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### Glossary of Terms

The following terms are associated with the *Roads (Opening and Closing) Act 1991*

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Relevant Authority</strong></td>
<td>The Relevant Authority is the agency that drives the road process, assess objections and resolves to raise a Road Process Order. In most situations it is the Council, except where the road process is associated with development, then the State Commission Assessment Panel (SCAP) will be the Relevant Authority.</td>
</tr>
</tbody>
</table>
| **Road Process Order** | An order made by the Relevant Authority (usually Council) to either open or close roads. Where roads are being closed, the Order will describe how the closed roads are to be disposed of. For example, the closed roads can either be;  
- Transferred to adjoining property owners  
- Form part of an exchange between a property owner and Council for new road  
- Remain in the ownership of the Council  
The Road Process Order will also make reference to any easements being created as part of the road process. (see APPENDIX J) |
| **Agreement for Exchange** | An agreement between a Council and another person for the exchange of closed road for new road being opened. (see APPENDIX E) |
| **Agreement for Transfer** | An agreement between a Council and another person for the transfer of closed road. (see APPENDIX F) |
| **Road (Public)** | A street, road or thoroughfare where the Council is or is entitled to ownership or where the road has been shown on a map lodged in the Land Services SA, but excludes deposited plan lodged prior to 1920. |
| **Road (Private)** | A street, road or thoroughfare where the ownership remains in that of a private person. Typically, private roads arise from land division plans prior to 1920 where the streets, roads or thoroughfares did not vest in the name of the Council, but remained in the ownership of the original land developer. Private roads are often found in old partially cancelled Certificates of Title where all of the original building allotments were transferred out of the parent title, leaving only the roads remaining. Section 210 of the ‘Local Government Act 1999’ enables a Council to declare a private road to become a public road where the private road has been under the care and control and being maintained by that Council. |
| **Road (Closed)** | An interim stage between the raising of the Road Process Order and the issue of Certificates of Title. Prior to the ‘Roads (Opening and Closing) Act 1991’, it was common for Certificates of Title not to issue unless requested. The current Act requires Certificates of Title to issue after the deposit of the road plan. If dealing with a road closed under the prior Act and it is apparent that no Certificate of Title exists, then the original Road Process Order must be viewed to determine what instructions were granted for disposal of the Closed Road. Common scenarios included;  
- Reserved or Retained – meaning the Council for the area is entitled to apply to the Surveyor-General for a Certificate of Title in their name  
- Sold – to be sold by public auction or tender  
- Transferred – Transferred to adjoining private owners (referred to in the Order)  
- Exchanged – Closed road being exchanged for new road being opened |
| **Road (Unmade)** | A public road that has never been formed on the ground as a road and is often being occupied by adjoining land owners, even though they are not legally entitled to it. |

<table>
<thead>
<tr>
<th><strong>Road (Reserve)</strong></th>
<th>An area of public road on the property cadastre that does not include the actual formed road on the ground, such as the road verge that includes the footpath or other areas not being used as a road.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Road Process</strong></td>
<td>Reference to both road closing and opening</td>
</tr>
<tr>
<td><strong>Conditional Confirmation</strong></td>
<td>A stage of the road process at which time the plan has been approved for data and the Minister confirms the Road Process Order conditionally upon deposit of the plan. A notice is published in the SA Government Gazette.</td>
</tr>
<tr>
<td><strong>CRTC</strong></td>
<td>Closed Road Title Certificate (CRTC) is issued by the Surveyor-General for every piece of road being closed within the final plan. The CRTC authorises the Registrar-General to issue new Certificates of Title.</td>
</tr>
<tr>
<td><strong>PP Plan</strong> (Preliminary Plan)</td>
<td>The Preliminary Plan (PP) is the initial proposal plan depicting the closing or opening of roads and any easements being created as part of the road process. The plan will indicate if closed roads are to be merged with adjoining land. The PP Plan is lodged with the Surveyor-General and the number is generated manually. The fee payment is also processed manually via a cheque. The numbering format consists of 17/0010 - 17 being the year of lodgement and the 0010 is the number lodged that year. The plan format is less detailed than the final plan that is lodged with the Registrar-General through Electronic Plan Lodgement (EPL).</td>
</tr>
<tr>
<td><strong>Final Plan</strong> (Deposited Plan)</td>
<td>The final plan (being a Deposited Plan) is lodged with the Registrar-General through Electronic Plan Lodgement (EPL). This plan is more detailed than the PP Plan and must meet the requirements as set out in the Plan Presentation Guidelines. The final plan will have a heading that includes ‘Roads (Opening &amp; Closing) Act 1991’ and may include other descriptions such as Division or Easement depending on what the plan is trying to achieve. The final plan will show the outcome of the roads being either opened or closed and any easements that were required as part of the road process and public consultation process.</td>
</tr>
<tr>
<td><strong>Statement of Persons Affected</strong></td>
<td>The ‘Roads (Opening and Closing) Act 1991’ requires persons (that can be identified by reasonable enquiry) to be notified of any proposed road opening or closing. This also includes persons with an interest in land affected by the road process. A Statement of Persons Affected with their names and addresses must accompany the initial lodgement of the PP Plan to the Surveyor-General. (see APPENDIX D)</td>
</tr>
</tbody>
</table>
2. Introduction

This document provides guidance to enable land related professionals (Surveyors, Conveyancers and Agents) to prepare and lodge applications to open and close roads with the Surveyor-General pursuant to the Roads (Opening and Closing) Act 1991 (the Act).

The Roads (Opening and Closing) Act 1991 allows;
- Public roads to be closed and merged with adjoining land
- Land to be opened as new road

These guidance notes should be read in conjunction with the Roads (Opening & Closing) Act 1991 and the accompanying regulations. In the case of any uncertainty, the Act takes precedence over these guidelines.

3. Physical Lodgement of Hardcopy Stage 1 and Stage 2 Applications

Due to the sale and commercialisation of the Lands Titles Office, Land Services SA are no longer accepting lodgements over the front counter of 101 Grenfell Street on behalf of the Surveyor-General.

Physical lodgement of hardcopy Stage 1 and Stage 2 applications can now only occur via the following 2 methods;

- Via postal lodgement addressed to;
  Surveyor-General
  GPO Box 1354
  ADELAIDE SA 5001

- Telephoning staff in the Roads Group on 8456 4901 to arrange to time for a hand delivery of applications.

- Any enquiries can be emailed to LSGRoadsAct@sa.gov.au
4. Overview of the Road Process

Before roads can be closed, a thorough historical title search must be undertaken to determine that the roads are in fact public roads and not private roads remaining in partially cancelled certificates of titles.

In most situations, the Council acts as the ‘Relevant Authority’ that drives the road process. A Survey Firm is often used as an agent to assist with administration and engagement with the Office of the Surveyor-General. The Surveyor-General’s role is to ensure the road process is conducted in accordance with the Act and to advise the Minister.

The Surveyor prepares a Preliminary Plan, known as a ‘PP Plan’ that identifies the road to be opened or closed, this assists the public consultation process. Where a road is closing, the plan must clearly articulate how the road is to be dealt with.

4.1 Stage 1 Lodgement

Lodgement with the Surveyor-General comprises a two-step process. The Stage 1 Lodgement involves lodging with the Surveyor-General the following:

- **Preliminary Plan** (Certified by Council Delegate and signed by Surveyor)
- **Statement of Prescribed Public Utilities** *(see APPENDIX B)*
- **Statement of Prescribed Public Authorities** *(see APPENDIX C)*
- **Statement of Persons Affected** *(see APPENDIX D)*
- **Fee Payment** (cheque made out to the ‘Surveyor-General’)
- **Checklist Stage 1** *(see APPENDIX M)*

Once a road process commences, it is usually the agent’s role to initiate the public consultation process. This involves:

- Publishing a notice in the Government Gazette
- Notifying the Prescribed list of Authorities and Utilities
- Notifying Persons Affected by the road process

A 28 day public consultation period begins and invites affected parties to make an objection or request an easement in their favour. If objections or requests for easements are made from private parties, then the Council as the Relevant Authority would assess these requests and meet with those parties to negotiate their requirements. The Council is obligated under the Act to grant any easements requested by a Public Utility.

Council can then decide to proceed and raise a Road Process Order. This is a legal document that describes which land is affected and how the road will be either opened or closed. The Road Process Order is executed by the Council.

During this process, the Surveyor’s Final Plan (Deposited Plan) must be lodged with Land Services SA via Electronic Plan Lodgement (EPL).
4.2 Stage 2 Lodgement

The Stage 2 Lodgement occurs after the raising of the Road Process Order by the Council and involves the agent lodging with the Surveyor-General the following;

- **RTD Document** (or RTC/RTU where land division occurs) *(see 10.1 page 22)*
  *(The RTD Document (or RTC/RTU) must accompany Stage 2 Lodgement and must not be lodged separately with Land Services SA. If plan purpose includes 'Division' an RTC/RTU Document is required.)*
- **Road Process Order** (in duplicate) *(see APPENDIX J)*
- **Final Plan** lodgement (Deposited Plan) – lodge via EPL (Land Services SA)
- **Copy of the Final Plan** endorsed by Council (A4 or A3 paper)
- **Council Minutes** – where Council resolves to raise a Road Process Order (Certified true and correct copy by Council Delegate)
- **Agreement for Transfer / Exchange or Application for Document of Title** *(see APPENDIX E, F & G)*
- **Certification of Public Notice Correspondence** *(see APPENDIX H)*
- **Fee Payment** (cheque made out to the ‘Surveyor-General’)
- **Objections** (Confirmation of process)
  - Invitation to meeting
  - Report by Relevant Authority
- **Checklist Stage 2** *(see APPENDIX N)*

The Surveyor-General will ensure the lodgements are prepared in the correct manner and investigate any unresolved objections or requests for easements. Once the Stage 2 Lodgement has occurred, the Final Plan (Deposited Plan) can then be examined by the Registrar-General.

When the Final Plan has been approved for data, any outstanding objections are forwarded to the Minister for Planning, Transport and Infrastructure for his consideration. If the Minister is satisfied that the Council has undertaken a thorough consultation process and that the closure does not have any adverse effects on the wider community, then the Minister may confirm the Road Process Order.

The Surveyor-General will then place a notice in the SA Government Gazette providing conditional confirmation on deposit of the Final Plan. Plan deposit and the issue of new Certificates of Title occurs shortly after via Land Services SA.
4.3 Fees

The prescribed fees associated with lodgement with the Surveyor-General are set out in the SA Government Gazette and are adjusted 1st July each year.


Fee Schedule (as of 1 July, 2020)

<table>
<thead>
<tr>
<th>Lodgement Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stage 1 Lodgement</strong></td>
<td></td>
</tr>
<tr>
<td>Preliminary Plan</td>
<td>$275.00</td>
</tr>
<tr>
<td><strong>Stage 2 Lodgement</strong></td>
<td></td>
</tr>
<tr>
<td>Roads Act Administration Fee</td>
<td>$254.00</td>
</tr>
<tr>
<td>Each Application, Agreement for Transfer or Agreement for Exchange</td>
<td>$190.00</td>
</tr>
<tr>
<td>Where State Commission Assessment Panel (SCAP) becomes the Relevant Authority and the Surveyor-General undertakes the public notification process.</td>
<td>$772.00</td>
</tr>
<tr>
<td>Where the Surveyor-General is required to undertake notification of an order pursuant to Sections 34 and 37 of the Act.</td>
<td>$190.00</td>
</tr>
<tr>
<td>Application by Council requesting a Certificate of Title to issue in their name for old closed road.</td>
<td>$190.00</td>
</tr>
<tr>
<td>Withdrawal of any documents submitted to the Surveyor-General</td>
<td>$68.00</td>
</tr>
<tr>
<td>Minimum Road Width Declaration <em>(less than 12.00 Metres)</em></td>
<td>$73.00</td>
</tr>
</tbody>
</table>

6. Determining if a Road is Public or Private?

Any road proposed to be closed must be public road within the meaning of Section 3 of the Act. A diligent search to establish the tenure of roads to be closed must be undertaken prior to commencing a road closure process.

A search of the property cadastre is required to determine if a road is either public or private. Before a road can be closed, it must first have a status of “public” road. Public roads are owned by the Council for the area, Commissioner for Highways or the Crown. Certificates of Titles for the roads may or may not exist.

Prior to the Town Planning and Development Act 1920, roads created in a plan of division remained in the ownership of the original proprietor. It was implied that from 1886 – 1920 that every proprietor within the plan was entitled to use the private road. Before 1886, it was implied that only allotments directly abutting the private road had the ability to use it. The private road would usually remain in the partially cancelled certificate of title. (see Example D)

Four methods used to create public road include;

6.1 Public Map

Before the various forms of the property cadastre known as Property Location Browser, there was the Interim Land Tenure Map and before that there was the “Public Map”. Any road shown on the Public Map in a brown or red colour was deemed to be public road. The Public Map is still a useful historical searching tool that can be viewed from the Ground Floor of Lands Services SA. (see Example A)

6.2 Division Plans

Roads created in division plans after the Town Planning and Development Act of 1920 vested in the name of the Council for the area as public roads. Roads shown on division plans prior to 1920 remained in the ownership of the original land developer as private roads and it was implied that only the allotment owners with the plan had the right to use the internal private road.

The definition of public road was expanded with Section 70(3) of the Crown Land Management Act 2009 which states, any street, road or thoroughfare shown on a deposit or file plan lodged in the Lands Titles Office is deemed to be public road.

6.3 Public Road Declarations

Pursuant to Section 208 of the Local Government Act 1999, the Council has the ability to declare a private road to be a public road and a notice must be published in the Government Gazette. (see Examples B and E)

6.4 Transfer

There was a time when land was transferred out of a Certificate of Title to Her Majesty the Queen for road purposes. No plan was involved and no Certificate of Title issued for the road. (see Example F)
7. Does a Certificate of Title exist for a Public Road?

7.1 Roads in Division Plans
Since 1973, separate Certificates of Title have issued for the roads being created in a plan of division. The Volume and Folio reference can be obtained from a search of SAILIS using the Title Details Search enquiry.

Prior to this date, roads created in plans of division remained in the parent certificate of title after the building allotments were sold and transferred out. This title is commonly referred to as a “PC” or Partially Cancelled Title. (see Example D)

Where private roads have been declared public by Council and the Lands Titles Office been notified, the Registrar-General will issue Certificates of Title accordingly via a Notification document. (see Example E)

No Certificates of Title exist for public roads created via the Roads (Opening & Closing) Act 1991.

7.2 Old Closed Road
Prior to the current Roads (Opening & Closing) Act 1991, there was no requirement to immediately issue a certificate of title from a Road Process Order. It was intended that would occur at a later date. This delay in process caused confusing as to tenure type and who is entitled to own the land. There are Road Process Orders dating back to 1880 where Certificates of Title have never issued for closed road, creating complexities as to how that land can be dealt with today.

Old closed roads can be identified from the property cadastre with descriptions referring to “A in RP 7515” or similar. The original Road Process Order must be viewed to determine what instructions were given by Council to dispose of the closed road. Typically, the disposal instructions were;

- Transfer to adjoining property owners
- Form part of an exchange between a property owner and Council for new road
- Remain in the ownership of the Council

Where a Certificate of Title has never issued for the old closed road in accordance with the Road Order, the ‘Application for Document of Title’ (see APPENDIX G) can be completed and submitted to the Surveyor-General with the applicable fee. The Council for the area is the only party entitled to be registered as the owner at this stage.

*NOTE: Where the applicant is the Council, NO Stamp Duty is payable and Application is NOT required to be assessed for Stamp Duty purposes. The I HEREBY CERTIFY section on the ‘Application for Document of Title’ form can be crossed through with a diagonal line.*
7.3 Commissioner of Highways

Some major road infrastructure across the State is in the ownership of the Commissioner of Highways. Certificates of Title exist for the land, but there is no “road” description or dedication on the title. Any dealing with that land (or road) would occur outside of the Roads (Opening and Closing) Act 1991.

7.4 Native Title Search

Where a road is to be opened over un-alienated crown land, the Roads Group within the Surveyor-General’s Office must be contacted to arrange a native title search to establish whether native title has been extinguished.

The following actions will be taken;

<table>
<thead>
<tr>
<th>Is the road being opened over un-alienated crown land and in a recognised Native Title Claim area?</th>
<th>Has native title been extinguished?</th>
<th>Action Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>YES</td>
<td>NO action is required.</td>
</tr>
<tr>
<td>YES</td>
<td>NO</td>
<td>Surveyor-General will notify a registered representative of the persons recognised as claiming to be the common law holders of the native title for that area in accordance with Division 3 of the Commonwealth Native Title Act 1993 and give 2 calendar months to comment on the matter.</td>
</tr>
<tr>
<td>NO</td>
<td>NO</td>
<td>Surveyor-General will forward the proposal to the Aboriginal Legal Rights Movement Inc. who will notify a person who is a representative recognised for the area in accordance with Division 3 of the Commonwealth Native Title Act 1993 and give 2 calendar months to comment on the matter.</td>
</tr>
</tbody>
</table>

Any feedback as part of this consultation will form part of the overall road process.
8. Stage 1 Lodgement

The Stage 1 Lodgement with the Surveyor-General comprises;

- **Preliminary Plan** (Certified by Council Delegate and signed by Surveyor)
- **Statement of Prescribed Public Utilities** (*see APPENDIX B*)
- **Statement of Prescribed Public Authorities** (*see APPENDIX C*)
- **Statement of Persons Affected** (*see APPENDIX D*)
- **Fee Payment** (cheque made out to the ‘Surveyor-General’)
- **Checklist Stage 1** (*see APPENDIX M*)

8.1 Preliminary Plans

The Preliminary Plan is used as part of the public consultation process.

Section 9(1)(a) of the *Roads (Opening and Closing) Act 1991* requires a Preliminary Plan (often referred to as the PP Plan) to be lodged with the Surveyor-General. The plan is the initial proposal plan depicting the closing or opening of roads and any easements being created as part of the road process. The plan will indicate how the land is to be dealt with following the closure. Where the land is to merge with adjacent land, the plan must clearly delineate which land the closed road is to merge with. Section 28(3) of the Act also allows for other land owned by the applicant to merge with the closed road as long as the endorsements on the Certificates of Title are consistent with each other.

Any deviation or change to the intention of the original Preliminary Plan will require a new public consultation process.

The Preliminary Plan is not lodged through Electronic Plan Lodgement (EPL) and currently there is no means to process fees electronically. Fee payment currently requires a cheque to be accompanied with the Stage 1 Lodgement that is processed manually by the Surveyor-General. The Surveyor-General allocates a receipt and the PP Plan number after lodgement.

A Licensed Surveyor certifies that the road to be closed is public and Council certifies the plan correct as to the intent.

The plan format is less detailed than the final plan that is lodged with Land Services SA, but the following requirements apply;

- The Preliminary Plan must be prepared on international paper size A3 or A4.
- The heading must be PRELIMINARY PLAN and sub-headings refer to the local government Area, hundred and area names.
- The Preliminary Plan must be drawn to a scale with a bar scale or scale ratio shown.
- A north point must be shown.

Cont.

- The road to be closed or opened must be fully depicted.
- Land descriptions abutting the road to be closed or opened must be shown.
- The location of all existing easements must be shown.
- Roads to be closed must be identified with an alpha identifier, for example “A”
- Roads to be opened must be identified with a number, for example “1”
- A statement must be shown on the Preliminary Plan that describes the intent of the proposal, for example;

- ROADS TO BE OPENED NUMBERED 1. 2. 3 and 4
- ROADS TO BE CLOSED LETTERED ‘A’ and ‘B’
- ROAD ‘A’ TO MERGE WITH ALLOTMENT 117 IN D24724
- ROAD ‘B’ TO BE RETAINED BY COUNCIL (state intent – see Page 20)

- Where road is being closed, a certification signed and dated by a Licensed Surveyor referring to the authority for public road declaration such as, Notification No. Gazette date, Plan No. Public Map etc, must be shown.


AUTHORITY: Government Gazette 1953 PAGE 66

__________________________
LICENSED SURVEYOR ___/___/____

- A certification by the Council, dated and signed by an authorised delegate must be shown, for example;

DATED ___/___/___

__________________________
AUTHORISED OFFICER
8.1.1 Background Imagery on Preliminary Plans

To assist with public consultation, from 1 July 2020, aerial imagery must be used as a background layer on the PP Plan for the community to properly ascertain the intent of the road closure. It is advised that imagery only be used as a background layer where the imagery has been geo-referenced so that it coincides with the cadastral boundaries. Other information such as improvements may also be shown.

A note is to be placed on the PP Plan acknowledging the source of the imagery and (if possible) the date the imagery was captured.

Text over imagery must be clear and legible. In some instances it may be necessary to supply 2 copies of the Preliminary Plan – one showing only the cadastral overlay, the other showing both the cadastre and imagery overlay.

See Preliminary Plan Examples 1 & 2

Preliminary Plan Example 1: Road Closing (only)
Preliminary Plan Example 2: Road Opening and Closing
8.2 Statement of Prescribed Public Utilities

The Prescribed Public Utilities, as set out in the South Australian Government Gazette (14 May 2015, page 1759), are required to be notified in every road process as part of the 28 day public consultation process.


A schedule verifying that those Utilities will be notified as part of the 28 day public consultation process is required to be submitted with the Stage 1 Lodgement. (see APPENDIX B)

8.3 Statement of Prescribed Public Authorities

The Prescribed Public Authorities, as set out in Part 5 (page 2) of the Roads (Opening and Closing) Regulations 2006 (Version: 8.8.2017) are required to be notified in certain situations as part of the 28 day public consultation process.


A schedule verifying that those Authorities will be notified as part of the 28 day public consultation process is required to be submitted with the Stage 1 Lodgement. (see APPENDIX C)

8.4 Statement of Persons Affected

Persons affected by the road process must be notified in writing of the proposal as part of the 28 day public consultation process. Those persons affected include the owner, occupier or someone with an interest in land that is directly adjoining the land subject to the road process or land that will be affected by the road process and who can be identified by reasonable enquiry.

A schedule verifying that those Persons Affected will be notified as part of the 28 day public consultation process is required to be submitted with the Stage 1 Lodgement. (see APPENDIX D)

8.5 Fee Payment

A cheque made out to the Surveyor-General is required as part of the Stage 1 Lodgement. A receipt will be e-mailed.
9. Public Notification

Section 10 of the Act requires a public notification process to be undertaken in relation to new road processes. (see APPENDIX A)

To initiate the 28 day public consultation process, the Agent must place a Public Notice in the SA Government Gazette and at the same time notify the Surveyor-General via email at LSGRoadsAct@sa.gov.au

Once the email is received, the Surveyor-General will add the commencement of the notification of the public consultation process to the SA.GOV.AU website.

www.sa.gov.au/roadsactproposals

The website will display the current proposal with a copy of the Gazette Notice initiating the 28 day public consultation process, Preliminary Plan and deadline dates for objections or requests for easement.

Notification on the SA.GOV.AU website meets the requirements of the Section 6(3) of the Roads (Opening & Closing) Regulations 2006 and eliminates the need to advertise in a newspaper. However, there may be contentious road processes where advertising in a local newspaper may still be beneficial.

*NOTE: For transparency, if Council’s intention is to retain the public road being closed then Council must state their reasoning/intention to avoid unnecessary objections and enquiries which may inevitably delay the road closure process. Council’s intention to be made clear on both the Preliminary Plan and within the Gazette Notice.

Example - Public Notice

---

23 May 2019

THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE 1423

LIGHT REGIONAL COUNCIL
ROADS (OPENING AND CLOSING) ACT 1991
Road Closure – Un-Made Road, Templers

NOTICE is hereby given, pursuant to section 10 of the Roads (Opening and Closing) Act 1991, that the Light Regional Council proposes to make a Road Process Order to close and sell to the adjoining land owner the whole of the public road adjoining allotment 92 in F174047, allotment 191 in F174092 and Section 163 Hundred of Light more particularly delimited and lettered ‘A’ in Preliminary Plan 19/0009.

The Preliminary Plans and Statement of Persons Affected is available for public inspection at the offices of the Light Regional Council, 93 Main Street, Kapunda and 7 Hanson Street, Freeling, and the Adelaide Office of the Surveyor-General, during normal office hours. The Preliminary Plan can also be viewed at http://www.sa.gov.au/roadsactproposals

Any application for easement or objection must set out the full name, address and details of the submission and must be fully supported by reasons. The application for easement or objection must be made in writing to the Light Regional Council, PO Box 72 Kapunda SA 5373, WITHIN 28 DAYS OF THIS NOTICE, and a copy must be forwarded to the Surveyor-General at GPO Box 1354, Adelaide 5001. Where an objection is made, the Council will give notification of a meeting at which the matter will be considered.

Dated: 23 May 2019

BRIAN CARR
Chief Executive Officer
10. Stage 2 Lodgement

The Stage 2 Lodgement with the Surveyor-General occurs after the Stage 1 Lodgement, where the Council has resolved to raise a Road Process Order. Section 20(1) of the Roads (Opening and Closing) Act 1991 requires the Stage 2 Lodgement to be lodged with the Surveyor-General within 3 months of the making of the Road Process Order. All remaining documents must be lodged with the Surveyor-General at this time.

The **Stage 2 Lodgement** comprises –

- **RTD Document** (or RTC/RTU where land division occurs) *(see 10.1 page 22)*
  *(The RTD Document (or RTC/RTU) must accompany Stage 2 Lodgement and **must not be** lodged separately with Land Services SA. If plan purpose includes ‘Division’ an RTC/RTU Document is required.)*
- **Road Process Order** (in duplicate) *(see APPENDIX J)*
- **Final Plan** lodgement (Deposited Plan) – lodge via EPL (Land Services SA)
- **Copy of the Final Plan** endorsed by Council (A4 or A3 paper)
- **Council Minutes** – where Council resolve to raise a Road Process Order (Certified true and correct copy by Council Delegate)
- **Agreement for Transfer / Exchange or Application for Document of Title** *(see APPENDIX E, F & G)*
- **Certification of Public Notice Correspondence** *(see APPENDIX H)*
- **Fee Payment** (cheque made out to the ‘Surveyor-General’)
- **Objections** (Confirmation of process)
  - Invitation to meeting
  - Report by Relevant Authority
- **Checklist Stage 2** *(see APPENDIX N)*

*NOTE: The Final Plan (Deposited Plan) **must** be lodged in EPL before the RTD document can be entered in SAILIS. SAILIS requires a plan number to be linked to the document.*
10.1 RTD Document (or RTC/RTU)

The RTD Document is the lodgement document for the final plan that is lodged through EPL. The Agent usually prepares this document. The document and guidance notes can be found at the following link; [https://www.sa.gov.au/topics/planning-and-property/certificates-of-title/lto-forms](https://www.sa.gov.au/topics/planning-and-property/certificates-of-title/lto-forms)

The RTD Document is used in every instance where the final plan PURPOSE only refers to “Roads (Opening & Closing) Act 1991”

Where the final plan PURPOSE includes reference to ‘AND DIVISION’ then an RTC or RTU Document will be required to be lodged. This document type is usually prepared by a Licensed Conveyancer.
10.2 Road Process Order

A Road Process Order is a legal document where the Relevant Authority makes an order pursuant to a resolution to either open or close roads. There may be conditions as part of the order, such as the creation of easements or rights of way.

Pursuant to Section 15 of the Roads (Opening and Closing) Act 1991, the Relevant Authority must, ‘as soon as practicable’ after the expiration of the 28 day public consultation period, consider the objections or applications for easement/s made in relation to a proposed road process, and either resolve to raise a Road Process Order or determine that no Road Process Order is to be made.

If the Relevant Authority decides not to proceed with the road process, the Relevant Authority must notify in writing the Surveyor-General, any person who lodged an objection or application for easement, or any person with an interest in the land affected of that decision.

- If the matter is not dealt with ‘as soon as practicable’ ie within a relative short space of time, then the decision of the authority may be subject to judicial review with the possibility of the authority’s decision being quashed on appeal.
- Where a period of 12 months has lapsed since the expiration of the statutory period and a Road Process Order has not been made, the notification process under Section 10 of the said Act will have to be repeated (at the discretion of the Surveyor-General) if the Relevant Authority wishes to proceed with the application.

*NOTE: The Road Process Order is required as part of the Stage 2 Lodgement and must be produced in duplicate. The specifications for the Road Process Order and example clauses are shown in [see APPENDIX J].*

10.3 Final Plan Lodgement (Deposited Plan)

The Final Plan (Deposited Plan) should be lodged with Land Services SA through the Electronic Plan Lodgement tool known as ‘EPL’. The plan must be drawn in accordance with the instructions set out in the Plan Presentation Guidelines (LSSA).

10.4 Copy of the Final Plan

Copy of the Final Plan (Deposited Plan) signed by an Authorised Officer of the Council is required as part of the Stage 2 Lodgement.

10.5 Council Minutes

A copy of the Minutes of all meetings held by the Relevant Authority in relation to the road process and certified by an authorised officer as a true and correct copy are required as part of the Stage 2 Lodgement.

10.6 Certification of Public Notice Correspondence

The Certification of Public Notice Correspondence (see APPENDIX H) confirms to the Surveyor-General that objections to the road process or requests for easement were either received or not received by the Relevant Authority during the 28-day Public Consultation stage.
As a result the Relevant Authority must certify whether:

- They received no objections or requests for easement or
- If they did receive objections or requests for easement, then a list of those persons and a brief summary must be provided.

*NOTE: This form (see APPENDIX H) must be completed and submitted as part of the Stage 2 Lodgement.*

### 10.7 Agreement for Transfer / Exchange or Application for Document of Title

The Stage 2 Lodgement requires one or a combination of the following:

- **Agreement for Transfer** – where Council agrees to close and sell public road to an adjoining land owner. (see APPENDIX F)
- **Agreement for Exchange** – where Council and an adjoining owner agree to open public road in exchange for the closing and merging of public road. (see APPENDIX E)
- **Application for Document of Title** – where Council can request a Certificate of Title to issue solely for the public road being closed. (see APPENDIX G)

*NOTE: Where an ‘Agreement for Transfer’ or ‘Agreement for Exchange’ is required as part of the road process, Council must state the purchase price which is then executed by the relevant parties and assessed for Stamp Duty purposes by Revenue SA prior to lodgement with the Surveyor-General.*

### 10.8 Fee Payment

A cheque made out to the ‘Surveyor-General’ is required as part of the Stage 2 Lodgement. See Fee Schedule (page 9). A receipt will be emailed.

### 10.9 Outstanding Objections

Every effort must be made to resolve objections before the Stage 2 Lodgement with the Surveyor-General. However, where the Relevant Authority decides to proceed with a road process subject to outstanding objections, then the Surveyor-General will need additional information to ensure the road process has been substantially complied with in accordance with the Roads (Opening and Closing) Act 1991.

The following information will be required to be submitted with the Stage 2 Lodgement:

- Evidence that letters were sent by the Relevant Authority to all persons that objected to the road process inviting them to attend a meeting to verbally support their written objection in accordance with Section 14 of the Act.
- A Report from the Relevant Authority that detailed the decision making process to proceed in view of the outstanding objections.
11. Road Process Applications - Generally

11.1 PP Plan and Final Plan Relationship
- Only one Final Plan (Deposited Plan) per Preliminary Plan is to be lodged.
- Only one Preliminary Plan per Final Plan (Deposited Plan) is to be lodged.

11.2 Road Openings
Where the road process only involves land being opened as new road, consideration should be given to opening the road under Part 19AB - Division and Amalgamation of Allotments Real Property Act 1886, where the road will vest automatically in the name of the Council upon deposit of the plan. This is a simpler process and avoids many of the complexities that the Roads (Opening and Closing) Act 1991 involves. However, Council may insist the Roads (Opening and Closing) Act 1991 be used to enable the public consultation process to provide transparency.

11.3 Minimum Width of Roads
Pursuant to Section 38 of the Roads (Opening and Closing) Act 1991, no road can be less than 12 metres wide as a result of a road process. However, upon application, the Surveyor-General may declare that the minimum width does not apply to a specific road. A road width declaration is to be agreed to in principal between the lodging agent and the Surveyor-General at Stage 1 Lodgement. There is fee applicable (see Fee Schedule, page 9) and that fee must accompany the Stage 2 Lodgement. All necessary documentation for a ‘Minimum Road Width Declaration’ is prepared by the Surveyor-General.

11.4 Acquisition of Land – Opening
The provisions of the Land Acquisition Act 1969 have been integrated with the Roads (Opening and Closing) Act 1991 in situations where land (not owned by the Council) is to be opened as new road.

Where a road process does include a road opening, the following documents must be served at the same time as giving public notification.
- A Notice of Intention to Acquire Land form must be served by the Relevant Authority on any person who has an interest in that land. (see APPENDIX K)
- An Offer of Compensation form stating the total amount of compensation that the Council proposes to pay must append the Notice of Intention to Acquire Land. (see APPENDIX L)

11.5 Road Closure Associated with Crown Land (Section 6 & 34)
Section 6 and 34 of the Roads (Opening and Closing) Act 1991 allows a road closure to occur without a public consultation process (but still consult with the Public Utilities). This can only occur where the road to be closed is fully adjoined by Crown Land that is not privately leased.
Please take note of the following examples in relation to Section 6 and 34 of the Act

- Road that is adjoined by un-alienated crown land can be closed using this provision of the Act.

- Road that is adjoined by a Crown Lease, that is leased to a private person cannot be closed using this provision of the Act.

This provision of the Act is most commonly used by State Government and Local Government Agencies. An example being to close unmade road adjacent to National Parks and the intention is for that closed road to be merged into the park boundaries.

11.6 Road Closure Outside Council Districts

Section 6 and 34 of the Act allows the Minister to close a public road that is outside of a Council District providing that it is not in public use now or in the foreseeable future. In these rare situations, there will be no Council to act as the Relevant Authority and no Authorised Officer to sign the Preliminary Plan. The Commissioner of Highways will sign the Preliminary Plan in the absence of a Council.

This section of the Act does not require a public consultation process to be undertaken, but does require the Agent to notify the Public Utilities (see APPENDIX B) and give 28 days to respond.
Examples
Example A – Public Map

An image of the Public Map for the township of Robe. The colours represent the different tenure types;

Brown – Public Road
Red – Reserve
Green - Freehold
Example B – Original Deposited Plan

This plan was deposited in the Lands Titles Office before the Town Planning and Development Act 1920, meaning that the roads remained in “private” ownership of the original land developer. However, these “private” roads were later declared “public” by the Council in 2012.
Example C – Certificate of Title for Public Road

Since 1973, a separate Certificate of Title has issued for the roads being created in a plan of division. Note, all the roads created in a plan will be shown in the one title.
This Certificate of Title was the parent title to the above plan. Before 1973, the building allotments were transferred out of the title and the road remained.

This is referred to as a “PC” or partially cancelled title.

Note the endorsement on the title indicating that the road has been vested in the name of the Council and is in fact public.
Example E – Public Road Declaration

A public hearing will be held on Wednesday, 2 March 2016 at 5:30 p.m. at the City of Mount Gambier Council Offices, Civic Centre, 10 Watson Terrace, Mount Gambier at which time interested persons may be heard in relation to the DPA and the submissions. The public hearing will not be held if no submissions are received or if no submission makes a request to be heard.

If you would like further information about the DPA, please contact Council’s Planning Department by telephone (08) 8721 2530 or by email city@mountgambier.sa.gov.au

M. McSHANE, Chief Executive Officer

Private Road declared “Public” by Council and published in the Government Gazette.
Example F – Road Transferred out to the Council

Example G – Old Road Process Order

Order to Open New Roads and Close and sell and retain Old Roads

(b) DUPLICATE

Dated 355/1/1972

Whereas, at a meeting duly held and in accordance with the provisions of the 'Roads (Opening and Closing) Act, 1942-43' held on the 31st day of January 1977, it appears to the Superintendent of Police, that it is expedient and necessary that the land hereinbefore briefly described should be opened as a new line of road, and that the land & heretofore occupied should no longer be required for the purposes of road, and it is hereby declared that the notice required by the said Act has been duly given, and that all other requirements therein have been complied with, and no valid objection to the opening of such new line of road or to the closing of such old road has been made, and is hereby declared that the said Council doth hereby, by virtue of the powers given by the said Act, authorize that the said land of the same being a portion of allotment 66 of S.O. No. 379, situate adjoining the western boundary of the said allotment.

Order to Sell Old Roads

Whereas, at a meeting duly held and in accordance with the provisions of the 'Roads (Opening and Closing) Act, 1942-43' held on the 31st day of January 1977, it appears to the Superintendent of Police, that it is expedient and necessary that the land hereinbefore briefly described should be closed and sold, and that the land & heretofore occupied should no longer be required for the purposes of road, and it is hereby declared that the notice required by the said Act has been duly given, and that all other requirements therein have been complied with, and no valid objection to the closing of such old road has been made, and it is hereby declared that the said Council doth hereby, by virtue of the powers given by the said Act, authorize that the said land of the same being a portion of allotment 66 of S.O. No. 379, situate adjoining the western boundary of the said allotment.

Instruction on an old Road Process Order to dispose of closed road

Signed

Chancellor

District Clerk
Appendices

APPENDIX A – Format for Public Notices

ROADS (OPENING AND CLOSING) ACT 1991
Road Opening and [or] Closing – [location]

NOTICE is hereby given, pursuant to section 10 of the Roads (Opening and Closing) Act 1991, that the [name of Council] proposes to make a Road Process Order to open as road [land description where land is to be opened] more particularly delineated and numbered ['number'] on Preliminary Plan [PP number] and
to close and merge with [description of the land to be merged with the closed road] the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number] in exchange for land taken for new road.

and/or
to close and merge with [description of the land to be merged with the closed road] the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number].

and/or
to close and vest in the Crown the whole of/portion of the public road adjoining [description of land adjoining road to be closed] and add to [description of land held under a Crown Lease or Agreement to Purchase] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number].

and/or
to close and vest in the Crown the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number].

and/or
to close, vest in the Crown and add to [describe adjoining dedicated land] which land is dedicated under the Crown Lands Act 1929 for [describe purpose for which the adjoining land is dedicated] the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number].

and/or
to close and retain for addition to the adjoining Council owned land the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number].

and/or
to close and retain for Council purposes the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ['letter'] on Preliminary Plan [PP number].

and/or

To close and sell by public auction or tender the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ‘[letter]’ on Preliminary Plan [PP number].

and/or

To close and sell/transferred to [name of public, charitable or community service] for public/community purposes the whole of/portion of the public road adjoining [description of land adjoining road to be closed] more particularly delineated and lettered ‘[letter]’ on Preliminary Plan [PP number].

The Preliminary Plan and Statement of Persons Affected is available for public inspection at the offices of the [name and address of Council] and the Adelaide Office of the Surveyor-General during normal office hours. The Preliminary Plan can also be viewed at www.sa.gov.au/roadsactproposals

Any application for easement or objection must set out the full name, address and details of the submission and must be fully supported by reasons. The application for easement or objection must be made in writing to the [name and address of Council] WITHIN 28 DAYS OF THIS NOTICE and a copy must be forwarded to the Surveyor-General at GPO Box 1354, Adelaide 5001. Where a submission is made, the applicant must be prepared to support their submission in person upon Council giving notification of a meeting at which the matter will be considered.

Dated / / 20

[name] Chief Executive Officer/City Manager
### PUBLIC UTILITIES TO BE NOTIFIED IN EVERY INSTANCE

<table>
<thead>
<tr>
<th>UTILITY NAME</th>
<th>ADDRESS FOR NOTIFICATION</th>
<th>Y/N</th>
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</thead>
<tbody>
<tr>
<td>SA Water Corporation</td>
<td>Property Services</td>
<td></td>
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<tr>
<td></td>
<td>GPO Box 1751</td>
<td></td>
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<tr>
<td></td>
<td>ADELAIDE SA 5001</td>
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<tr>
<td></td>
<td><a href="mailto:propertyservices@sawater.com.au">propertyservices@sawater.com.au</a></td>
<td></td>
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<tr>
<td></td>
<td><a href="mailto:paul.mezzina@sawater.com.au">paul.mezzina@sawater.com.au</a></td>
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<tr>
<td>ElectraNet SA &amp; Transmission Lessor Corporation</td>
<td>Building and Property Services</td>
<td></td>
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<tr>
<td></td>
<td>GPO Box 7096 Hutt Street Post Office</td>
<td></td>
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<td></td>
<td>ADELAIDE SA 5001</td>
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<tr>
<td></td>
<td><a href="mailto:headland.tamra@electranet.com.au">headland.tamra@electranet.com.au</a></td>
<td></td>
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<tr>
<td>SA Power Networks &amp; Distribution Lessor Corporation</td>
<td>Real Estate Branch</td>
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<td></td>
<td>GPO Box 77</td>
<td></td>
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<td></td>
<td>ADELAIDE SA 5001</td>
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<tr>
<td></td>
<td><a href="mailto:angela.clark@sapowernetworks.com.au">angela.clark@sapowernetworks.com.au</a></td>
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<tr>
<td>Epic Energy Ltd (Gas)</td>
<td>Corporate Services</td>
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<tr>
<td></td>
<td>26 High Street</td>
<td></td>
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<tr>
<td></td>
<td>DRY CREEK SA 5094</td>
<td></td>
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<tr>
<td></td>
<td>brian.o’<a href="mailto:callaghan@epic.com.au">callaghan@epic.com.au</a></td>
<td></td>
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<tr>
<td>APA Group (Gas) (Representing Envestra Ltd)</td>
<td>South Australian Networks</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PO Box 171</td>
<td></td>
</tr>
<tr>
<td></td>
<td>FINDON SA 5023</td>
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<tr>
<td></td>
<td><a href="mailto:daniel.cooper@apa.com.au">daniel.cooper@apa.com.au</a></td>
<td></td>
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<tr>
<td>TELSTRA Corporation Ltd</td>
<td>Cable Location Co-Ordinator</td>
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<tr>
<td></td>
<td>Network Integrity and Compliance</td>
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<td></td>
<td>(Prefer to only accept email)</td>
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<tr>
<td></td>
<td><a href="mailto:F0501488@team.telstra.com">F0501488@team.telstra.com</a></td>
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</table>
### PUBLIC AUTHORITIES TO BE NOTIFIED ONLY IN THE FOLLOWING SITUATIONS

<table>
<thead>
<tr>
<th>AUTHORITY NAME</th>
<th>ADDRESS FOR NOTIFICATION</th>
<th>Y/N</th>
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</table>
| Department of Planning, Transport & Infrastructure (Notify if proposal is adjacent to land under the control of the Commissioner of Highways) | Traffic Management Centre  
Department of Planning, Transport & Infrastructure  
GPO Box 1533  
ADELAIDE SA 5000  
dpti.roadworks@sa.gov.au |     |
| Coast Protection Board (Notify if proposal is within a Coastal Protection District) | Coast and Marine Branch  
Department for Environment and Water  
GPO Box 1047  
ADELAIDE SA 5001  
DEWcoastprotectionboard@sa.gov.au |     |
| National Parks and Wildlife Service (Notify if proposal adjoins a park or reserve including un-allotted Crown Land constituted under the National Parks & Wildlife Act) | National Parks Strategy & Policy  
National Parks and Wildlife Service  
Department for Environment and Water  
GPO Box 1047  
ADELAIDE SA 5001  
DX 138  
DEWCrownlandsenquiries@sa.gov.au |     |
| Native Vegetation Council (Notify if a road opening is subject to the Native Vegetation Act) | Native Vegetation Management Branch  
Department for Environment and Water  
GPO Box 1047  
ADELAIDE SA 5001  
nvc@sa.gov.au |     |
| Office for Recreation, Sport and Racing (Notify when closing unmade road) | Office for Recreation, Sport and Racing  
PO Box 219  
BROOKLYN PARK SA 5032  
DX 354  
ORSR.Enquiries@sa.gov.au |     |
### APPENDIX D – Statement of Persons Affected

<table>
<thead>
<tr>
<th>Land Description</th>
<th>Owner and Address</th>
<th>Occupiers and Address</th>
<th>Parties with an interest in the land</th>
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<tbody>
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</tbody>
</table>

**STATEMENT OF PERSONS AFFECTED BY THE ROAD PROCESS WHO CAN BE IDENTIFIED BY REASONABLE ENQUIRY**

Pursuant to Section 9(1)(b) & 10(1)(b) of the Roads (Opening & Closing) Act 1991

*Note: “Persons Affected” includes a parties that have a legal or equitable interest in land.*
AGREEMENT FOR EXCHANGE

MADE PURSUANT TO THE ROADS (OPENING AND CLOSING) ACT 1991

BETWEEN the Undersigned Council [Council name] of [Council address] of the one part and [name of transferee] of [address of transferee] on the other and whereas the said COUNCIL is the owner and THE PUBLIC is the occupier of the portion of road lettered '[letter]' on Preliminary Plan No. [Preliminary Plan number].

It is considered expedient that the portion of the land more particularly delineated and numbered '[number]' being portion of [description and tenure of land to be surrendered for road] on Preliminary Plan [Preliminary Plan number] to be opened SHALL BE EXCHANGED for the whole of the land first described above.

The road to be closed shall be transferred and merged with [description and tenure of transferees land].

IT IS HEREBY AGREED that such exchange shall be made and that [name of transferee] shall pay to the said COUNCIL in consideration of such transfer the sum of $………….. for EQUALITY OF EXCHANGE.

[I IN THE CASE OF NIL CONSIDERATION THE FOLLOWING CERTIFICATION IS REQUIRED]
I CERTIFY THAT THE VALUE OF THE PIECE MARKED '[letter]' DOES NOT EXCEED $………

PROVIDED that if no Road Process Order shall be made and confirmed in the manner prescribed by the said Act, this Agreement shall be void.

Dated the day of 20

----------------------------------------           ----------------------------------------           ----------------------------------------
Signature of Applicant(s)

----------------------------------------                                     ----------------------------------------
MAYOR        CHIEF EXECUTIVE

“Owner” means the owner in fee simple, the lessee under a Crown Lease of agreement to purchase pursuant to the Crown Lands Act.
The appropriate endorsement by the Commissioner of stamps in accordance with the Stamp Duties Act 1923 is required.
AGREEMENT FOR TRANSFER
MADE PURSUANT TO THE ROADS (OPENING AND CLOSING) ACT 1991

BETWEEN the undersigned Council [name of Council] of [address of Council] of the one part and [name of applicant] of [address of applicant] of the other part and WHEREAS the said COUNCIL is the owner and the public is the occupier of the piece of road lettered ['letter'] in the Preliminary Plan [Preliminary Plan number].

It is considered expedient that the LAND above described shall be TRANSFERRED and added to [description of applicants land] held in [title of applicants land].

It is HEREBY AGREED that such TRANSFER shall be made and that the [name of applicant] pay/has paid TO THE SAID COUNCIL IN CONSIDERATION OF SUCH TRANSFER THE SUM OF $…………

[IN THE CASE OF NIL CONSIDERATION THE FOLLOWING CERTIFICATION IS REQUIRED]
I CERTIFY THAT THE VALUE OF THE PIECE MARKED ['letter'] DOES NOT EXCEED $………

PROVIDED that if no Road Process Order shall be made and confirmed in the manner prescribed by the said Act, this Agreement shall be void.

Dated the day of 20

----------------------------------------           ----------------------------------------           ----------------------------------------
Signature of Applicant(s)

----------------------------------------                                      ----------------------------------------
MAYOR     CHIEF EXECUTIVE

“Owner” means the owner in fee simple, the lessee under a Crown Lease or Agreement to purchase pursuant to the Crown Lands Act.

The appropriate endorsement by the Commissioner of Stamps in accordance with the Stamp Duties Act 1923 is required.
APPLICATION FOR DOCUMENT OF TITLE
UNDER THE ROADS (OPENING AND CLOSING) ACT 1991

Form approved by the Surveyor-General

*See Guidance Notes next page

1. Name and Address of Applicant(s)

   |

2. Description of Closed Road(s) applied for

   |

3. Description of Adjoining Land to be Merged

   |

4. Statement (strike through if not applicable)

   The land described in 2. (above) is not to be subject to any specified interest or caveat registered in respect of the land comprised in 3. (above)

5. Description of Additional Land to be Included in Merger

   |

Dated this day of 2020

6. Signatures Signed by the said:

   |

MAYOR CHIEF EXECUTIVE SEAL

I HEREBY CERTIFY that –

- the above named applicant(s) has paid/agreed to pay the sum of $…………….., being the agreed purchase price of the land applied for.

- the considered value of the land for Stamp Duty purposes is $……………..

Dated this day of 2020

Signed
(Chief Executive Officer or Delegate)

[NOTE: This application must be appropriately endorsed by the Commissioner of Stamps in accordance with the Stamp Duties Act, 1923]
GUIDANCE NOTES
APPLICATION FOR DOCUMENT OF TITLE

The Roads (Opening and Closing) Act 1991 requires an ‘Agreement for Transfer or Exchange’ to be made where road to be closed is to be disposed of to an adjoining owner/Crown lessee or exchanged for other land required for new road. A copy of the Agreement, properly endorsed with Stamp Duty payable in respect thereof, is sufficient application for the issue and merger of Certificates of Title, or registration in the Register of Crown Leases, by the Registrar-General.

This Application is to be used where NO ‘Agreement for Transfer or Exchange’ has been made, and where the applicant is;

- the purchaser of the land by auction or tender.
- the purchaser of the land (may be for no consideration) to be used for some public, charitable or beneficial community purpose.
- the Council.
- the proprietor of adjoining land held in trust under the Crown Lands Act 1929.
- a Minister of the Crown or an instrumentality of the Crown (Section 34 of the Act).
- the purchaser or otherwise by possession (Section 37 of the Act).

NOTES -

1. Applicant(s) full name and address to be given.
   - Where applicant is also proprietor of adjoining land, the name must be exactly the same as that registered.
   - If the address has changed, also show ‘formerly of ……….’ (the new address will appear on the title to issue unless otherwise directed)

2. May be identified as shown on the Preliminary Plan (attach a copy).

3. Describe Crown Lease/Agreement to Purchase, and trusts, if applicable.
   - Where a Separate Title is requested by Council, written reasons why such application should be approved must be attached to the Application (Administrative Instruction issued by the Surveyor-General)

4. It is envisaged that this statement will only apply in exceptional circumstances.

5. To be used where a consolidation of land in title(s) into broad acre format is being requested.

6. Must show full name of, and be signed by, ALL applicants.

Where the applicant is the Council, **NO stamp duty is payable** and this Application is **NOT required to be assessed for Stamp Duty** purposes. Certification can be crossed with a diagonal line through this section.
Certification of Public Notice Correspondence

To the Surveyor-General,

Pursuant to Division 2 of the Roads (Opening and Closing) Act 1991, the Council as the Relevant Authority in relation to the road process numbered PP____/_______ hereby certifies that during the 28 day public consultation period;

(1) * There were no objections or requests for easements.

or

(2) * Objections or requests for easements were received from;

(* Strike through the inapplicable)

<table>
<thead>
<tr>
<th>Name of Person making objection or requesting an easement</th>
<th>Summary of Request</th>
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<tbody>
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</tbody>
</table>

Dated: / / 20

Council Delegate / Authorised Person
Form of a Road Process Order

The Road Process Order made by a Relevant Authority under Section 15 of the Act shall be in the form of Schedules 1, 2 or 3 (as the case may be), and must comply with the following requirements:

- The Road Process Order shall be printed on paper with a weight of 160 – 200 GSM of international A4 paper size (297 mm in length x 210 mm width);
- A margin of not less than 10 mm shall be provided on all sides;
- Any alteration made to the text shall be initialled by a certifying party;
- The duplicate copy of a road process order may be reproduced by photographic processes, except for any signature and seal thereto;
- The Road Process Order (in duplicate) and any annexure shall be certified and sealed by the appropriate authority, or by delegation in accordance with Section 46 of the Act. The title of every certifying person shall be shown beneath that person’s signature;
- Any annexure sheets to the Road Process Order shall comply with all the above requirements and be clearly identified as an annexure to the parent document;
- Annexure sheets shall not be stapled to the parent document.
- The road process order (in duplicate) shall not be folded or creased.

The Surveyor-General may refuse to accept a Road Process Order which does not comply with the above provisions.

*NOTE: The attached Road Process Order formats include every eventuality that may arise in dealing with a road proposal. Only the parts of the Order relevant to the matter in hand are required to be included in the Order.*
ROAD PROCESS ORDER

Deposited Plan

Certified Correct

Confirmed

Authorised delegate for
SURVEYOR-GENERAL

Authorised delegate for
MINISTER FOR TRANSPORT,
INFRASTRUCTURE AND
LOCAL GOVERNMENT

Insert here with Schedules 1, 2 or 3 (shown on the following pages)
ORDER TO CLOSE ROAD
UNDER THE ROADS (OPENING AND CLOSING) ACT) 1991

[NAME OF ROAD/DESCRIPTION OF AREA TO BE CLOSED]
(eg. King William Road, Sections 1 and 2, Hundred of Adelaide)

ORDER MADE BY - [name of relevant authority]
DATE -
COUNCIL AREA -

1. ORDER TO CLOSE ROAD

The following road, or part of a road, is CLOSED:
[Describe land that constitutes the road to be closed]

2. ORDER(S) FOR DISPOSAL OF CLOSED ROAD

The road, or part of a road, closed by this order must be dealt with in accordance with the following order(s): (The whole of the land referred to in the order for road closure must be disposed of. The orders for the disposal of a closed road listed below are given for guidance only)

a) Transfer [describe land to be transferred]
   - to [identify the person to whom the land is to be transferred] in accordance with Agreement for Transfer dated [date of agreement] entered into between [name of Council] and [person to whom the land is to be transferred]
     - subject to the grant of easement described in order 3(a/b) of this order. (where applicable)

b) Vest [describe land to be transferred to the holder of a Crown Lease or Agreement to purchase] in the Crown
   - and add that land to [describe land held under Crown Lease or Agreement to purchase] held by [identify the holder of the Crown Lease or Agreement to purchase to whom the land is to be transferred] under [identify Crown Lease or Agreement to purchase]
     - in accordance with Agreement for Transfer dated [date of Agreement] entered into between [name of Council] and [holder of the Crown Lease or Agreement to purchase]
     - subject to the grant of an underlease described in order 3(a/b) of this order. (where applicable)

c) Sell [describe land to be sold] by public auction or tender

- subject to the grant of easement described in order 3(a/b) of this order. (where applicable)

d) Sell/Transfer [describe land to be transferred] to [identify the person to whom the land is to be transferred] for use for [describe public, charitable or beneficial public purpose]
(Transfer should be used if there is to be No Consideration)

- subject to the grant of easement described in order 3(a/b) of this order. (where applicable)

e) Issue a Certificate of Title to [name of Council] for [describe land to be retained by the Council] which land is being retained by the Council for [describe purpose for which the Council is retaining the land]

- subject to the grant of easement described in order 3(a/b) of this order. (where applicable)

(f) Add [describe land to be added to adjoining dedicated Crown Land] to [describe adjoining dedicated Crown Land] which land is dedicated under the Crown Lands Act 1929 for [describe purposes for which the adjoining land is dedicated]

- subject to the grant of easement described in order 3(a/b) of this order. (where applicable)

(g) Transfer [describe land to be transferred] to [identify person to whom the land is to be transferred] the proprietor of [describe adjoining land] which land is held in trust made under the Crown Lands Act 1929 for [describe purposes of the trust] to be held in trust for those same purposes.

- subject to the grant of easement described in order 3(a/b) of this order. (where applicable)

(h) Vest [describe land to be vested] in the Crown

- subject to the grant of easement described in order 3(a/b) of this order. [where applicable]
3. ORDER(S) FOR GRANT OF EASEMENT(S)

The following easement(s) is/are granted over the road or part of a road closed by this order:

(a) Grant to [identify prescribed public utility] the following easement: [describe the prescribed easement and the land that is subject to the easement].

(b) Grant to [identify the owner of adjoining or nearby land] the following easement [describe easement and the land that is subject to the easement] which easement is annexed to the following land: [describe adjoining or nearby land to which the easement is to be annexed].
ORDER TO OPEN ROAD
UNDER THE ROADS (OPENING AND CLOSING) ACT 1991

[GENERAL DESCRIPTION OF AREA TO BE OPENED]
(eg. Sections 1 and 2, Hundred of Adelaide)

ORDER MADE BY - [name of relevant authority]
DATE -
COUNCIL AREA -

1. ORDER TO OPEN ROAD

The following land is OPENED AS A ROAD:
[Describe land to be opened as a road]

This land is the whole/part only (whichever is applicable) of the land specified in the public notice of this road opening given [specify date(s) and manner in which (in accordance with the regulations) the notice of the proposed road opening was published]

2. LAND NOT INCLUDED IN ORDER
(where applicable)

The following land was proposed to be opened as a road in the public notice of this road opening given on [date of public notice of proposed road opening] but is NOT included in this order as land to be opened as a road: [Describe land included in the notice of the proposal as part of the road opening, but not included in this order.]
ORDER TO OPEN ROAD AND TO CLOSE ROAD
UNDER THE ROADS (OPENING AND CLOSING) ACT 1991

[DESCRIPTION OF AREA IN WHICH ROAD IS TO BE OPENED; NAME OF ROAD TO BE CLOSED AND DESCRIPTION OF AREA WHICH IS TO BE CLOSED]
(eg. King William Road, Sections 1 and 2, Hundred of Adelaide)

ORDER MADE BY - [name of relevant authority]
DATE -
COUNCIL AREA -

1. ORDER TO OPEN ROAD

The following land is OPENED AS A ROAD:
[Describe land to be opened as a road]

This land is the whole/part only (whichever is applicable) of the land specified in the public notice of this road opening given [specify date(s) and manner in which (in accordance with the regulations) the notice of the proposed road opening was published]

2. LAND NOT INCLUDED IN ORDER
(whence applicable)

The following land was proposed to be opened as a road in the public notice of this road opening given on [date of public notice of proposed road opening] but is NOT included in this order as land to be opened as a road: [Describe land included in the notice of the proposal as part of the road opening, but not included in this order]

3. LAND TO BE EXCHANGED FOR CLOSED ROAD
(whence applicable)

The land described in order 1 is to be exchanged (in accordance with the Agreement for Exchange referred to in order 5(a/b)) for that part of the road closed by this order that is defined in order 5(a/b).

OR (Insert whichever is applicable)

The following part of the land described in order 1 is to be exchanged (in accordance with the Agreement for Exchange referred to in order 5(a/b)) for that part of the road closed by this order that is defined in order 5(a/b): [Describe land to be exchanged for closed road]

4. ORDER TO CLOSE ROAD

The following road, or part of a road, is CLOSED:
[Describe land that constitutes the road to be closed]

5. ORDER(S) FOR DISPOSAL OF CLOSED ROAD

The road, or part of a road, closed by this order must be dealt with in accordance with the following order(s) [The whole of the land referred to in the order for road closure must be disposed of. The orders for the disposal of a closed road listed below are given for guidance]

(a) Transfer [describe land to be transferred] to [identify the person to whom the land is to be transferred] in accordance with Agreement for Transfer/Exchange [insert whichever is applicable] dated [date of Agreement] entered into between [name of Council] and [person to whom the land is to be transferred]

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

(b) Vest [describe land to be transferred to the holder of a Crown Lease or Agreement to purchase] in The Crown and add that land to [describe land held under Crown Lease or Agreement to purchase] held by [identify the holder of the Crown Lease or Agreement to purchase to whom the land is to be transferred] under [identify Crown Lease or Agreement to purchase] in accordance with Agreement for Transfer/Exchange [insert whichever is applicable] dated [date of Agreement] entered into between [name of Council] and [holder of the Crown Lease or Agreement to purchase]

- subject to the grant of an underlease described in order 6(a/b) of this order. (where applicable)

(c) Sell [describe land to be sold] by public auction or tender

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

(d) Sell/Transfer (Transfer should be used if there is to be no consideration) [describe land to be transferred] to [identify the person to whom the land is to be transferred] for use for [describe public, charitable or beneficial public purpose]

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

(e) Issue a Certificate of Title to [name of council] for [describe land to be retained by the council] which land is being retained by the Council for [describe purpose for which the council is retaining the land]

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

(f) Add [describe land to be added to adjoining dedicated Crown Land] to [describe adjoining dedicated Crown Land] which land is dedicated under the Crown Lands Act 1929 for [describe purposes for which the adjoining land is dedicated]

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

(g) Transfer [describe land to be transferred] to [identify person to whom the land is to be transferred] the proprietor of [describe adjoining land] which land is held in trust made under the Crown Lands Act 1929 for [describe purposes of the trust] to be held in trust for those same purposes.

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

(h) Vest [describe land to be vested] in The Crown

- subject to the grant of easement described in order 6(a/b) of this order. (where applicable)

6. ORDER(S) FOR GRANT OF EASEMENT(S)

The following easement(s) is/are granted over the road or part of a road closed by this order:

(a) Grant to [identify prescribed public utility] the following easement: [describe the prescribed easement and the land that is subject to the easement].

(b) Grant to [identify the owner of adjoining or nearby land] the following easement [describe easement and the land that is subject to the easement] which easement is annexed to the following land [describe adjoining or nearby land to which the easement is to be annexed].
NOTICE OF INTENTION TO ACQUIRE LAND
FOR PROPOSED ROAD OPENING

[DESCRIPTION OF AREA IN WHICH ROAD IS TO BE OPENED]
(eg. Sections 1 and 2, Hundred of Adelaide)

TO: [name and address of person who has an interest in land that is subject to the proposed road opening]

FROM: [name and address of relevant authority]

1. THIS NOTICE IS TO INFORM YOU THAT [name of Council] INTENDS TO ACQUIRE the land described in the attached public notice dated [date of Public Notice of road opening] for a road opening. The land will be acquired by an order for a road opening under the Roads (Opening and Closing) Act 1991.

2. This notice does not affect any interest that you may have in the land described in the public notice. However, if the land is acquired by the Council in accordance with the procedures set out in the Roads (Opening and Closing) Act 1991, your interest in the land will be extinguished. The provision of compensation is regulated by Part 5 of the Roads (Opening and Closing) Act 1991, and by the Land Acquisition Act 1969.

3. In the meantime YOU ARE ENTITLED TO OBJECT to the proposed road opening and the acquisition of the land for that purpose. Such an objection must be made in writing to the [name of relevant authority] and to the Adelaide office of the Surveyor-General in the manner set out in the public notice WITHIN 28 DAYS OF THE DATE OF THE PUBLIC NOTICE. If you object in accordance with the public notice, the [name of relevant authority] is required to consider any such objections at a meeting of the [name of relevant authority] (held after the 28 day period has expired) before making any order in respect of the land. The [name of relevant authority] is required to give you notice of that meeting so that you or your representative may attend and make submissions in support of your objection. These requirements are set out in Sections 13 & 14 of the Roads (Opening and Closing) Act 1991.

4. PLEASE NOTE that if the land in which you have an interest that is to be acquired for this road opening is land that has not been brought under the Real Property Act 1886:

   (a) YOU MUST DISCLOSE the fact that this road opening has commenced if you enter into any transaction in respect of the land after receiving this notice;

and

(b) you may be required to deliver up to the Registrar-General any instrument evidencing your interest in that land if the Council serves written notice on you requesting you to do so. It is an offence not to comply with such a notice from the Council.


Dated this day of 20

SIGNED

APPENDIX L – Offer of Compensation

ROADS (OPENING AND CLOSING) ACT 1991
(Section 31)

OFFER OF COMPENSATION

TO: [name and address of person who had an interest in land that has been acquired by the Council under an order for a road opening].

FROM: [name and address of Council]

1. The [name of Council] has, by an order for a road opening notified in the Government Gazette on [date of publication in the Gazette of notice of confirmed order for road opening] acquired the land described in clause 2 of this notice.

2. The [name of Council] now makes the following OFFER OF COMPENSATION to you in respect of the loss of your interest in that land:

(a) DESCRIPTION OF LAND in respect of which offer is made:
[Describe the land in respect of which this offer is made].

(b) THE OFFER to you pursuant to Section 31 of the Roads (Opening and Closing) Act 1991 and the Land Acquisition Act 1969 is as follows:
[Describe the offer of compensation and the interest of the person in the land for which the compensation is to be paid. The offer must be divided, as far as is practicable, into its separable components].

3. Compensation is payable by the Council in accordance with the provisions of the Land Acquisition Act 1969. Part 4 of that Act deals with compensation for acquisition and the whole of that Part should be noted carefully. In particular you should note the following:

(a) The Council is required to pay the amount of this offer into the Land and Valuation Court within seven days after making an offer of compensation. This requirement is contained in Section 23A of the Act. If Part 4 Division 1 of the Act applies and the Authority has already paid an amount into the Environment, Resources and Development Court, the amount (if any) paid into the Land and Valuation Court will be the amount by which the amount of the offer exceeds that amount already paid into the Environment, Resources and Development Court.

(b) The Authority or a claimant for compensation may refer a question arising in the course of negotiations into the Land and Valuation Court (see Section 23C of the Act).

(c) The principles for determining compensation are set out in Section 25 of the Act.

Dated this [day of] 20

SIGNED
**Surveyor’s Reference:** ____________________

**Checklist – Stage 1 Lodgement** *(to the Surveyor-General)*

| Public Road Searched – Is the road Public? Does a Certificate of Title exist for the Public Road? |
| PP Plan *(Statement for intention for closed road)* - Merge with adjoining land Retain by Council Vest in the Crown Other… |

**PP Plan *(Signature of authorised Council Officer confirming intent)*

**PP Plan *(Certified as Public Road by Licensed Surveyor)*

Within the meaning of Sec. 3 of the Roads (Opening and Closing) Act 1991

**Public Utilities** *(APPENDIX B)*
Preparation of notice of the proposal to the prescribed Public Utilities

**Public Authorities** *(APPENDIX C)*
Preparation of notice of the proposal to the prescribed Public Authorities

**Persons Affected** *(APPENDIX D)*
Preparation of notice of the proposal to the prescribed Persons affected

**Cheque** – Fee payment made out to the ‘Surveyor-General’

Certified Complete: ____________________    Date: _____ / _____ / ________.

(Surveyor/Conveyancer/Agent)

*Note: This checklist is required to be submitted as part of the Stage 1 Lodgement.*
APPENDIX N – Checklist for Stage 2 Lodgement with the Surveyor-General

<table>
<thead>
<tr>
<th>PP Reference</th>
<th>□ or NA</th>
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<tbody>
<tr>
<td><strong>Checklist - Stage 2 Lodgement (to the Surveyor-General)</strong></td>
<td></td>
</tr>
<tr>
<td>Offers to Adjoining Owners - In accordance with Sec. 12 of 'the Act', has Council first invited offers from owners of land adjoining the closed road before raising the Road process Order?</td>
<td></td>
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<tr>
<td>Final Plan lodged through EPL – Check intent is consistent with PP Plan</td>
<td></td>
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<tr>
<td>RTD Form - Where there is no land division occurring</td>
<td></td>
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<tr>
<td>RTC/RTU Form - Where land division occurs</td>
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<tr>
<td>Road Process Orders – in duplicate</td>
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<tr>
<td>Council Certified Final Plan - Copy of the Road Plan (final plan) signed by Council</td>
<td></td>
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<tr>
<td>Council Minutes – Certified true and correct copy where road process has been discussed</td>
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<td>Agreement for Transfer</td>
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<td>Agreement for Exchange</td>
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<td>Application for Document of Title</td>
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<td>□ or NA appropriate</td>
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<tr>
<td>Stamp Duty – Provide receipt from Revenue SA (if applicable).</td>
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<tr>
<td>Certification of Public Notice Correspondence – (APPENDIX H)</td>
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<tr>
<td>Objections – Copies of the letters where Council invited any persons making an objection or request for easement to attend a Council meeting to provide a verbal submission in support of their written objection or request.</td>
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</tr>
<tr>
<td>Council Report – Where there are outstanding objections or requests for easement.</td>
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<tr>
<td>Road Openings – Evidence of “offer of compensation” by Council to owner of land, in which portion of land is being opened as new road.</td>
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<tr>
<td>Minimum Road Width Declaration - Is a Minimum Road Width Declaration required (&lt;12m)?</td>
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<tr>
<td>Cheque – Fee payment made out to the ‘Surveyor-General’</td>
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</tr>
<tr>
<td>Email Roads Unit - Add <a href="mailto:dpti.lsgroadsact@sa.gov.au">dpti.lsgroadsact@sa.gov.au</a> to the EPL 3rd party notification list.</td>
<td></td>
</tr>
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</table>

Certified Complete: ___________________________ Date: ______/_____/______.
(Surveyor/Conveyancer/Agent)

Note: This checklist is required to be submitted as part of the Stage 2 Lodgement.