



**muswellbrook
shire council**

GUIDELINE –

Installation and Management of Public Gates (Stock Grids)

**Muswellbrook Shire Council Guideline – INSTALLATION and MANAGEMENT
OF PUBLIC GATES (Stock Grids)**

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Muswellbrook Shire Council Guideline – INSTALLATION and MANAGEMENT OF PUBLIC GATES (Stock Grids)

1. INTRODUCTION

The aim of this guideline is to provide for and encourage the proper management of Public Gates and/or Stock Grids (Public Gates) located on Muswellbrook Shire Council (Council) roads. The Guideline aims to cover all matters relating to the administration and management of existing and proposed Public Gates. This guideline expands upon Council Policy MSC09E Road Development Standards Policy part 2.3 Public Ramps.

This guideline also intends to improve the safety of the public road network by assisting property owners to locate, install and maintain a Public Gate. This will allow for the daily movement of stock across a road or graze stock within the road reserve without causing adverse impact to other road users.

The *Roads Act 1993* (NSW) (the Act) imposes a statutory duty on Council to inspect, maintain and repair any part of a public road. A Public Gate is considered an acquired component of a road and is regarded as privately-owned road infrastructure and the responsibility of the property owner under the Act.

All costs associated with the construction, maintenance and repair of a Public Gate is the responsibility of the owner of the land to which the Public Gate permit has been granted. Should the land be sold or passed on to another, then the obligation of maintenance and repair is deemed the responsibility of the new property owner. Council does not acquire the property owner's responsibility for the Public Gate upon sale.

This guideline also informs a compliance check of a permitted Public Gate and ensures that the appropriate liability insurance is held by the property owner.

Council reserves the right to inspect the Public Gate at any time and, if deemed necessary, undertake maintenance or removal of the Public Gate where it poses a hazard to other road users. This will be at the property owner's expense. Further to this, if Council determines that the Public Gate is not maintained to the appropriate standard or is not warranted or no longer needed, Council may remove the Public Gate and reinstate the road. This will also be at the property owner's sole expense.

Improved road safety shall be achieved by developing and maintaining a systematic approach to the approval, inspection, evaluation, maintenance and repair of all Public Gates as identified in the Public Gates Register and by implementation and management of a permit system.

This guideline aims to:

- Document a transparent system for the determining of applications for new Public Gates.
- Identify standards for the construction of new Public Gates.
- Define maintenance and responsibilities for new and existing Public Gates.
- Define registration and recording procedures for all Public Gates.
- Reduce the exposure of the property owner and/or Council to the possibility of a claim through the management of risks associated with Public Gates.

2. APPROVAL AND PERMIT PROCEDURES

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2.1 Permit Application for Existing Public Gates

A Flow chart for Permit Applications is included in Appendix A.

Owners of any existing Public Gate whether registered or unregistered will be required to lodge a Public Gate Permit Application (permit) with Council. The applicant will be required to identify whether the current condition of the structure complies with the defined standard and provide a current copy of their public liability insurance (\$20million minimum).

At the time of assessment, the condition of the structure must comply with the standard to enable Council to issue a permit. In cases where a permit is not issued for an existing structure, Council may direct the owner to take appropriate action. These actions may include:

- Upgrading of the structure or ancillary infrastructure to comply with current standards,
- Replacement of the structure or ancillary infrastructure to comply with current standards,
- Removal of the structure, disposal at a licenced waste facility and reinstatement of the road.
- Eliminate the need for the Public Gates by fencing the road reserve.

2.2 Unregistered Public Gates

When an unregistered Public Gate is brought to Council's attention a letter is to be sent to all surrounding property owners requesting submissions to establish the ongoing operational need for the specified structure or the removal of that structure. The letter may also indicate the results of an inspection of the Public Gate undertaken by Council. In conjunction with the issuing of this letter to the responsible parties, a notice will be placed on the specified Public Gate. All responses received will be judged on merit and a decision of the future of the Public Gate will be made by the responsible Council officer. Responses must be submitted within 30 days from the date of erection of the notice on the Public Gate.

If a submission is received in response to the notice, the condition of the structure will be reassessed prior to the issuance of any approval.

If no response is received Council will take action to remove the structure from the road reserve. The adjoining property owners will 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 stock always remains the responsibility of the property owner and Council bears no responsibility for any damage or injury arising from unsecured livestock.

The costs of removing the structure and impounding of livestock may be recovered by Council from the adjoining property owners. Any materials salvaged will remain the property of Council.

2.3 Permit Application for new Public Gates

Council will consider applications for a Public Gate Permit only when:

- No viable alternative such as fencing, exists;
- Road safety concerns indicate that the placement of such structures would not create an unacceptable hazard.

2.4 Criteria for installation of Public Gates

The Public Gate must be constructed according to the following criteria:

- The location is limited to Access Roads and Minor Roads as defined by Council's Road Asset Management Plan and Road Register with a traffic count not exceeding 50 vehicles per day;
- The Community Infrastructure Department must determine that there is no impact on road safety due to a reduction in sight distance etc;
- The Public Gate is to be used for genuine farming purposes only;
- Evidence that the owners of all surrounding properties have been consulted with is provided to Council;
- Any comments or feedback is to be considered during the assessment of an application;
- The Public Gate must be located at a suitable location which will allow for current road usage patterns to continue and the future traffic requirements of the road will not be impeded;
- The proposed Public Gate must have a width greater than the minimum standard trafficable width for the road classification or the existing formation width;
- The Public Gate must be designed to be catered for HS20-T44 loading with drawings and computations certified by a qualified structural engineer;
- Statutory planning requirements must be met if applicable;
- Council approval must be granted. Approval is dependent on the applicant following all procedures set by the Community Infrastructure Department;
- An agreement prepared pursuant to the Act and the *Roads Regulations (2018)* (the Regulations) must be signed by the applicant agreeing to full responsibility of all costs associated with the construction, ongoing maintenance and repair and replacement of the Public Gate;
- The property owner deriving the benefit of the Public Gate is required to extend their public liability insurance to cover liability claims in connection with the maintenance or use of the Public Gate. Public liability insurance must be at least \$20 million, and kept up to date
- All farming operations within the road reserve be conducted in accordance with all relevant laws and Council policies.

2.5 Permit Periods

Section 130 of the Roads Act states that a Council may at any time revoke a Public Gate permit. Without limiting the circumstances in which Council can revoke a permit, Council will revoke a permit where it comes to the attention of Council that the Public Gate is not being maintained to standard or is a risk to road safety.

All Public Gate permits have a maximum permit period of one year. A permit must be renewed annually.

2.6 Road Carriageway

The trafficable width of any Public Gate must be greater than the minimum standard trafficable width of the road class and the existing formation width. Where an existing Public Gate 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.

The Public Gate applicant is responsible for the maintenance of the road carriageway for a minimum distance of 20m either side of the structure as identified in the Regulations clause 71. Council reserves the right to vary the distance based on the circumstances of the application.

The Public Gate permit issued by Council will contain conditions regarding the maintenance of the road carriageway. The permit holder must comply with these conditions.

Council may carry out maintenance of the carriageway within this distance from the structure at the permit holder's expense if the conditions are not complied with.

The permit holder must not carry out maintenance works on the carriageway unless specified in the Public Gate permit.

Any works to be undertaken in the road reserve must be conducted pursuant to a section 138 Road Opening Permit. Further information regarding a section 138 Permit is available on Council's website.

3. INSPECTIONS

3.1 Proactive Inspections

The permit holder is responsible for carrying out regular inspections to ensure the structure complies with specified standards.

Subject to availability of resources, Council staff will inspect Public Gates as part of scheduled road network inspections. Any identified condition defects may be advised to the permit holder for rectification.

3.2 Reactive Inspections

Council staff will respond to customer requests. Any defects observed during such inspections may be advised to the permit holder for rectification.

3.3 Failure to Maintain

Failure to ensure that maintenance of Public Gates is carried out may result in Council revoking the Public Gate Permit and removing the structure from the road reserve. Council will order the permit holder to conduct repair works within the timeframe nominated by Council based on a risk assessment. If the permit holder fails to meet the requirements of such an order, then the permit will be revoked, and the structure removed from the road reserve and disposed at a licenced waste facility. All costs associated with the removal of structures will be recovered from the permit holder and all materials salvaged shall be disposed of at a licenced waste facility or taken to Council's Works Depot where it will be the property of Council.

Where a Public Gate is deemed to be in a dangerous condition and the permit holder cannot be immediately contacted, the Public Gate will be temporarily repaired by Council at the permit holder's cost. This will include any steps Council deems necessary to make the structure safe for traffic and may include temporarily filling the Public Gate with compacted gravel or the removal of the Public Gate. The permit holder will be held solely responsible for any damage or injury caused by the structure.

If any person fails to carry out their obligations under this guideline following the serving of various notices and requests from Council the statutory procedures for compliance and the levying of penalties pursuant to the Act will be applied.

4. APPLICATION PROCEDURES

The following procedures provide a guide to applicants regarding what they can expect when applying for a Public Gate permit.

4.1 Upon Application

- Lodgement of application form/s (ensuring all information is completed as required).
- Lodgement of associated plans as required by the application form.
- Payment of fees.

4.2 Initial Inspection

- The location proposed for the Public Gate is inspected by a Council officer.
- The officer prepares a report which may include any photos or drawings made during inspection and supporting information in relation to site suitability (eg site distance measurements, road width etc).
- If the site is found to be unsuitable, a letter is sent to the applicant advising of the unsuccessful application. The letter may be accompanied by a partial refund of fees at the Council's discretion.

4.3 Community Consultation

- The proposed Public Gate is advertised in the local newspaper as required by law.
- Submissions may be received by Council in response to the advertisement.
- Council will provide a written or verbal response to the submissions as appropriate.
- Council will review the submissions and determine the application.

4.4 Conditional Approval

- Law requires that conditional approval may only be granted 28 days or more after community consultation has concluded.
- Council will write to the applicant advising the conditions of approval.

4.5 Construction Approval

This approval is granted through a section 138 permit and includes all documentation submitted as stipulated in the conditions. As a minimum this must include;

- Design and layout of proposed structure
- Construction contractor's insurance details
- Traffic Guidance Scheme
- Certificate of Currency of Public Liability Insurance for the proposed structure with a minimum cover of \$20,000,000.
- Construction / maintenance bond lodged, if required
- Provided all the submitted documentation is satisfactory, Council provides the applicant with approval of design and Traffic Guidance Scheme, and acknowledgment of receipt of insurance details with the Section 138 permit.

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4.6 As Constructed Inspection/s

- Once the Public Gate is constructed the applicant advises Council and a Council officer inspects the Public Gate.
- If construction is found to be below the required standard or not to specifications, the Council officer will liaise with the applicant and provide a;
 - Detailed list of defects identified during inspection
 - Written or verbal notification to applicant or construction contractor
 - Follow-up inspection details

4.7 Final Permit

Council will write to the applicant providing a Public Gate permit number. The construction bond is transferred to maintenance bond if applicable.

Council's Register of Public Gates is updated with the following minimum information;

- Permit Number
- Applicants Name
- Date of Application
- Date of Advertisement
- Date of Determination
- Construction requirements
- Location of Public Gate
- Road name and chainage from start datum or crossroad
- Legal description of properties adjoining structure (Lot/Section/DP)
- Legal description of responsible land parcel (lot/Section/DP)

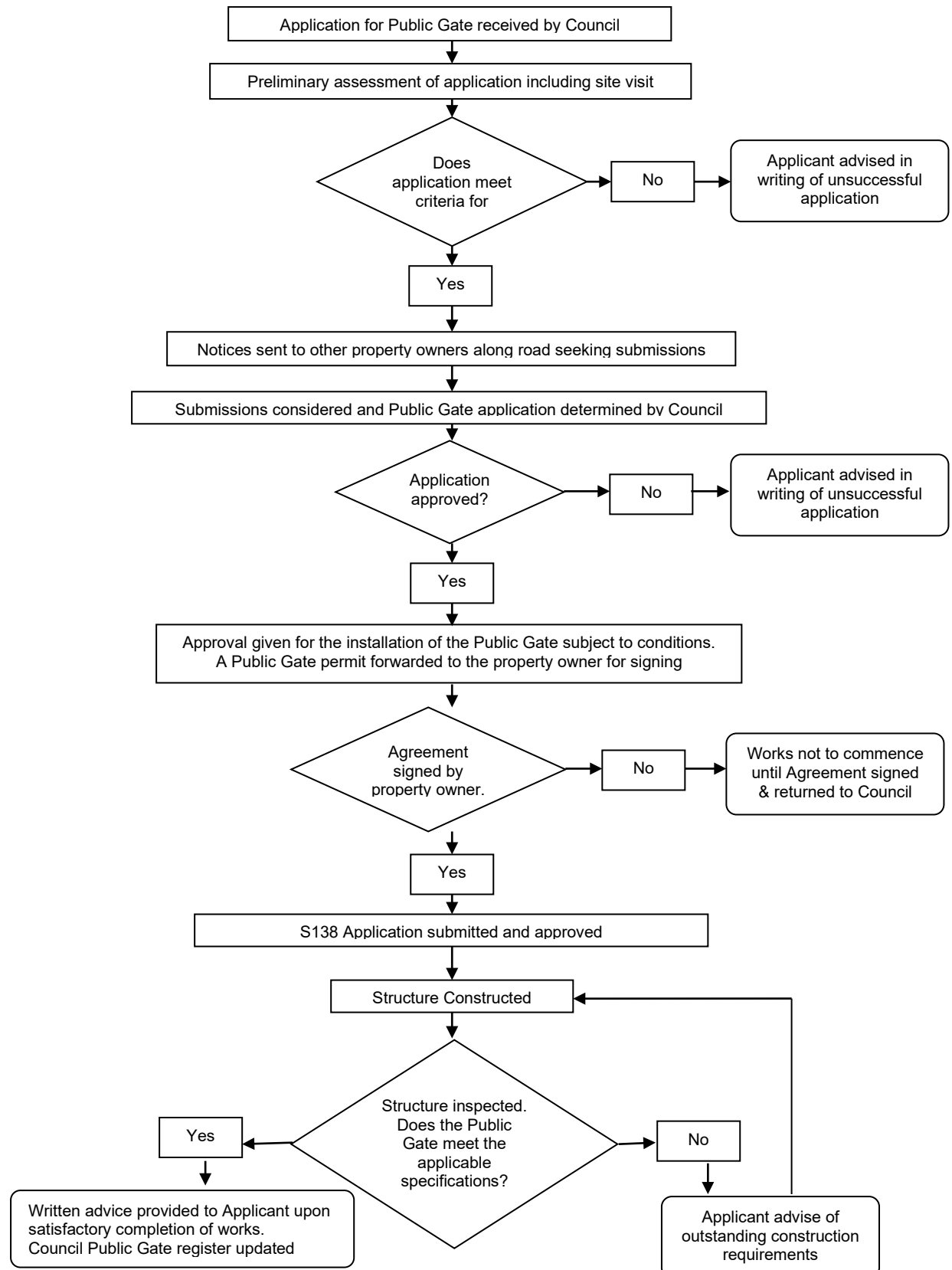
5. FEES AND CHARGES

Fees will be charged in accordance with Council's adopted Schedule of Fees and Charges available on Council's Website.

6. APPENDICES

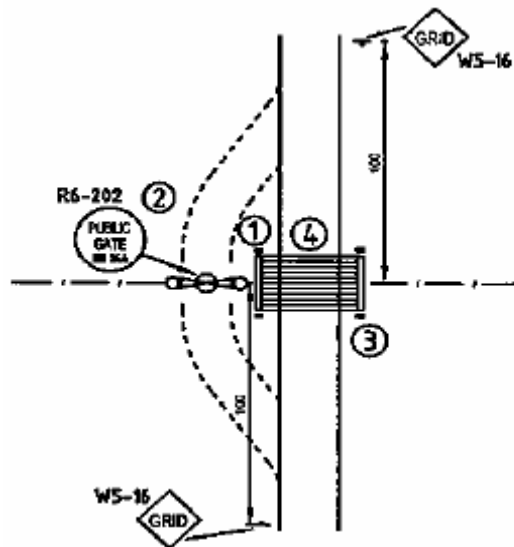
Appendix A: Flow chart for Permit Applications

Process Map for Application to Install a Public Gate



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Appendix B: Standard Drawing of a Public Gate and Stock Grid in Bypass Combination



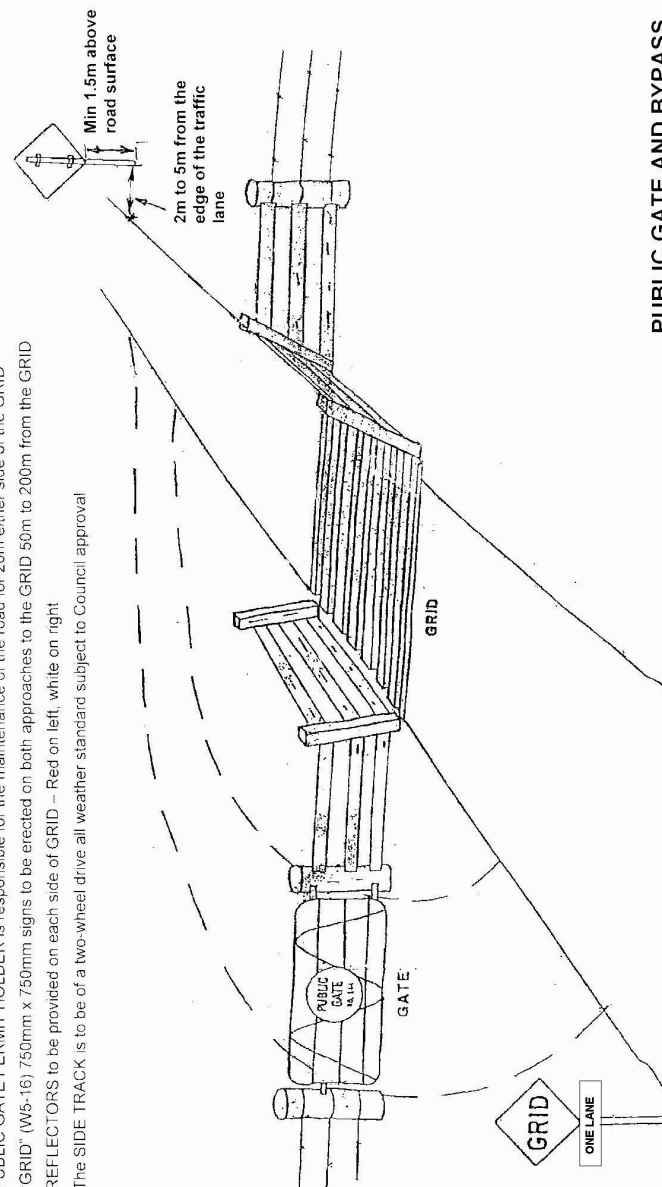
Notes

1. Public Gate to be registered and kept painted white by property owner.
2. All signs at property owner's cost.
3. Guideposts with reflectors either side (4)
4. Public Gate and Stock Grid to be 3.61m wide on narrow gravel road, 7.22m wide on two lane gravel road.

DIAGRAMATIC VIEW OF PUBLIC GATE AND BYPASS (CATTLE GRID)

Notes:

- GRID SURFACE to be at least 4.0m wide x 2.1m 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 20m either side of the GRID
- "GRID" (W5-16) 750mm x 750mm signs to be erected on both approaches to the GRID 50m to 200m from the GRID
- REFLECTORS to be provided on each side of GRID – Red on left, white on right
- The SIDE TRACK is to be of a two-wheel drive all weather standard subject to Council approval

PUBLIC GATE AND BYPASS
DIAGRAMATIC REPRESENTATION

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Appendix C: Public Gate Installation Application Form



PUBLIC GATE PERMIT NO.

Permit Holder:		
Address:		
<u>GRID DETAILS</u>		
Road:		
Distance:		
Ownership (Single/Joint):	Single/Joint	
Grid Size:	in metres	
Gate Size:	in metres	

CONDITION OF PERMIT

1. The Public Gate is to be installed and maintained in accordance with the provisions of the Road Act 1993, the Roads regulation 2018 and Council's design standards.
2. The Public Gate comprises both a stock grid and gate. A stock grid shall be located on the centreline of the existing road formation. The gate shall be located to one side of the stock grid and be clear of the normal travel path of a vehicle.
3. The permit holder(s) is responsible for the erection of and maintenance of the Public Gate, warning signs on the approaches to the grid and the immediate approaches on either side of the grid as per the above Act and Regulations.

Permit Holder

Derek Finnigan
General Manager

Appendix D: Excerpt from NSW Legislation Act and Regulation

NSW Legislation Act and Regulation

Road Act 1993

Part 9 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 RMS.
- (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 millimeters 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

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- (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 RMS, and
 - (b) if the public gate is part of a rabbit proof, dog proof or marsupial proof fence, except with the concurrence of Local Land Services.
- (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.

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- (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.

Appendix E: Road Regulation 2018

Roads Regulation 2018

Part 6 Public gates

68 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.

69 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 the proposed location of the gate) to be published in a local newspaper or on the roads authority's website, 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.

70 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.

71 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 the distance (not exceeding 20 metres) from each side of the gate, and for the width, determined by the roads authority when granting the permit.

Maximum penalty—10 penalty units.

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Appendix F: Public Gate Inspection Report Form

MUSWELLBROOK SHIRE COUNCIL	
RAMP INSPECTION SHEET	
Permit No	
ROAD NAME:	
DISTANCE:	
PERMIT HOLDER:	
ADDRESS:	

		Yes	N o
<u>Warning Signs:</u>	Erected	<input type="checkbox"/>	<input type="checkbox"/>
	Location Satisfactory	<input type="checkbox"/>	<input type="checkbox"/>
	Satisfactory Condition	<input type="checkbox"/>	<input type="checkbox"/>
<u>Foundation/Abutment:</u>	Satisfactory Condition	<input type="checkbox"/>	<input type="checkbox"/>
<u>Grid Rails:</u>	Satisfactory Condition	<input type="checkbox"/>	<input type="checkbox"/>
	Rails Bent		
	Rails Broken		
<u>Grid Support Beams:</u>	Number Provided 4		
	Satisfactory Condition	<input type="checkbox"/>	<input type="checkbox"/>
<u>Wing Walls:</u>	Type: Steel	<input type="checkbox"/>	<input type="checkbox"/>
	Painted White	<input type="checkbox"/>	<input type="checkbox"/>
	Delineators Fixed	<input type="checkbox"/>	<input type="checkbox"/>
	Satisfactory Condition	<input type="checkbox"/>	<input type="checkbox"/>

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		Yes	N o
<u>Public Gates:</u>	Satisfactory Condition	<input type="checkbox"/>	<input type="checkbox"/>
	Does it Swing Properly?	<input type="checkbox"/>	<input type="checkbox"/>
<u>General Comments:</u>			
Date:			