

10.2 Gate Application on the road reserve off Queens Pinch Road

REPORT BY THE MANAGER WORKS
TO 13 OCTOBER 2021 ORDINARY MEETING
GOV400088, R0790016

RECOMMENDATION

That Council:

1. **receive the report by the Manager Works on the Gate Application on the road reserve off Queens Pinch Road; and**
2. **reject the Gate Application in line with Council's "Grids and Gates" policy, as the road reserve is fenced on both sides.**

Executive summary

Council received an application under the Roads Act 1993 for the installation of a gate on the unnamed and unmaintained road reserve west off Queens Pinch Road, approximately 1km south from the intersection of Horse Flat Lane.

This report recommends that Council rejects the application, in line with Council's "Grids and Gates' Policy, as the road reserve is fenced on both sides.

Disclosure of Interest

Nil.

Detailed report

Council received an application under the Roads Act 1993 for the installation of a gate on the unnamed and unmaintained road reserve west off Queens Pinch Road, approximately 1km south from the intersection of Horse Flat Lane. The gate is proposed approximately 20m along the unmaintained road reserve off Queens Pinch Road. Under Council's Grids and Gates Policy, the application details were advertised in the local newspaper and notifications sent to the adjacent land owners inviting interested persons to lodge submissions in writing allowing 28 days for this to occur.

Council received three written objections to the installation of the gate and hence prepared this report for submission to Council for determination.

The objections received noted impediment of access particularly in relation to movement of stock and the fact the road reserve is fenced so it is against Council's policy and there is no reason for gates.

The roads reserve where the gate is requested has recently been fully fenced and the gate that was situated at the start of the road was subsequently removed. It is recommended that Council reject the gate application, as it is inconsistent with Council's Grids and Gates policy that states, "*Applications will not be accepted if the road is fully fenced*".

Community Plan implications

Theme	Connecting Our Region
Goal	High quality road network that is safe and efficient
Strategy	Provide a roads network that balances asset conditions with available resources and community needs

Strategic implications

Council Strategies

Not Applicable.

Council Policies

Grids and Gates policy influences this decision as it states; *“Applications will not be accepted if the road is fully fenced”*.

Should the recommendation be altered it may create a precedent for future grid and/or gate applications where the road reserve is fenced both sides.

Legislation

Roads Act 1993.

Financial implications

Not Applicable.

Associated Risks

Should the recommendation be altered it may create a precedent for future grid and/or gate applications where the road reserve is fenced both sides.

ANDREW KEARINS
MANAGER WORKS

GARRY HEMSWORTH
DIRECTOR OPERATIONS

24 September 2021

- Attachments:*
1. Application for installation of grid-gate on Public Road.
 2. Location Map of proposed gate.
 3. Grids & Gates Policy.
 4. Objection 1. (Confidential - separately attached)
 5. Objection 2. (Confidential - separately attached)
 6. Objection 3. (Confidential - separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Application for Installation of Grid / Gate on Public Road

Name: **Alfred Papallo**
Address: **688 Queens Pinch Rd
Mullamuddy N.S.W. 2850
0411478912**

MID-WESTERN REGIONAL COUNCIL
RECORDS
RECEIVED
29 JUN 2021
 SCANNED
 REGISTERED

Contact Phone # _____
Describe proposed location (distance from nearest cross road / direction) **~ 20 metres from previous gate installation on Queens Pinch Road**

Estimate Date for construction **July / August 2021**

Estimated Traffic Volume per Day (No of Vehicles) **2 to 4**

Supporting Information (if deemed appropriate by the applicant)
**① Only other property owner affected [redacted] has been notified and is in agreement.
② To replace previous existing gates on the boundary to Queens Pinch Rd and prevent cattle from entering Queens Pinch Rd.**

Agreement:
Please find enclosed the fee applicable for granting of the permit and advertising the proposed grid and/or gate as identified in the Annual Fees & Charges of the Council. I understand that final approval and issue of the permit will not be provided until the designated public exhibition period has been completed. Further that if approval is not given due to objections leading to a Council resolution to refuse, then these fees are not refundable.

Alfred Papallo
Signed & Dated (Applicant)

Office Use Only:
Complies with Policy (Yes / No) _____
Any drainage implications known _____
Recommended course of action. _____
Assessment / Inspection Undertaken by (print) _____
Signed & Dated: _____
Project Approved to proceed if agreement signed and returned (reason if refused)? _____
Signed & Dated (General Manager): _____

NOTES:

MID-WESTERN REGIONAL COUNCIL
Customer Services
RECEIVED
29 JUN 2021
 SCANNED

Procedure for Grids and Gates Assessment

Road Name : Unmaintained Council Rd Reserve

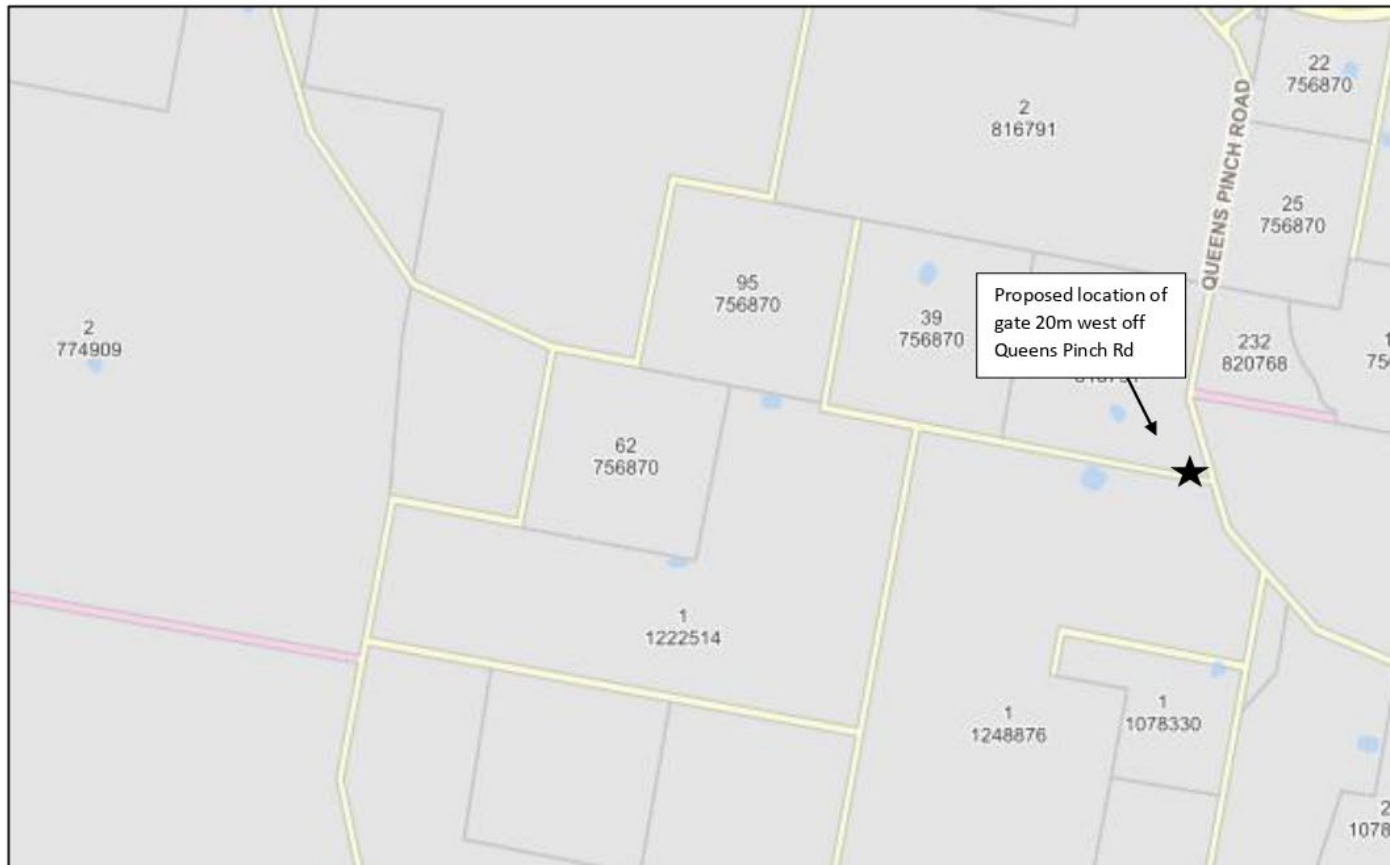
Action	Approx time	Responsible Person	Comments	Date completed
Initial assessment of viability				
Complies with policy and standards				
Traffic Volume (V<10, 10<V<20, V>20)				
Lodgment of application and payment of fee				
Copy of mapping image /Lot DP details				
Site inspection				
Initial Approval to proceed with notification				
Notify Owner				
A list of landowners whose land be affected by road restriction				
Send letters to all affected landowners				
Place Ad in Community News				
28 days ad period				
Have any objections been received				
If objections, report to Council prepared				
14 Day notification Prior to Construction.				
Construction completion advised				
Final Inspection				


Name of Applicant: _____

Advert date: _____

Close Date: _____

Proposed Gate Location and Property Details



	POLICY	ADOPTED C/M 15 th July 2015 Minute No. 217-15
	Grids and Gates	REVIEW: July 2017 FILE No. A0100021

OBJECTIVE

To provide guidance and approve the location and standard of grids and/or gates on public roads.
To ensure that grids and gates are installed and maintained to an acceptable standard.

POLICY

All grids and gates on Public roads that are controlled by Council must be approved by Council. The land owner is responsible under the Roads Act NSW 1993 for maintenance of the grid and gate, the bypass road to the gate and 20m of road on each approach to a grid.

Gates shall not be permitted on roads with a traffic volume greater than 10 vehicles per day unless they are located adjacent to a grid. All grids are required to have a gate and bypass road installed beside them.

Use of electrified grids is NOT permitted.

In the event of the ownership of the subject property being transferred, so does the responsibility of the grid and/or gate

Approval

Grids and gates shall only be erected at locations approved by Council and as directed by the General Manager or his delegate.

Approval may be granted to erect a stock grid and/or gate across road reserves subject to the applicants concurrence with the conditions contained within this policy

The owner or occupier of the land must apply to Council to install the stock grid and/or gate on the designated form attached to this policy. Such application must be accompanied by the prescribed fee as set out in Council's schedule of fees and charges and the written consent of the adjoining land owner(s) if they are acceptable to the application.

Prior to permission being granted for the erection of a grid and/or gate, Council will advertise in the local newspaper inviting interested persons to lodge objections in writing allowing 28 days for this to occur. Notice shall also be given to the adjacent land owner/s if their consent is not provided with the application. If objections are received a report shall be prepared for submission to Council for determination.

Applications will not be accepted if the road is fully fenced or the road is classified as Collector and above. For other roads with an average daily traffic volume greater than 20 (ADT > 20), only double grids will be permitted, whilst where the volume is less than 20 (ADT < 20), a single grid may be accepted.

Construction

Prior to commencement, approval must be obtained in writing from the General Manager or his delegate. Then at least 14 days notice shall be given to the General Manager or his delegate prior to commencing any work - the exact position of the grid and gate as agreed by council must be pegged on site.

The applicant shall fully indemnify Council in relation to the works required and to any and all damage to other services including water, electricity supply and communication services.

All work must be appropriately sign posted during construction in accordance with Roads and Maritime Services (RMS) standards as set out in the RMS manual "Traffic Control at Worksites". All work is to be undertaken at the owners' expense and risk.

The centre of the grid (or gate if gate only installed) shall coincide with the centreline of the road. Grids and gates shall be constructed at right angles to the road centreline.

Council requires all grids on roads to meet technical requirements including minimum width, load-bearing capacity, materials and visibility markings, according to the type of road (each grid must be paralleled by a gate). In the case of existing but previously unlicensed grids, a physical standard below that required for new installations may be accepted at the discretion of Council for the life of the current installation.

When the grid is on a curve, the cross fall of the grid shall conform to that of the road. The surface of the grid shall be 0.5m (\pm 0.1m) above the natural surface of the surrounding country.

Approach ramps shall be constructed for the full width of the running surface of the grid. The longitudinal grade of the approach ramps shall be such that the surface levels of the ramps deviate from the existing average grade of the road by not more than 1%. The fill used in the approach ramps shall be thoroughly compacted and finished to the satisfaction of the General Manager or his delegate.

The owner shall construct and maintain the approaches for a minimum of 20 metres each side of the grid and/or gate and must be fully reinstated and compacted the pavement to the requirements of the General Manager or his delegate. The approach surface is to start flush with the grid. At 20m from the grid, the road surface is to grade away from the centreline of the road at a 6% crossfall. Alternatively, Council may require a one way crossfall of 6%. Council may also require the first 20m on each side of the grid to be sealed. The surface shall be constructed such that it does not become slippery when wet. Any repair/compaction required to be undertaken by Council will be charged for as Private Works.

A fully compacted 4m wide bypass road will also need to be constructed around each grid, through the adjacent gate.

The applicant shall construct drainage under the grid and adjacent gated bypass road, to ensure that no damming or ponding shall occur on the roadway.

Cattle Grids are to be capable of carrying a W7 or T44 legal axle loading with a factor of safety. These are available through a number of manufacturers. Details of the grid proposed to be installed and the proposed installation layout shall be submitted to Council for approval with the application.

Signs must be erected for any new ramp/grid installed on roads in this Council area which is less than 4.8m width, be signed as per Australian Standard 1742.2 - 2009, which requires the following: if the grid is less than 4.8m wide, width markers should be erected at the Grid, the sign NO OVERTAKING OR PASSING (R6-1a) should be erected 70m to 200m in advance of the Grid and Warning signs GRID (W5-16) and ONE LANE (W8-16) should be erected in advance of the sign R6-1a.

Details of grid structure, foundations, abutment, approach ramps, horizontal and vertical alignment shall be submitted with application and shall be sufficient to guarantee the safe transit of vehicles and shall not interfere with the natural drainage of the area.

Sufficient guide posts and rails shall be provided to satisfy road traffic safety requirements at the specific location.

Gates shall be a minimum 4.0 metres wide and be fully functional to enable unimpeded access.

Maintenance / Repairs

Where the Grid/Gate is on a maintained Council Road and has been constructed to Councils standards and approved for use by Council, the applicant shall be fully responsible for all maintenance and repairs of the gate/grid, signposting and the road approaches either side of the gate/grid.

Where an existing gate/grid is not being maintained to the appropriate standard, Council will serve notice on the occupier/owner to carry out remedial works within 7 days. Failure to comply with the notice will result in the levying of penalties as contained in the Roads Act, or cancellation of the permit. The General Manager may cancel the permit for failure to carry out remedial work or when changes occur to the classification or alignment of the road.

The owner or occupier shall be responsible for all removal and road reinstatement costs. The permission for any existing gates or cattle grids erected prior to the adoption of this policy shall be revised, and the owner or occupier be requested to comply with the current policy where deemed reasonable. Where the owner or occupier wishes to transfer permission for the gate or grid, they shall apply to Council and be subject to approval from the General Manager or his delegate.

Any damage caused to the grid, gate etc. by Council or contractors engaged by Council during maintenance/construction of the road to be repaired at the owners cost unless proven to be negligence of Council.

Renewal / Removal

Council may at any time revoke the approval or alter the above conditions.

Where an application is received for the removal of a gate/s and replacement by a grid the same conditions shall apply.

Application for Installation of Grid / Gate on Public Road

Name:	
Address:	
Contact Phone #	
Describe proposed location (distance from nearest cross road / direction)	
Estimate Date for construction	
Estimated Traffic Volume per Day (No of Vehicles)	
Supporting Information (if deemed appropriate by the applicant)	
<p>Agreement: Please find enclosed the fee applicable for granting of the permit and advertising the proposed grid and/or gate as identified in the Annual Fees & Charges of the Council. I understand that final approval and issue of the permit will not be provided until the designated public exhibition period has been completed. Further that if approval is not given due to objections leading to a Council resolution to refuse, then these fees are not refundable.</p>	
_____ Signed & Dated (Applicant)	
Office Use Only:	
Complies with Policy (Yes / No)	
Any drainage implications known	
Recommended course of action.	
Assessment / Inspection Undertaken by (print)	
Signed & Dated:	
Project Approved to proceed if agreement signed and returned (reason if refused)?	
Signed & Dated (General Manager):	

NOTES:

Procedure for Grids and Gates Assessment

Road Name ; _____

Action	Approx time	Responsible Person	Comments	Date completed
Initial assessment of viability				
Complies with policy and standards				
Traffic Volume (V<10, 10<V<20, V>20)				
Lodgment of application and payment of fee				
Copy of mapping image /Lot DP details				
Site inspection				
Initial Approval to proceed with notification				
Notify Owner				
A list of landowners whose land be affected by road restriction				
Send letters to all affected landowners				
Place Ad in Community News				
28 days ad period				
Have any objections been received				
If objections, report to Council prepared				
14 Day notification Prior to Construction.				
Construction completion advised				
Final Inspection				

Name of Applicant; _____

Advert date; _____

Close Date; _____

ROADS ACT NSW 1993

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 RTA.
- (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.
- (2) 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

- (1) 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.

- (2) 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 RTA, 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) wilfully damage or remove a notice displayed in connection with a by-pass, or

(c) wilfully 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.