

Policy

Council to provide a consistent and flexible approach to the installation of Public Gates or Motor Bypass on council roads.

Objective

The objectives of the Policy are to:

- Provide direction and consistency in the management of gates, grids and motor bypasses across the Upper Hunter Shire.
- Ensure that all requests for installation of gates, grids and motor bypasses on council roads are dealt with consistently and in a manner which has taken into account factors such as community expectations, relevant standards, costs and environmental, health and safety issues.

Procedures/Practice

Council actively discourage the construction of motor by-passes on public roads where it is practical to have the road fenced out after giving due consideration to location and traffic volume;

Council has power (subject to the terms of this policy and relevant Legislation) to issue a permit to erect a public gate and/or a motor by-pass across a road (a "Permit") if the road is within Upper Hunter Shire Council's local government area EXCEPT where the road is:

- a. a freeway (being so declared pursuant to Section 48 of the Roads Act)
- b. a Crown road (a road so declared for the purposes of the Roads Act)
- c. a Main Road (a road so declared pursuant to Section 46 of the Roads Act)
- d. a State Highway (a road so declared pursuant to Section 47 of the Roads Act)
- e. a Controlled Access Road (a road so declared pursuant to Section 50 of the Roads Act)
- f. a Secondary Road (a road so declared pursuant to Section 50 of the Roads Act)
- g. a Tourist Road (a road so declared pursuant to Section 51 of the Roads Act)
- h. a Road which another public authority has declared to be the relevant road authority

References

- Roads Regulation 2008
- Roads Act 1993
- This Policy was adopted by Council at its meeting held on 29 June 2009

Review Date

30 June 2012 by Manager Civil Assets

Authorised by:
Daryl Dutton, General Manager

29 June 2009
Date

APPLICATION FOR PERMISSION TO CONSTRUCT GATE/GRID
OR MOTOR BYPASS ON COUNCIL ROAD

The General Manager
Upper Hunter Shire Council
PO Box 208
SCONE 2337

Dear Sir

Application is made for permission to construct a gate / grid / motor bypass within the boundaries of the road reserve as follows:

Road Name and No: _____

Location of Crossing: (attach plan) _____

Diameter and Material of gate/grid: _____

In consideration of permission so granted. I/We hereby and on behalf of my/our successors agree:

1. To construct the gate, grid or motor bypass in all respects in accordance with the requirements of the Council.
2. To maintain the gate, grid or motor bypass in good order at all times and to the satisfaction of the Council.
3. To modify, shift or remove the gate, grid or motor bypass at any time if required to do so by the Council.
4. To carry out all work in connection with the gate, grid or motor bypass at no cost to the Council
5. That Council accepts no responsibility for damage to the gate, grid or motor bypass arising out of the operations of the Council or by persons or vehicles using the road.
6. To indemnify and keep indemnified the Council from and against all actions, claims and damages that have arisen or that may at any future time arise from or in respect of any of the accident or otherwise howsoever out of the construction, provision or maintenance or existence of the gate, grid or motor bypass by completing the attached Deed.

Name: _____

Address: _____

Date: _____

Signature of applicant

UPPER HUNTER SHIRE COUNCIL

THIS DEED is made the day of in the year

BETWEEN THE COUNCIL OF THE SHIRE OF UPPER HUNTER (hereinafter called the Council) of the one part andof (hereafter called the Ratepayer) of the other part WHEREAS the Council has vested in it the fee simple of public roads known as Road AND WHEREAS the ratepayer owns/uses certain land on both sides of the said public road the approximate position of which is shown on plan hereto annexed (hereinafter referred to as the "said plan") AND WHEREAS the ratepayer has sought leave of the Council to construct a motor bypass, gate or grid on the said public road at the approximate position shown on the said plan which the Council in the public interest has agreed to grant NOW THIS DEED WITNESSETH that in consideration of the premises Council does hereby grant to the Ratepayer the personal right leave and license to construct the said gate, grid or motor bypass and to use and maintain the same for the purpose aforesaid such pipeline to be constructed at the expense of the Ratepayer in the manner and to the specification determined by the Council and the Ratepayer covenants and agrees with the Council that he will at all times maintain the said gate, grid or motor bypass and keep the same in repair to the reasonable satisfaction of the Council and THIS DEED DOTH WITNESSETH that in consideration of such grant aforesaid the Ratepayer DOTH HEREBY INDEMNIFY and hold harmless the Council against all actions suits claims and demands costs and expenses of any kind which may arise whether in negligence or nuisance or otherwise out of the construction of the said gate, grid or motor bypass or the user of part of the said public road and IT IS HEREBY DECLARED that this deed will inure for the benefit of the Council or its successors and shall bind the ratepayer his executors and administrators.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

SIGNED BY
the said _____

Applicant

in the presence of:-

Witness

Signed on behalf of Upper Hunter Shire Council

General Manager

INFORMATION AND APPLICATION FORM PUBLIC GATES & MOTOR BYPASSES

1. GENERAL

The sole responsibility for the maintenance, repair, replacement and general upkeep of the By-pass, Gate, fencing and Approach Road for a distance of 20 metres on either side is that of the landholder

2. REGULATION AND RESPONSIBILITY

Under the Roads Act 1993 and the Roads Regulation 2008, Council is required to authorise and register all motor by-passes on public roads and fix standards for the construction and upkeep of same.

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.

The legal obligation lies with the landholder (owner of the ramp) to ensure it is maintained in a safe condition for use by all traffic and any accident caused by neglect to satisfactorily maintain a ramp, could result in litigation against the owner by an injured party.

3. COUNCIL POLICY & PROCEDURE

Council actively discourages the construction of motor by-passes on public roads where it is practical to have the road fenced out after giving due consideration to location and traffic volume.

4. PUBLICATION OF NOTICES

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.

5. MAKING APPLICATION FOR A PERMIT

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.

6. ERECTION AND MAINTENANCE OF PUBLIC GATES

- a. 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.
- b. The holder of a public gate permit must ensure that:
 - i. a notice is attached to both sides of the gate bearing the words "PUBLIC GATE" in letters at least 75 millimetres high, and
 - ii. Both the gate and the notice are maintained in good condition.

7. MAINTENANCE OF PUBLIC GATES

The holder of a public gate permit must ensure that:

1. the gate is white, and
2. the posts on either side of the gate are fitted with reflectors facing along the road in each

direction.

8. REVOCATION OF PERMIT

- a. The roads authority may at any time revoke a public gate permit.
- b. 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.

9. CONSTRUCTION OF BY-PASS AROUND ROAD GATE

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:

- must not, unless the appropriate roads authority so permits, and
- must, if the appropriate roads authority so requires,

construct a by-pass for vehicles at the intersection of the road with the boundary fence.

Council as the roads authority may not permit or require the construction of a by-pass:

1. 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
2. if the public gate is part of a rabbit proof, dog proof or marsupial proof fence, except with the concurrence of the local livestock health and pest authority.

10. NOTICE BOARD TO BE ERECTED AT BY-PASS

The occupier of land on which a by-pass is constructed must ensure that:

- 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
- both the by-pass and the notice are maintained in good condition.

A notice may prohibit vehicles exceeding a specified laden weight from being driven over the bypass.

11. CLOSING OF BY-PASS

A by-pass may be closed and the notices relating to the by-pass may be removed:

- if the public gate in connection with which the by-pass was constructed is removed,
- revocation of by-pass permit

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.

The occupier of the land the subject of the permit must, within the time specified in the notice:

- remove the by-pass and its notices, and
- take such steps as are specified in the notice to ensure the safety of persons using the road.

12. DIRECTIONS BY COUNCIL TO THE HOLDER OF A PERMIT

Council may issue a direction in writing served personally or by post requiring the holder of a public gate permit to carry out work to cause the public gate or associated motor by-pass to comply with any or all of:

- The Roads Act or the Roads Regulation;
- This Policy;
- The terms of the permit

If the holder of the permit fails to comply with the direction within the reasonable time stipulated then pursuant to Section 238 of the Roads act, Council may take such action as is necessary to give effect to its direction and the costs incurred in doing so shall be recovered as a debt from the person to whom the direction was given.

13. REQUIREMENTS AND CONDITIONS FOR INSTALLATION OF GATES, GRIDS OR BYPASS ON COUNCIL ROADS

1. Applications for public gates and grids must be in writing addressed to General Manager.
2. Payment of a gates & grids fee as detailed in Council Management Plan, prior to works commencing.
3. Applications must include:
 1. Landowner
 2. Property name
 3. Rural Road Number
 4. Location of proposed gate/grid
 5. Site map
 6. Photo's of location
4. That the following policy be adopted in relation to grids:-
 - Class One roads - Minimum width 6 metres
 - Class Two Roads - Minimum width 6 metres or by resolution of Council
 - Class Three Roads - Minimum width 3.6 metres
5. Where present motor by-passes do not comply with Council's 3.6 metre wide, 14 tonne capacity standard, and the Council requires the relocation of the structure because of alteration to the road horizontal or vertical alignments and its reconstruction to an 8 metre width, one quarter of the cost of the wide by-pass shall be borne by the owner and three quarters of the cost by Council.
6. Where present motor by-passes do comply with the Council's 3.6 metre wide standard and the Council requires the relocation of the structure because of alteration to the road horizontal or vertical alignments and its reconstruction to an 8 metre width, the full cost shall be borne by the Council
7. Where additional motor by-passes are required by an owner, the full cost shall be borne by the owner;
8. A public gate shall be provided at each stock grid on a public road as follows:-
 - a. That where an 6m wide stock grid crosses a Public Road a 3.66m (12') wide gate shall be provided to allow for the movement of stock along the road;
 - b. That where a 3.6m wide stock grid crosses a Public Road two 3.66m (12') wide gates (i.e. a total opening of 24' or 7.32m) shall be provided to allow for the movement of wide machinery along the road. Part (b) shall only apply to public roads and stock grids providing access to arable land.
9. If it is necessary to divert the traffic to permit the gate/grid to be installed then a suitable and marked side track is to be provided.
10. Adequate warning signs are to be erected in advance of, and at the site of work advising the travelling public that such work is in progress. These signs can be borrowed from Council, but must be returned to Council on completion of work.
11. During the hours of darkness, flashing lights are to be erected on all signs connected with the work and once again these can be borrowed from Council
12. All work is to be carried out in daylight hours
13. The costs of all such works, including restoration of existing pavements and bitumen surfacing, shall be met by the applicant(s).
14. It will be the applicant's responsibility to maintain the lights, signs and side track in a safe and reasonable condition at all times.
15. The applicant shall obtain written approval from any other department with interests within the road reserve, and shall be responsible for any damage to any such department's property.
16. Relevant telecommunications authority is to be advised prior to the excavation commencing.
17. Upon completion of the work the road and road reserve is to be restored by the applicant to a condition similar that which existed prior to work being commenced.
18. All rubbish etc is to be removed from the site, all surplus earth is to be leveled and the road table drains are to be free of any debris or matter, which would obstruct or hinder the flow of water.
19. Council shall not be responsible for any damage caused to any gates, grids or other property in respect of this application and located within the road reserve, either by Council's own staff or machinery, or any outside body, any restoration works necessitated as a result of such damage shall be the responsibility of the applicant or owner. Council reserves the right to carry out any repair works at any time and debit the cost of same to the owner.
20. The gate shall be galvanised or suitable timber construction. Gate posts a minimum 12" (305mm) diameter hardwood. All gates are to be constructed in a tradesman-like manner.
21. As required by Section 129 (2) a) of the Roads Act 1993, the holder of a public gate permit must ensure that a notice is attached to both side of the gate bearing the words "Public Gate", together with the number allotted to the gate by Council, in letters 3" (75mm) in height;

22. Sites for motor by-passes proposed to be installed must be approved by Council and appropriate levels must be obtained from the Manager Civil Assets;
23. The subject public gates and motor by-pass must be installed within twelve months of the approval date. After such time the approval lapses and the applicant must re-submit application at their own expense.
24. Council supply at cost to people within Upper Hunter Shire Council's bounds, reflective width marker signs and signs indicating "Public Gate"
25. Pursuant to the OH&S Act 2000 and Regulations, the applicant shall undertake works in accordance with a Traffic Control Plan approved by the Manager Civil Assets
26. The applicant shall conduct a risk assessment of all duties involved in the road crossing construction. All hazards shall have controls put in place to eliminate or reduce their associated risk. A copy of the risk assessment shall be forwarded to Council's Manager Civil Assets prior to the application being approved.
27. In the event of the proposal - banks situated on the road reserve and raised above the level of the natural country, it will be necessary for the applicant to sign an agreement to indemnify Council against any claims lodged for damage allegedly caused by these banks.
28. Council shall be indemnified by the applicant from any damages or claims for damages arising as a result of any works carried out in consequence of approval of the application.
29. Council reserves the right to require the removal or relocation of the gate/grid for the realignment of the existing road reserve or reconstruction of the existing road formation and cost of any such removal or relocation shall be borne by the owner of the line.
30. Part 6 Public Gates Road Regulation (2008) applies to all gates/grids

Upper Hunter Shire Council

Application For Permit To Erect A Public Gate With/Without Motor Bypass

I hereby apply for permission to erect a Public Gate with Motor Bypass across an unfenced section of the _____ Road within Lot No. _____ in the Parish of _____ County of _____ at the following locations:-

a) *(State here an accurate description of the site of the gate)*

1. Approximately _____ km from the commencement of the road at its junction with

_____ Road

2. _____

b) State width of gate _____ metres

c) Is the gate already in existence? _____ (Yes/No)

d) Is the fence a boundary or subdivision fence? _____

e) If boundary fence, name of adjacent owner _____

f) Is a motor by-pass to be included? _____

g) I am the owner/occupier of the land *(delete one – if occupier, state legal nature of occupation)*

I enclose the prescribed fee of \$ _____ in respect of this application.

Name: _____

Address: _____

(Signature of Applicant)

(Date)