

Guideline

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Fences on stock routes

Purpose

This guideline describes the considerations and requirements for maintaining or constructing a fence along the stock route network in Queensland, to ensure that fences do not obstruct the movement of travelling stock or the travelling public. Specific information includes:

- When such fencing is lawful
- Approval requirements and processes
- Matters that need to be considered when proposing a fence
- Specific fence and gate requirements, especially for cluster/vermin proof fences.

Rationale

Any activities associated with stock routes must ensure that the integrity and continuity of the stock route network is maintained. This means keeping stock routes fully available for travelling stock, with no unauthorised obstructions such as fences.

Legislative provisions

Having a fence on a road along the stock route network is unlawful unless you have received authorisation as described below. Four pieces of legislation govern fences, gates and grids on roads:

- 1) The *Stock Route Management Act 2002* (Stock Route Act) makes it an offence¹ for a person, without reasonable excuse, to obstruct the movement of travelling stock on the stock route network. 'Obstruct' is defined as hinder, resist or attempt to obstruct. Examples in the Stock Route Act of obstructing stock movement include building a fence and/or locking a gate. The Stock Route Act includes provisions that say it is also an offence to place something on the stock route that is likely to harm the travelling stock. It defines 'harm' as obstructing or otherwise interfering with the stock.
- 2) The *Local Government Act 2009* (Local Government Act²) for local roads, and the *Transport Infrastructure Act 1994* (Transport Infrastructure Act³) for state controlled roads, give powers to local government and the Department of Transport and Main Roads (TMR) to manage their respective roads. These Acts require that a person must not, without lawful excuse, or the written approval of the relevant government:
 - a) carry out works on the road; or

¹ Section 179

² Section 75

³ Section 33

- b) interfere with a road or its operation.

For road safety purposes, the road manager (i.e. local government for local roads or TMR for state controlled roads) may also have construction standards that must be met for fences being installed along a road or stock route.

- 3) The 'no trespassing' provisions⁴ of the *Land Act 1994* (Land Act) make it an offence to do any of the following things on non-freehold or trust land, including roads and stock routes, without authorisation:
 - a) enclose it
 - b) build, place or maintain any structure, improvement, work or thing; e.g. a fence.

Consequently, any intention to erect or upgrade a fence on a road along the stock route network will be influenced by the requirements of the Stock Route Act, Local Government Act, Land Act and Transport Infrastructure Act (where relevant).

Application of legislation

Overarching consideration

The existence of fences on stock routes is unlawful unless specific authorisation has been granted under the Land Act, Local Government Act or Transport Infrastructure Act.

If authorisation is granted under authority provided under the Local Government Act or the Transport Infrastructure Act, the main requirement is to not obstruct the movement of travelling stock or the travelling public, as per the Stock Route Act. More details on this are provided below.

Persons constructing unauthorised fences on stock routes may be prosecuted and penalties apply relevant to the applicable legislation described above.

Local governments are obliged to manage the part of the stock route network in their local government area in accordance with the Stock Route Act⁵ and the principals of stock route network management as described in the Act.

Stock route assessment criteria

To aid compliance with the Stock Route Act, 'Stock route assessment criteria' have been developed to adequately take account of stock route requirements during any land dealings associated with the Land Act. These criteria should also be used when determining the types and locations of any authorised fences and gates in and around stock routes (regardless of whether there are any Land Act dealings occurring). The criteria are described in the department's operational policy on 'Land dealings affecting the stock route network' (SLM/2013/363 = PUX/901/238).

Specific authorisation processes

For relevant land including roads declared as stock routes and other roads and reserves used for travelling stock, any authorisation to build a fence would normally be provided through any one or more of the following:

⁴ Section 404

⁵ Section 183

- 1) A local government may make a local law⁶ to regulate, for example:
 - a) use of local roads, including associated fencing obligations, and/or
 - b) construction and maintenance of ancillary works and encroachments, such as fences, associated with local roads.
- 2) The Chief Executive of TMR may make decisions⁷ about the construction, maintenance and operation of ancillary works (such as fences) on state controlled roads. Non-compliance with these decisions may be an offence.
- 3) Dealings under the Land Act may result in, for example:
 - a) the issue of a permit or authority with associated conditions about fencing, or
 - b) for a reserve, a trustee issuing a trustee lease with associated conditions about fencing. The trustee lease should not permit any further fencing than that permitted under the lease. (No structural improvements are permitted under a trustee permit).

Any existing fencing on a road must still be authorised under the relevant Act and meet the requirements of the Stock Route Act to not obstruct the movement of travelling stock.

Consultation with road manager

To authorise any proposed fence within a road, the road manager (i.e. local government for local roads or TMR for state controlled roads) should be consulted and agree to the location of any fences and the location and widths of associated gates, prior to construction. The road manager should take into consideration the requirements of relevant legislation, including the Stock Route Act, *Vegetation Management Act 1999* and the stock route assessment criteria.

Where a fence is authorised, the road manager should provide a written authority agreeing to the fence and gate construction design and referencing an attached map of the agreed location of the fence and required gates.

Where TMR provides an authority for construction of a fence on a state controlled road, an additional authority is also required from the relevant local government as the stock route network manager within its area.

Specific fence and gate considerations including cluster/vermin proof fences

To help ensure that the movement of travelling stock is not obstructed, the following fence and gate provisions should be observed and should be included in approval conditions where appropriate:

- The location of a fence within a road must be authorised by the relevant road manager prior to construction.
- Gate locations and the number of gates required must be agreed and authorised by the relevant road manager.
- If required by the relevant road manager, grids and run-throughs are to be installed.
- For the safe movement of stock through the fence, gates are to be installed on fences where grids or run-throughs are utilised.
- Gates require a minimum opening width of 7.3 meters (24 feet).

⁶ Section 60 of Local Government Act

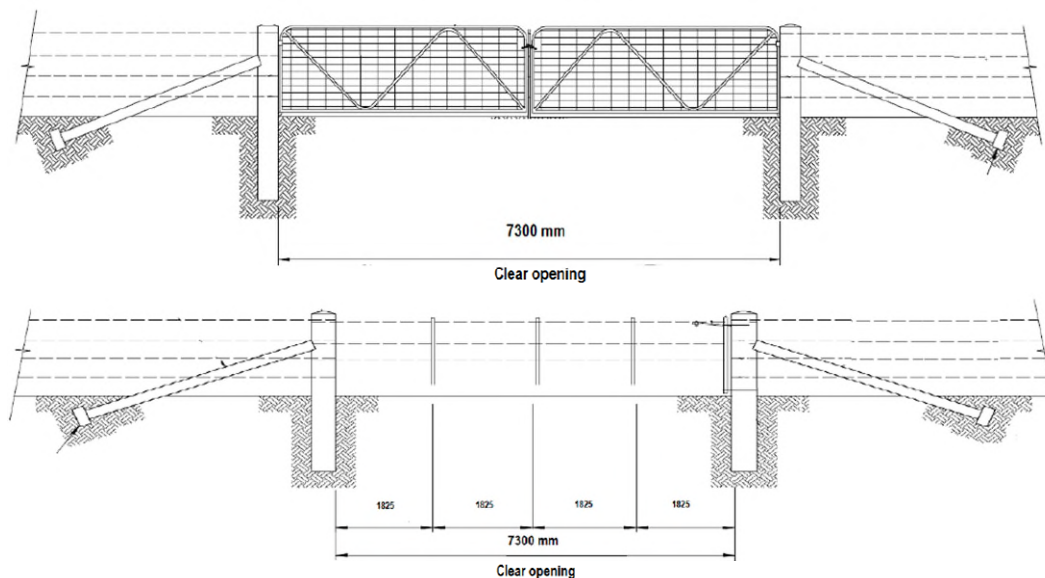
⁷ Section 50 of Transport Infrastructure Act

- Gates are not to be locked.
- The location of fences and gates should not require travelling stock to back-track to progress along the stock route.
- If a fence narrows the width of a stock route, gates in that fence are required to provide access to the full width of the stock route (i.e. including the fenced-off area) to avoid travelling stock needing to back track.
- If a land dealing requires fencing consideration, conditions are to be included to ensure that the tenure holder is responsible for fence maintenance and also for removal of any fence within the stock route on termination of the land dealing agreement.
- For cluster/vermin control fences, there is no requirement for these fences to be situated on property boundaries and therefore can be located within the landowner's property boundary.
- Authorisation of a cluster/vermin control fence within a stock route does not entitle a grazing authority over the fenced in stock route area and the landowner should maintain their existing property boundary fence.
- For road safety, it is recommended, that any person installing a fence over a road, meets the construction standards as required by the relevant road manager.

Example gates

Below are examples of gates that may be suitable on stock routes with appropriate authorisation. A clear opening of at least 7.3 metre is required.

Figure 1 – Example gates for use on stock routes



Legislation

Land Act 1994 (Land Act)

Local Government Act 2009 (Local Government Act)

Stock Route Management Act 2002 (Stock Route Act)

Transport Infrastructure Act 1994 (Transport Infrastructure Act)

Related documents

Operational policy - Land dealings affecting the stock route network (SLM/2013/363 = PUX/901/238)

Approval

Position	Name	Date
Executive Director, Land and Native Title Services	Graham Nicholas	26/11/2019

Version history

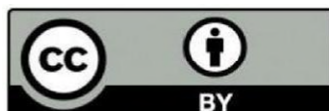
Version	Effective Date	Comments
1.00	26/11/19	New document

Further information

- Contact your nearest business centre (https://www.dnrme.qld.gov.au/?contact=state_land), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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