	ADMINISTRATIVE POLICY	
	Conditions for Approval, Installation and Maintenance of Stock Control Structures in Public Roads	
	POLICY NO	063
	DEPARTMENT	Engineering & Commercial Infrastructure
	PROGRAM	Transport & Drainage Infrastructure Planning
APPROVED BY CEO	18 January 2021	

1.0 Scope

This policy relates to the requirements for approval of permits for gates and grids issued under Mackay Regional Council Gates and Grids (Application of Continuing Local Law) Local Law 2011.

2.0 Purpose

- (a) To provide direction and requirements for permit applications;
- (b) Requires compliance with Mackay Regional Council ('MRC') Standards as contained in the "Conditions for the Approval, Installation and Maintenance of Stock Control Structures in Public Roads (Public Gates, Grids and Ramps)".
- (c) Adopt conditions detailed in the Local Law and Subordinate Local Law including conditions relating to transfer of permit.

Note: A gate built as part of a grid or ramp is not a Public Gate for the purpose of this guideline.

3.0 Reference

- (a) Gates and Grids (Application of Continuing Local Law) Local Law 2011

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Council means the Mayor and Councillors of Mackay Regional Council.

Local Road means a non-classified road under the management and control of MRC.

Motor Bypass means Grids or Ramps within the Road Reserve positioned as a continuation of the carriageway within an unfenced Road Reserve.

MRC means Mackay Regional Council.

MRC Standards means those requirements referenced in “Conditions for Approval, Installation and Maintenance of Stock Control Structures in Public Roads (Public Gates, Grids and Ramps).”

Public Gates means Gates positioned at any location within any fenced or unfenced Road Reserve.

Road Reserve means land dedicated as road for present or future use of the travelling public.

Rural Access Road means a road allocated as rural road in Eppell Olsen & Partners *Mackay Four Level Road Hierarchy* (2003) hierarchy classification and reflected in the Mackay Region Planning Scheme 2017 overlay map available via the attached link. http://www.mackay.qld.gov.au/_data/assets/pdf_file/0015/225132/Version_2.0_-_SC2.5_-_Road_hierarchy_overlay_maps.pdf

Stock Control Structure means any structure established within the Road Reserve specifically to control the movement of stock such as a motor grid, gate or stock race.

5.0 Background

Requirements for issue and approval of licences for Stock Control Structures exist under Mackay Regional Council Gates and Grids (Application of Continuing Local Law) Local Law 2011. This policy and the associated guidelines establish the process and requirements to be followed to allow the establishment of these structures within the road reserve.

6.0 Policy Statement

6.1 Form of Application

Every application to erect a Stock Control Structure across a public road shall be in writing accompanied by a plan of the road showing where such Stock Control Structure is proposed to be erected, and associated fees.

6.1.1 *Requirement for Public Notice*

Before the application is decided by MRC, the applicant must place a public notice by advertisement in a local/digital newspaper. Such advertisement must:-

- (a) Give a clear description of the road, and the location of the grid / gate / fence to be erected by the applicant; and

- (b) State that the application may be inspected at the MRC office and that objections to the granting of the licence may be lodged with MRC on or before the date specified in the advertisement which date must be no earlier than thirty (30) days after the publication of such advertisement.

Any such objection must be in writing, addressed to the Chief Executive Officer, and must set out the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.

6.1.2 *Specification of Stock Control Structures*

The holder of a licence for a Stock Control Structure issued under the Local Law must ensure that the Stock Control Structure is constructed and maintained in accordance with the MRC Standards.

6.1.3 *Requirements to Erect Gate*

MRC may require the erection of a gate in addition to a grid where circumstances warrant the erection of a gate, e.g. traffic volumes, over dimension vehicles. This may also include construction of an access road through the gate.

6.1.4 *Restrictions to Applicants*

An application to erect a gate/grid will only be considered on Rural Access Roads or roads of lower hierarchy standard or unconstructed roads.

6.1.5 *Conditions of Licence*

A licence issued for a Stock Control Structure shall be subject to the conditions included in Mackay Regional Council Gates and Grids (Application of Continuing Local Law) Local Law 2011 and MRC Standards.

6.2 Transfer of Licence

A licence for a Stock Control Structure may not be automatically transferred upon change in ownership of the relevant land. A new application must be submitted at the time of the change in ownership including all accompanying information and documentation.

7.0 **Review of Policy**

This policy will be reviewed when any of the following occur:

- (a) The related documents are amended or replaced.
- (b) The Chief Executive Officer can vary all administrative policies at any given time.


Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

Attachment

Conditions for the Approval, Installation and Maintenance of Stock Control Structures in Public Roads (Public Gates, Grids and Ramps).

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy			
2	Reviewed Guideline			1/10/2018
3	Review Policy	Amendments to Policy	CEO	22/01/2019
4	Review Policy	Amendmetns to Policy	CEO/SLPT	18.01.2021



Conditions for the Approval, Installation and Maintenance of Stock Control Structures in Public Roads (PUBLIC GATES, GRIDS AND RAMPS)

Version 7 | November 2020

INTRODUCTION

This policy statement defines the approval process and the requirements for the installation and maintenance of Stock Control Structures namely gates, stock grids, ramps and stock races within Road Reserve within the Mackay Regional Council Local Government Area.

The requirements of this policy relate specifically to conditions under Mackay Regional Council Gates and Grids (Application of Continuing Local Law) Local Law 2011.

APPLICATION OF THE POLICY

This policy applies to all Road Reserves within the Mackay Regional Council local government area where the Stock Control Structures exist or are intended to be built.

Applications for new Stock Control Structures will be determined by the Chief Executive Officer in accordance with the elements of this policy statement. The applicant may have the matter referred to Council for consideration should the application be refused by the Chief Executive Officer under delegated authority.

DEFINITIONS

In regard to the requirements of this policy the following definitions shall be deemed to apply:-

"Licence Deed"	means a licence deed of agreement issued under Mackay Regional Council Gates and Grids (Application of Continuing Local Law) Local Law 2011 for the installation of a Stock Control Structure in a Public Road.
"Licence Holder"	means the licensee under a Licence Deed.
"Local Road"	means a non-classified road under the management and control of MRC
"Public Gates"	means gates positioned at any location within any fenced or unfenced Road Reserve
"Motor Bypass"	means grids or ramps within the Road Reserve positioned as a continuation of the carriageway within an unfenced Road Reserve
"MRC"	means Mackay Regional Council.
"Road Reserve"	means land dedicated as road for present or future use of the travelling public and includes public roads and Rural Access Roads or lower hierarchy and unconstructed roads
"Rural Access Road"	means a road allocated as a rural road in the Eppell Olsen & Partners <i>Mackay Four Level Road Hierarchy</i> (2003) hierarchy classification and reflected in the Mackay Region Planning Scheme 2017 overlay map available via the attached link. http://www.mackay.qld.gov.au/data/assets/pdf_file/0015/225132/Version_2.0_-_SC2.5_-_Road_hierarchy_overlay_maps.pdf

“Stock Control Structure” means any structure established within the Road Reserve specifically to control the movement of stock such as a motor grid, gate or stock race

Note: A gate built as part of a grid or ramp is not a Public Gate for the purpose of this policy.

PURPOSE

This policy has been compiled to inform residents of MRC’s approval processes, and the installation and maintenance requirements for Stock Control Structures in Road Reserve. In addition, the policy will enable MRC to:

1. Fulfil its statutory obligations in this regard;
2. Regulate the installation and maintenance of Stock Control Structures;
3. Ensure that Stock Control Structures are installed and maintained to standards which minimise safety risk to public road users.

MRC has an objective of deleting all Stock Control Structures, wherever reasonably possible, from all Road Reserves within the Local Government area and to encourage the installation of stock fencing along the boundaries of all roads within Road Reserves.

FEES

The application form for the approval to install a Stock Control Structure must be accompanied by the appropriate fee as shown in MRC’s listing of Fees and Charges within its Management Plan.

NEW STOCK CONTROL STRUCTURES

The approval authority for Stock Control Structures in local roads is the MRC. Applications must be forwarded to MRC on the “Application Form - Erection of Stock Control Structure”. See Attachment 1.

Following submission of the application, the applicant shall advertise in the local/digital newspaper, as per Attachment 2, to determine if any local objections exist to such a structure.

Stock Control Structures may be approved subject to their characteristics and design meeting the standards contained and/or attached in this policy, and the safety of road users being maintained at all times.

Stock Control Structures must be located on the prolongation of the external property boundaries. Approval will not be issued for other locations including boundaries which are created by the sublease of existing properties.

If new Stock Control Structures are approved, the applicant must enter into a Licence Deed with MRC under which the applicant agrees, amongst other things, to undertake the maintenance and repair of these items at no cost to MRC. The Licence Deed must be executed prior to the start of construction of the Stock Control Structure. The form of Licence Deed is attached to this policy, as Attachment 3.

EXISTING STOCK CONTROL STRUCTURES

Maintenance

The Licence Holder is responsible for the maintenance of all Stock Control Structures and approaches to the Stock Control Structures. If maintenance is not carried out regularly and effectively, MRC may perform the maintenance and recoup these costs from the Licence Holder.

Where MRC considers that an increased volume of traffic, safety issues or other considerations require changes to existing structures, the MRC may direct that the Stock Control Structure be relocated, widened or replaced by a wider structure of improved standard at the sole cost of the Licence Holder.

RECONSTRUCTION OF ROADS

If reconstruction of a Local Road is required in the vicinity of a Stock Control Structure, MRC may approach Licence Holder to discuss the removal of the Stock Control Structure. MRC may consider providing assistance to Licence Holders to install stock fencing along road boundaries if none exists. The removal or adjustment of the Stock Control Structure shall be carried out by MRC with the installation cost being borne by Council.

DIMENSIONS AND LAYOUT OF NEW GRIDS

Grids

New grids shall have a minimum clear width of 6.0 metres on unsealed roads and 8.0 metres on sealed roads between side fences to reflect the minimum desirable width of the formation of the MRC roads. Length of grids is to suit the requirements of the applicant.

The applicant will also be responsible for the costs of providing and installing the required warning signs and grid width signage.

Grids shall be constructed generally in accordance with Queensland Department of Transport and Main Roads Technical Note 18 "Design Criteria for Motor Grids" <https://www.tmr.qld.gov.au/-/media/busind/techstdpubs/Technical-notes/Bridges-other-structures/TN18MotorGrids.pdf?la=en>, although alternative grid construction options may be submitted for approval provided the structure meets the minimum requirements of AS 5100 "Bridge Design". A certificate to this effect, issued by a RPEQ Certified Structural Engineer, must be submitted with the application for approval of non-standard grids.

Two (2) 'grid' signs to Queensland Department of Transport and Main Roads specifications referenced in the Manual of Uniform Traffic Control Devices (MUTCD) W5-16A shall be installed. The signs shall be located adjacent to the approach lane at a distance of between 180 and 250 metres from the grid subject to visibility requirements.

Posts and chevron markers shall be installed at each corner of the grid structure, and connected to the longitudinal boundary fencing with 'ring lock' steel mesh or approved equivalent. The bypass gate shall be installed to suit drainage and shoulder formation requirements.

All grids shall be installed with a 5 metre length, measured along the centreline of the approach and departure roadway, of bitumen seal applied to an adequate pavement on both the approach and departure sides of the grid. Initial construction costs and ongoing maintenance costs of this seal will be the Licence Holder's responsibility. Prior to the seal being undertaken MRC's representative shall approve both the pavement underlying the seal and the seal design. Nominally the bitumen seal shall be a C170 cutback bitumen spray seal with double aggregate applied of 14 mm or 16 mm and 10 mm nominal dimensions.

MAINTENANCE REQUIREMENTS FOR GRIDS ON MRC ROADS

MRC will inspect the structures periodically to identify the effectiveness of the maintenance works being carried. Where the maintenance is ineffective, MRC may direct that additional

maintenance shall be carried out and if such maintenance is not carried out effectively within (2) weeks of MRC's direction being issued, MRC may carry out such work and charge the Licence Holder or occupant. Details of inspection procedures are contained in Attachment 4.

Grids

Maintenance works for which the Licence Holder is responsible for shall include the following items:

1. Ensuring that all warning signs and components of the grid are in a sound condition and the replacement of all defective parts is carried out in a timely manner. This includes upgrading of existing signage to current Manual of Uniform Traffic Control Devices (MUTCD) standards.
2. Removing all silt, debris and rubbish from the drain under the grid and keep the outflow drains clear.
3. Maintaining the height of grass and vegetation in the area of the grid to a maximum of 200mm.
4. Repainting fence posts in white on a regular basis.
5. Repairing potholes in gravel pavements for a distance of five (5) metres either side of the grid for currently unsealed approach and departure legs or maintenance of the spray seal for new installations.
6. For all situations where the assessed risk associated with a hazard existing at a structure is greater than minor, MRC shall notify the Owner and require the repair to be undertaken within the following timelines:
 - a. Minor and below hazards – Fourteen (14) days;
 - b. Above Minor Hazards – Seven (7) days during which time a suitable sidetrack shall be operable and maintained. This sidetrack shall be established under the control of a Licenced Traffic Controller following the submission of an application for a 'Permit to Work in the Road Reserve'.

RESPONSIBILITY FOR LIABILITY

A licence for a Stock Control Structure may not be automatically transferred upon change in ownership of the relevant land. A new application must be submitted at the time of the change in ownership along with all accompanying information and documentation.

In the event of a change of ownership of the land to which the Stock Control Structure related the owner shall advise the MRC in writing as to:-

1. The date on which their interest in the Stock Control Structure will cease; and
2. The name and address of the new owner of the relevant land.

In the absence of such advice and the subsequent cancellation of approval, the previous owner shall remain liable for the responsibilities for the structure.

The Licence Holder shall indemnify the MRC against any claim, action, demand or process arising out of any act or omission by the Licence Holder, its servants, agents or contractors relating to the Stock Control Structure and that part of the road required to be maintained by the Licence Holder.

RESPONSIBILITY FOR INSURANCE

The Approved Person shall also take out and maintain at all times public liability insurance of not less than \$20,000,000 (or such other amount as may be determined from time to time) for any single occurrence. The policy shall be endorsed to the effect that it shall not be cancelled unless fourteen (14) days prior notice of such proposed cancellation is given to the MRC. The Approved Person shall provide evidence that such insurance has been affected prior to the Stock Control Structure being constructed.

DURATION OF LICENCE

1. Licenses may continue in force until the expiry date as set out in the licence unless cancelled by the Council before the expiry date as set out below.
2. MRC may by resolution cancel a license:
 - a. on the application of the licensee;
 - b. at any time after giving three months' notice to the licensee; and
 - c. without notice in the circumstances referred to in Section 6 and Section 8 of Mackay Regional Council Subordinate Local Law Policy No. 3 (Gates and Grids) 2011.



ATTACHMENT 1



APPLICATION TO INSTALL GATE AND ASSOCIATED GRID

a. Road Name:

b. Location:
(reference to property boundary or distance from nearest cross road)

A plan of the road and locality where the gate/grid is proposed is attached.

c. Property Name and real/leasehold property description of property benefiting:

d. Name of registered proprietor ("the approved person")

e. Type of grid proposed if not standard main road grid type:

f. Property Description Where Work is to be Carried Out: Type Size

Structural Engineers Certification Attached: YES NO

I hereby apply to install a gate and associated grid at the above location. I further acknowledge receipt of a copy of the Conditions for approval, installation and maintenance of stock control structures in public roads. I agree to be bound by such conditions and hereby grant to MRC the required Indemnity.

Signed: _____ DATE: ____/____/____

(SIGNATURE OF APPROVED PERSON OR AGENT EXPRESSLY AUTHORISED IN WRITING)

PRIVACY DISCLAIMER:
Mackay Regional Council is collecting your personal information in order to process your application. This information will only be disclosed to any other third party with your written authorisation or as we are required to by law.

Office Use Only:

Receipt : _____ Date: _____ Assessment: _____	Lat: _____ Long: _____
Installation Satisfactory: _____ <i>Maintenance Manager</i> _____ <i>Date</i>	Evidence of insurance sighted and rates log entered: _____ <i>Rates Clerk</i> _____ <i>Date</i>



ATTACHMENT 2



APPLICATION FOR LICENCE TO ERECT FENCE, GATE AND GRID ACROSS ROAD

(SAMPLE ADVERTISEMENT FOR INSERTION IN NEWSPAPER)

APPLICATION FOR LICENCE TO ERECT FENCE, GATE AND GRID ACROSS ROAD

In accordance with Chapter 3 Part 3 Section 60 of the Local Government Act, notice is hereby given of intention to apply for a licence to erect a fence, gate and grid across (LOCATION) between (LOT NUMBERS).

The application may be inspected at the offices of the Mackay Regional Council and objections to the granting of the licence may be lodged with the Chief Executive Officer on or before (INSERT DATE *must be two (2) weeks from date of advertisement).

Any such objection shall be in writing, shall be addressed to the Chief Executive Officer and shall set out the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.

(APPLICANT)



ATTACHMENT 3



LICENCE DEED FOR THE INSTALLATION OF STOCK CONTROL STRUCTURES IN PUBLIC ROADS

Parties

Name

Address

Contact

Phone

Email

Short name **Licensee**

Name Mackay Regional Council

Address PO Box 41, Mackay QLD 4740

Contact Chief Executive Officer

Phone 1300 622 529

Email council@mackay.qld.gov.au

Short name **Council**

Background

- A. Licensee is the [registered owner / lessee] of the Property.
- B. An unfenced Public Road passes through the Property.
- C. The Licensee has requested permission to construct the Stock Control Measures in the Public Road within the Licensed Area.
- D. Council has agreed to grant the Licensee a licence use of the Licensed Area for the Permitted Use on the terms and conditions of this Licence.

Licence Particulars

Item 1.	Public Road:	[#Insert]
Item 2.	Property:	[#Insert.]
Item 3.	Stock Control Measures:	[#Insert and include any warning signs etc]
Item 4.	Licensed Area:	The area of the Public Road shown on the plan contained in Annexure A.
Item 5.	Commencing Date:	The date of the deed.
Item 6.	Terminating Date	The earlier of: (a) the date this deed is terminated by Council under clause 9;

		(b) the date this deed terminates under clause 10; or (c) the date the Stock Control Measures are removed from the Licensed Area.
Item 7.	Licence Fee:	\$1.00
Item 8.	Permitted Use:	Installation and use of the Stock Control Measures.

Agreed terms

1. Definitions

In this deed unless expressed or implied to the contrary:

Commencing Date means the date specified in Item 5 of the Licence Particulars.

Council includes Council's successors and assigns and where it is consistent with the context includes Council's employees and agents.

Licence Fee means the amount specified in Item 7 of the Licence Particulars.

Licensee includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, contractors, agents, invitees and persons the Licensee allows in the Licensed Area.

Licensed Area means the part of the Public Road as specified in Item 4 of the Licence Particulars.

Local Laws means any local law of Council relating to stock control measures including gates, stock grids, ramps and stock races.

Permitted Use means the use specified in Item 8 of the Licence Particulars.

Property means the land specified in Item 2 of the Licence Particulars.

Public Road means the public road specified in Item 1 of the Licence Particulars.

Stock Control Measures means the Stock Control Measures specified in Item 3 of the Licence Particulars.

Terminating Date means the date specified in Item 6 of the Licence Particulars.

2. Grant of Licence

Council grants to the Licensee a non-exclusive licence to use the Licensed Area for the Permitted Use commencing on the Commencing Date and ending on the Terminating Date.

3. Licence Fee

On demand, the Licensee must, by a method nominated by Council, pay Council the Licence Fee.

4. Permitted Use

The Licensee must use the Licensed Area only for the Permitted Use and in accordance with the terms of this deed.

5. No Warranty

The Licensee acknowledges that Council does not represent that the Licensed Area is suitable for the Permitted Use.

6. Installation of Stock Control Measures

The Licensee must undertake the installation the Stock Control Measures in the Licensed Area at their sole risk, cost and expense and:

- (a) in accordance with:
 - (i) plans supplied or approved by Council;
 - (ii) any conditions of approval issued by Council to the Licensee;
 - (ii) Council's *Conditions for the Approval Installation and Maintenance of stock Control Structure in Public Roads (Public Gates, Grids and Ramps)* published at the date of this deed;
- (c) in a workmanlike and competent manner; and
- (e) otherwise in a manner and to a standard that satisfies Council, acting reasonably.

7. Maintenance of Stock Control Measures

- (a) The Licensee must at its sole risk, cost and expense, maintain the Stock Control Measures and in good and safe condition and repair at all times. This includes:
 - (i) maintaining the Public Road in reasonable repair for a distance of five (5) metres on each side of the Stock Control Measures so that the public traffic may not be impeded or obstructed:
 - (A) on a sealed bitumen road, an opening which extends for the full width of the bitumen plus one (1) metre on each side of the bitumen;
 - (B) on a gravel road, an opening which extends for the full width of the trafficable surface of the road plus one (1) metre on each side of the trafficable section of the road;
 - (ii) eradication and destruction of noxious weeds and plants growing on the Public Road enclosed by the Stock Control Measures and the area described in clause 7(a)(i), and to keep such areas free from the same.
- (b) The Licensee must at its sole risk, cost and expense carry out any maintenance, repair or replacement work on the Stock Control Measures when reasonably requested in writing by Council.
- (c) If the Licensee fails to comply with the obligation in clauses 7(a) and 7(b) after having been given reasonable notice to do so, Council may carry out the maintenance, repair and replacement works and recover the costs from the Licensee as a liquidated debt.

8. Relocation of Stock Control Measures

- (a) If Council requires the reconstruction of the Public Road and the relocation of the Stock Control Measures Council must advise the Licensee in writing and Council will be responsible for the cost of removing and relocating the Stock Control Measures.
- (b) If Council considers that an increased volume of traffic, safety issues or other considerations require changes to and/or the relocation of the Stock Control Measures, Council may give written notice directing the Licensee to make such changes and/or relocation of the Stock Control Structure, the sole cost of which must be borne by the Licence Holder.

9. Removal of Stock Control Measures

Council may at any time by written notice, require the Licensee to remove the Stock Control Measures and restore the Licensed Area to the state and condition it was in prior to installation of the Stock Control Measures, within six (6) months from the date of such notice. No compensation or expense whatsoever will be payable by Council in respect of any matters relating to or arising from such removal, restoration of the Licensed Area or notice.

10. Licensee default

If the Licensee breaches any provision of this deed or refuses or neglects to comply with any notice order or direction given by Council pursuant to this deed, it will be lawful for Council without further notice to:

- (a) cause such breach, notice order or direction to be given effect to and all costs, charges and expenses incurred by the Council shall be recoverable from the Licensee as a debt; and
- (b) re-enter and take possession of the Licensed Area and eject the Licensee and all other persons from the Licensed Area and repossess and enjoy the Licensed Area.

11. Sale of Property

- (a) The Licensee agrees that, before it sells, transfers or assigns all or any part of its interest in the Property it must:
 - (i) provide council with:
 - (A) the date the Licensee's interest is being sold, transferred or assigned; and
 - (B) name and address of the purchaser, transferee or assignee; and
 - (ii) procure the transferee or assignee apply to Council for a new licence of the Stock Control Measures.
- (b) The Licensee must notify Council in writing as soon as the Property is sold, transferred or assigned and confirm the date of sale, transfer or assignment. This deed will terminate on the date of sale, transfer or assignment to the purchaser, transferee or assignee.

12. Insurance

- (a) The Licensee must at its sole cost and expense maintain insurance with an insurer approved by Council (acting reasonably) for:
 - (i) public liability for the amount of \$20 million concerning one single event. The policy must include property damage liability, accidental death of, or accidental bodily injury to persons, contingent liability and the Licensee's legal liability with respect to the use and occupancy of the Licensed Area by the Licensee; and
 - (ii) take out other insurances which are required by law or as requested by Council from time to time or which a prudent Licensee would take out.
- (b) In relation to any insurance policy the Licensee is required to take out or maintain under clause 11(a), the Licensee must:
 - (i) not do or omit to do or, permit or suffer to be done, anything which may prejudice or affect, or render void or voidable any of the insurances under clause 11(a);
 - (ii) if necessary, reinstate an insurance policy if it lapses;
 - (c) not cancel or vary the policy without first giving Council 14 days written notice and must not cancel or materially vary the policy in a manner adverse to its obligations under this document or allow an insurance policy to lapse without the prior written consent of Council;
 - (d) immediately give written notice to Council of any actual, threatened or likely claim or any event which may result in an insurance policy lapsing or being cancelled; and
 - (e) give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any policy or the payment of all or any benefits under the insurance.

13. Risk

The Licensee occupies the Licensed Area at its own risk. Anything which the Licensee is obliged to do under this deed is to be done by the Licensee at its own cost and risk.

14. Release

The Licensee releases Council from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that such claims arise out of or are contributed to by Council's negligence or default.

15. Indemnity

The Licensee must indemnify and hold harmless Council against all claims, losses, liabilities, costs or expenses incurred in connection with or resulting from:

- (a) any damage, loss, death or injury in connection with the Licensed Area but only to the extent caused or contributed to by the Licensee's negligence or default;
- (b) the use and occupation of the Licensed Area by the Licensee but only to the extent that such claims arise out of or are contributed to by the Licensee's negligence or default.

16. Governing Law

This deed is governed by and is to be construed in accordance with the laws of Queensland. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland and waives any right to object to proceedings being brought in those courts

17. Legislative obligations

Nothing in this deed will affect any obligation imposed by *the Local Government Act 2009* and the *Transport Infrastructure Act 1994*, and the Licensee is bound by the provisions of those Acts.

16. Local law obligations

The Licensee acknowledges:

- (a) it has read the Local Laws and is subject to the provisions of the Local Laws.
- (b) Council may impose any additional conditions on the Licensee as it is permitted to do so under any application Local Laws of Council.

EXECUTED AS A DEED

EXECUTED by the **MACKAY REGIONAL COUNCIL** in accordance with the *Local Government Act 2009* in the presence of:

)
)
)
)
)

.....
Signature of delegate

.....
Name of delegate

.....
Witness

EXECUTED by
in the presence of

)
)
)
)

.....
Signature of Licensee

.....
Name of Licensee

.....
Witness

Annexure A Plan of Licensed Area