

# Subordinate Local Law No. 1.16 (Gates and Grids) 2011

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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) 2011*.

### 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) 2011* 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) 2011* (the **authorising local law**).

### 4 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

### 5 Matters regarding the prescribed activity—Authorising local law, ss 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, this subordinate local law prescribes—
  - (a) the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
  - (b) the individuals or organisations that are declared to be third party certifiers; and
  - (c) the qualifications that are necessary for an individual or organisation to be a third party certifier.

## **6 Approvals that are non-transferable—Authorising local law, s 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 5

#### 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.

#### 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.
- (7) If requested—a traffic management plan which details—
  - (a) anticipated pedestrian and vehicular traffic which will be created by the

- undertaking of the prescribed activity; and
  - (b) anticipated impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken; and
  - (c) how the applicant will minimise the impact of the undertaking of the prescribed activity on the movement of pedestrian and vehicular traffic in the area surrounding the place at which the prescribed activity is to be undertaken.
- (8) If requested — a report, study or certification from a suitably qualified person about —
- (a) the undertaking of the prescribed activity generally; or
  - (b) a specific aspect of the undertaking of the prescribed activity.

*Examples—*

1. A certificate of a registered professional engineer about the structural adequacy of a structure, to be used in the undertaking of the prescribed activity.
2. A certificate of a registered professional engineer about the extent to which the undertaking of the prescribed activity will comply with relevant requirements of the Manual of Uniform Traffic Control Devices.

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

The prescribed activity must not—

- (a) result in—
  - (i) material harm to human health or safety, including the safety of vehicular or pedestrian traffic; or
  - (ii) property damage or loss of amenity; or
  - (iii) unreasonable 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) have a material adverse affect on the amenity of the area in which the prescribed activity is to be undertaken; and
- (c) not result in the installation of a gate across a road, unless the installation of the gate is ancillary to the installation of a grid across the road.

#### **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 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

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- 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 25m 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) prohibit the installation of a gate across a road unless the installation of the gate is ancillary to the installation of a grid across the road.
- (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 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 date 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 25m 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.

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

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.

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

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.



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

Section 6

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

## Schedule 3      Dictionary

### Section 4

**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 hinged or sliding barrier used to close an opening in a wall, fence or hedge.

**grid** has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.

**responsible person** has the meaning given in *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*.

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

This and the preceding 9 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.16 (Gates and Grids) 2011* made in accordance with the provisions of the *Local Government Act 2009* by Townsville City Council by resolution dated the Fifteenth day of December 2011.

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Ray Burton  
Chief Executive Officer