**

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

## Schedule 1 Gates and grids

### Section 6

#### 1. Prescribed activity

- (1) Installing a gate or a grid, or a gate and a grid, across a road.
- (2) Being a responsible person for a gate or a grid, or a gate and a grid, installed across a road.<sup>1</sup>

#### 2. Activities that do not require an approval under the authorising local law

No activities stated.

#### 3. Documents and materials that must accompany an application for an approval

- (1) If the installation of a gate or a grid, or a gate and a grid, are proposed—
  - (a) a plan detailing the design of the proposed gate or grid, or gate and grid, including all dimensions, alignments and structural elements; and
  - (b) a plan identifying the location within the road of the proposed gate or grid, or gate and grid; and
  - (c) particulars of all warning or similar signage proposed to be erected by the applicant.
- (2) If a gate or a grid, or a gate and a grid, are installed across a road—
  - (a) a plan detailing the design of the gate or grid, or gate and grid, including all dimensions, alignments and structural elements; and
  - (b) a plan identifying the location within the road of the gate or grid, or the gate and the grid; and
  - (c) details of all warning or similar signage erected about the gate or grid, or the gate and the grid.
- (3) If the gate or grid, or the gate and the grid, are proposed to be installed across a road—details of the time when the prescribed activity will be undertaken.
- (4) The proposed term of the approval.
- (5) The impact, if any, of the prescribed activity on pedestrian or vehicular traffic.
- (6) The materials, equipment and vehicles to be used in the undertaking of the prescribed activity.

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<sup>1</sup> See *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018*, schedule 2, item 2(b) and (c).

- (7) A copy of each policy of insurance of the applicant which is applicable to the undertaking of the prescribed activity including, without limitation, a public liability insurance policy which provides indemnity for each individual occurrence in an amount not less than \$10,000,000.00 and nominates the local government as an interested party.
- (8) If the local government has prepared a checklist in respect of the undertaking of the prescribed activity—a completed checklist in respect of the undertaking of the prescribed activity.
- (9) If the application relates to a gate or a grid, or a gate and a grid, which is installed across a road and—
  - (a) the design of the gate or the grid, or the gate and the grid, does not comply with the standard plans and specifications of the local government; and
  - (b) the application is not accompanied by a current RPEQ certification for the gate or the grid, or the gate and the grid,a site specific report about the structural integrity of the gate or the grid, or the gate and the grid, and RPEQ certification for the gate or the grid, or the gate and the grid.
- (10) If the local government considers that alternate, or higher, standards than the standard plans and specifications of the local government for the undertaking of the prescribed activity are warranted—RPEQ certification in respect of each structure in respect of which the alternate, or higher, standards will apply.
- (11) A detailed traffic control management plan which relates to the installation and ongoing maintenance of the gate or the grid, or the gate and the grid, prepared by a suitably qualified and competent person.

#### **4. Additional criteria for the granting of an approval**

- (1) The prescribed activity must not—
  - (a) result in—
    - (i) harm to human health or safety, including the safety of vehicular or pedestrian traffic; or
    - (ii) property damage or loss of amenity; or
    - (iii) nuisance; or
    - (iv) unreasonable obstruction of vehicular or pedestrian traffic; or
    - (v) unreasonable prejudice to the proper maintenance of a road; or
    - (vi) environmental harm; or
    - (vii) environmental nuisance; or
  - (b) adversely affect the amenity of the area in which the prescribed activity

is to be undertaken.

- (2) An application to install a gate or a grid, or a gate and a grid, across a road will generally only be considered if—
  - (a) the road is unfenced or fenced on 1 side only; and
  - (b) the road has a traffic volume of—
    - (i) less than 10 vehicles per day for a gate only application;
    - (ii) less than 50 vehicles per day for a gate and grid application.
- (3) Council may consider an application in respect of a road with a higher traffic volume under special circumstances, but if a gate or a grid is to be installed on a sealed dual lane road with a width of 8m or more, the undertaking of the prescribed activity must comply with applicable Queensland Department of Transport and Main Roads specifications and standards.
- (4) The undertaking of the prescribed activity must—
  - (a) allow current road usage to continue; and
  - (b) ensure that future traffic requirements of the road are not impeded; and
  - (c) meet load bearing capacity and technical requirements for material and signage.
- (5) Each gate and grid must have a minimum width of whichever is the greater of—
  - (a) 4m; and
  - (b) the minimum trafficable width of the road on which the gate or grid is to be installed.
- (6) If a grid is to be installed—
  - (a) the grid must be installed in conjunction with a gate and a side track having a minimum width of 4m; and
  - (b) the side track must be constructed to a standard that is negotiable by 2 wheel drive vehicles in all weather.
- (7) The local government may, when deciding whether to grant an approval for an applicant to undertake the prescribed activity, consider, and have regard to, the content of each written submission about the undertaking of the prescribed activity which is properly made to the local government in response to each of the following—
  - (a) an advertisement published in a local newspaper circulating in Council's local government area giving interested persons 14 days to lodge a submission in writing about the undertaking of the prescribed activity by the applicant; and

- (b) a letter box drop undertaken at premises in close proximity to the place at which the prescribed activity is to be undertaken by the applicant.

## **5. Conditions that must be imposed on an approval**

No conditions prescribed.

## **6. Conditions that will ordinarily be imposed on an approval**

- (1) The conditions of an approval may require the approval holder to take specified measures to—
  - (a) prevent harm to human health or safety of persons involved in, or affected by, the undertaking of the prescribed activity; and
  - (b) prevent loss of amenity or nuisance resulting from the undertaking of the prescribed activity; and
  - (c) ensure that the undertaking of the prescribed activity does not cause unsafe movement or obstruction of vehicular or pedestrian traffic.
- (2) If the approval relates to the installation of a gate or a grid; or a gate and a grid — the conditions of the approval may—
  - (a) require compliance with specified safety requirements; and
  - (b) regulate the time within which the installation of the gate or the grid, or the gate and the grid, must be carried out; and
  - (c) specify standards with which the installation of the gate or the grid, or the gate and the grid, must comply; and
  - (d) require the approval holder to—
    - (i) carry out specified additional work such as earthwork and drainage work; and
    - (ii) take out and maintain public liability insurance as specified by the local government (including a requirement that the local government be nominated as an interested party) and produce documentary evidence of the insurance to the local government before the installation of the gate or the grid, or the gate and the grid; and
    - (iii) give the local government specified indemnities; and
    - (iv) construct the gate or the grid, or the gate and the grid, in accordance with standard plans and specifications which the local government may develop or adopt from time to time; and
    - (v) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
    - (vi) clear and maintain the road in the vicinity of the gate or the grid,

- or the gate and the grid, (including the destruction of plants and vegetation); and
- (vii) remove a gate, grid or structure erected or installed, under the approval, at the end of a stated period; and
- (viii) remove a gate, grid or structure erected or installed, under the approval, if the gate, grid or structure—
  - (A) is not effective for its intended purpose; or
  - (B) is causing a nuisance, or poses a risk of a nuisance; or
  - (C) constitutes an actual, or potential safety hazard; and
- (ix) if the approval relates to the installation of a grid—also erect a gate at the location of the grid to a standard, and in accordance with the requirements of, the local government; and
- (x) maintain the road, for a distance of 5m on each side of the gate or the grid, or the gate and the grid, as the case may be, in good and sufficient repair —
  - (A) so that vehicular and pedestrian traffic is not impeded or obstructed; and
  - (B) to prevent or minimise the risk of personal injury or damage to property; and
- (xi) exhibit specified signage warning about the conduct of the prescribed activity on the road; and
- (xii) take specified measures to ensure the unrestricted movement of vehicular and pedestrian traffic along the road during construction and installation of the gate or the grid, or the gate and the grid, as the case may be, and minimise obstruction of vehicular or pedestrian traffic or the risk of personal injury or damage to property; and
- (xiii) keep the gate securely closed whenever the gate is not in immediate use; and
- (e) require the removal of the gate or the grid, or the gate and the grid, if the removal is necessary as a consequence of—
  - (i) a change to the classification or alignment of the road on which the gate or the grid, or the gate and the grid, is installed; or
  - (ii) a demonstrated change in road usage patterns on the road on which the gate or the grid, or the gate and the grid, is installed; or
  - (iii) the original purpose for which the gate or the grid, or the gate and the grid, was installed no longer existing; and



- (f) require the approval holder to construct drainage in association with the installation of the gate or the grid, or the gate and the grid, to ensure that no damming or ponding of storm water runoff occurs on the road, or within the area at which the prescribed activity is undertaken, including adjoining premises and the approaches to the place at which the prescribed activity is undertaken; and
- (g) require the approval holder to undertake the installation of specific temporary and permanent signage during the undertaking of construction and maintenance activities associated with the undertaking of the prescribed activity in accordance with the Department of Transport and Main Roads Manual of Uniform Traffic Control Devices; and
- (h) require the approval holder to—
  - (i) undertake an annual compliance inspection of the gate or the grid, or the gate and the grid; and
  - (ii) after undertaking the annual compliance inspection—submit to the local government, within a time frame prescribed by the local government—
    - (A) a report about the annual compliance inspection; and
    - (B) supporting photographs; and
    - (C) documentary evidence that public liability insurance, as specified by the local government in the approval, has been taken out and maintained by the approval holder; and
- (i) require the approval holder to ensure that the gate or the grid, or the gate and the grid, and the area of road reserve for a distance of 25m either side of the gate or the grid, or the gate and the grid, is kept free of pest plants, debris and extraneous items, for example, a fallen tree limb or a tyre; and
- (j) if the approval holder is the responsible person for a gate or a grid, or a gate and a grid, identified in the approval, and the approval holder transfers any land of the approval holder in the proximity of the gate or the grid, or the gate and the grid—require the approval holder to give written notice of the transfer to the local government within 14 days of completion of the transfer; and
- (k) require the approval holder to implement traffic control measures during the construction and maintenance of the gate or the grid, or the gate and the grid, which comply with applicable requirements of the Manual of Uniform Traffic Control Devices; and
- (l) require the approval holder to carry out regular inspections of the gate or the grid, or the gate and the grid, to ensure that each structure identified in the approval complies with the structural requirements specified in the approval, having regard to the prevailing condition and age of the

structure.

- (3) If the approval relates to being a responsible person for a gate or a grid, or a gate and a grid, installed across a road—the conditions of the approval may—
- (a) require compliance with specified safety requirements; and
  - (b) require the approval holder to—
    - (i) carry out specified work such as earthwork and drainage work; and
    - (ii) take out and maintain public liability insurance as specified by the local government (including a requirement that the local government be nominated as an interested party) and produce documentary evidence of the insurance to the local government within a stated period; and
    - (iii) give the local government specified indemnities; and
    - (iv) maintain the gate or the grid, or the gate and the grid, in accordance with standard plans and specifications; and
    - (v) maintain structures erected or installed, or vegetation planted, under the approval, in good condition; and
    - (vi) clear and maintain the road in the vicinity of the gate or the grid, or the gate and the grid (including the destruction of plants and vegetation); and
    - (vii) remove a gate, grid or structure identified in the approval, at the end of a stated period; and
    - (viii) remove a gate, grid or structure identified in the approval if the gate, grid or structure—
      - (A) is not effective for its intended purpose; or
      - (B) is causing a nuisance, or poses a risk of a nuisance; or
      - (C) constitutes an actual, or potential safety hazard; and
    - (ix) if the approval relates to a grid—also erect a gate at the location of the grid to a standard, and in accordance with the requirements of, the local government; and
    - (x) maintain the road, for a distance of 5m on each side of the gate or the grid, or the gate and the grid, as the case may be, in good and sufficient repair—
      - (A) so that vehicular and pedestrian traffic is not impeded or obstructed; and
      - (B) to prevent or minimise the risk of personal injury or

damage to property; and

- (xi) exhibit specified signage warning about the conduct of the prescribed activity on the road; and
  - (xii) keep the gate securely closed whenever the gate is not in immediate use; and
- (c) require the removal of the gate or the grid, or the gate and the grid, if the removal is necessary as a consequence of—
- (i) a change to the classification or alignment of the road on which the gate or the grid, or the gate and the grid, is installed; or
  - (ii) a demonstrated change in road usage patterns on the road on which the gate or the grid, or the gate and the grid, is installed; or
  - (iii) the original purpose for which the gate or the grid, or the gate and the grid, was installed, no longer existing; and
- (d) require the approval holder to construct drainage in association with the installation of the gate or the grid, or the gate and the grid, to ensure that no damming or ponding of storm water runoff occurs on the road, or within the area at which the prescribed activity is undertaken, including adjoining premises and the approaches to the place at which the prescribed activity is undertaken; and
- (e) require the approval holder to undertake the installation of specific temporary and permanent signage during the undertaking of construction and maintenance activities associated with the undertaking of the prescribed activity in accordance with the Department of Transport and Main Roads Manual of Uniform Traffic Control Devices; and
- (f) require the approval holder to—
- (i) undertake an annual compliance inspection of the gate or the grid, or the gate and the grid; and
  - (ii) after undertaking the annual compliance inspection—submit to the local government, within a time frame prescribed by the local government—
    - (A) a report about the annual compliance inspection; and
    - (B) supporting photographs; and
    - (C) documentary evidence that public liability insurance, as specified by the local government in the approval, has been taken out and maintained by the approval holder; and
- (g) require the approval holder to ensure that the gate or the grid, or the gate and the grid, and the area of road reserve for a distance of 25m either side of the gate or the grid, or the gate and the grid, is kept free of pest

plants, debris and extraneous items, for example, a fallen tree limb or a tyre; and

- (h) if the approval holder is the responsible person for a gate or a grid, or a gate and a grid, identified in the approval, and the approval holder transfers any land of the approval holder in the proximity of the gate or the grid, or the gate and the grid—require the approval holder to give written notice of the transfer to the local government within 14 days of completion of the transfer; and
- (i) require the approval holder to implement traffic control measures during the undertaking of construction and maintenance activities at the gate or the grid, or the gate and the grid, which comply with applicable requirements of the Manual of Uniform Traffic Control Devices; and
- (j) require the approval holder to carry out regular inspections of the gate or the grid, or the gate and the grid, to ensure that each structure identified in the approval complies with the structural requirements specified in the approval, having regard to the prevailing condition and age of the structure.

## **7. Term of an approval**

- (1) The term of an approval—
  - (a) must be assessed having regard to the information submitted by the applicant; but
  - (b) must not exceed 12 months.
- (2) The term of the approval must be specified in the approval.
- (3) In any event, the approval comes to an end on the earlier of —
  - (a) the date on which the approval ends; and
  - (b) the date the approval is cancelled; and
  - (c) unless the approval has been transferred, the date the approval holder is no longer the responsible person for the prescribed activity.

## **8. Term of renewal of an approval**

- (1) The term for which an approval may be renewed or extended—
  - (a) must be assessed having regard to the information submitted by the approval holder; but
  - (b) must not exceed 12 months.
- (2) The term of the renewal or extension must be specified in the written notice.

**Table 1 – Third party certification**

<b>Column 1 Application requirement</b>	<b>Column 2 Individuals or organisations that are third party certifiers</b>	<b>Column 3 Qualifications necessary to be a third party certifier</b>
No application requirement stated		

## **Schedule 2      Categories of approval that are non-transferable**

### **Section 7**

Every approval for the prescribed activity named in schedule 1, section 1 is transferable.

## Schedule 3      Dictionary

### Section 5

**environmental harm** has the meaning given in the *Environmental Protection Act 1994*.

**environmental nuisance** has the meaning given in the *Environmental Protection Act 1994*.

**gate** means a moveable barrier, usually hinged or sliding, which is used to close an opening in a wall, fence or hedge and is designed to allow passage into, or out of, a place whether enclosed or not.

**grid** has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018*.

**responsible person** has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2018*.

**road**—

- (a) has the meaning given in the authorising local law; and
- (b) includes—
  - (i) an area of land that—
    - (A) is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and
    - (B) is open to, or used by, the public; and
  - (ii) a footpath or bicycle path.

**RPEQ** means Registered Professional Engineer of Queensland.

**structure** has the meaning given in the *Local Government Act 2009*.