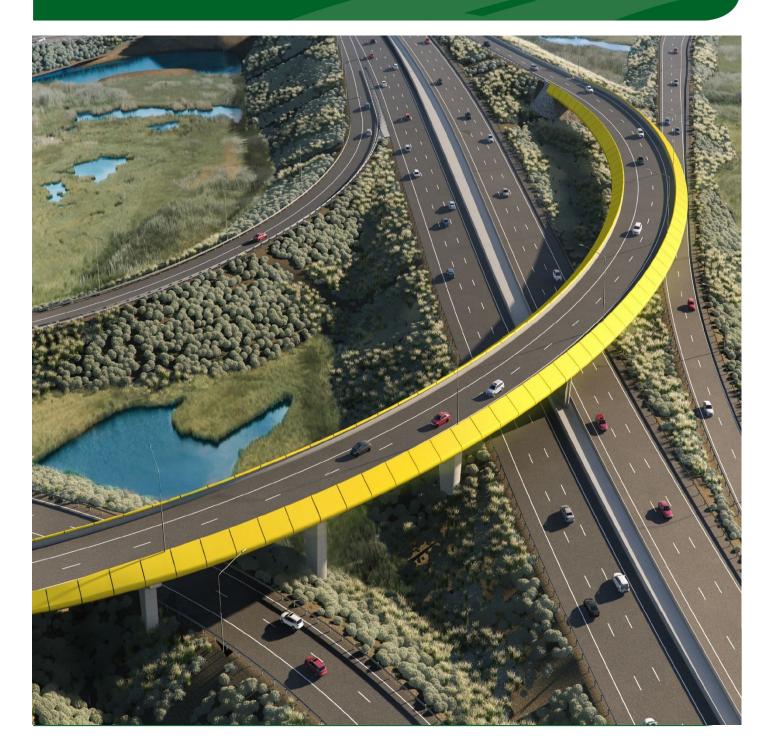
# Roads (Opening & Closing) Act 1991 Surveyor-General's Guidelines





#### **Government of South Australia**

Department for Trade and Investment

V8.2 December 2023

# Guidelines – Roads (Opening & Closing) Act 1991

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# 1. Glossary of Terms

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

Relevant Authority	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.
Road Process Order	<ul> <li>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;</li> <li>Transferred to adjoining property owners.</li> <li>Form part of an exchange between a property owner and Council for new road</li> <li>Remain in the ownership of the Council.</li> <li>The Road Process Order will also make reference to any easements being created as part of the road process. (see APPENDIX J)</li> </ul>
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 owner where the road has been shown on a public map lodged in the Land Service 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)	<ul> <li>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 <u>not</u> 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;</li> <li>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</li> <li>Sold – to be sold by public auction or tender</li> <li>Transferred – Transferred to adjoining private owners (referred to in the Order)</li> <li>Exchanged – Closed road being exchanged for new road being opened</li> </ul>
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.

# Guidelines – Roads (Opening & Closing) Act 1991

Road (Reserve)	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.
Road Process	Reference to both road closing and opening
Conditional Confirmation	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.
CRTC	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.
PP Plan (Preliminary Plan)	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 processed via EFT. The numbering format consists of 21/0018 - 21 being the year of lodgement and the 0018 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).
Final Plan (Deposited Plan)	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 & 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.
Statement of Prescribed Public Utilities and Authorities	The 'Roads (Opening and Closing) Act 1991' requires certain Public Utilities and Authorities to be notified of any proposed road openings or closings. A Statement of the Prescribed Public Utilities and Authorities must accompany the initial lodgement of the PP Plan to the Surveyor-General. (see APPENDIX B & C) The list of Prescribed Public Utilities are set out in Part 4 of the 'Roads (Opening and Closing) Regulations 2021'. The list of Prescribed Public Authorities are set out in Part 5 of the 'Roads (Opening and Closing) Regulations 2021'.
Statement of Persons Affected	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)

# Guidelines – Roads (Opening & Closing) Act 1991

# 2. Background

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 *Roads (Opening and Closing) Regulations 2021*. In the case of any uncertainty, *the Act* takes precedence over these guidelines.

Roads (Opening and Closing) Act 1991 - (Version: 22.6.2023)

Roads (Opening and Closing) Regulations 2021 - (Version: 3.6.2021)

\*Contact Roads Group if unsure of any part of this process before proceeding.

# 3. Lodgement of hardcopy Stage 1 and Stage 2 Applications

Lodgement of Stage 1 and Stage 2 applications can occur via the following methods;

• via email - to <u>DTI.RoadOpeningClosing@sa.gov.au</u>

Scanned copies of Stage 1 & 2 documentation accepted. However, at Stage 2 the original Road Process Order (in duplicate) and RTC / RTD Form must be posted, or hand delivered.

• **via post** - addressed to the:

Office of the Surveyor-General Roads Group GPO Box 1815 ADELAIDE SA 5001

• via hand delivery – at Ground Floor, 83 Pirie Street, Adelaide

Pre-arrange with the Roads Group via email or phone **(08) 7133 3022** to arrange a time to hand deliver paperwork.

Enquiries can be emailed to <u>DTI.RoadOpeningClosing@sa.gov.au</u>

# 4. Overview of the Road Process

Before roads can be closed, a historical title search must be undertaken to determine that the roads are 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 (Roads Group). 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

The Stage 1 lodgement involves lodging the following with the Roads Group;

- **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)
- Checklist Stage 1 Lodgement (see APPENDIX M)
- **Fee Payment** (*Refer to section 4.3 Fees, page 9*)

Once a road process commences, it is 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,
- notifying the local Member of Parliament.

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 (rights of way) are made from private parties, then the council as the relevant authority 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.

# Guidelines – Roads (Opening & Closing) Act 1991

#### 4.2 Stage 2 Lodgement

The Stage 2 lodgement occurs after the raising of the Road Process Order, executed by the council. This is a legal document that describes which land is affected and how the road will be either opened or closed. This involves the agent lodging the following with the Roads Group;

- **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 <u>must not</u> be lodged separately with Land Services SA. This document must be posted, or hand delivered in accordance with section **3.** (page 6). 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)
- **Objections** (Confirmation of process)
  - Invitation to meeting
  - Report by Relevant Authority
- Checklist Stage 2 Lodgement (see APPENDIX N)
- **Fee Payment** (*Refer to section 4.3 Fees, page 9*)

The Roads Group will ensure the lodgements are prepared in the correct manner and review any unresolved objections or requests for easements. Once the Stage 2 lodgement has occurred, the final plan (deposited plan) is lodged and examined by Land Services SA (LSSA) (private company) via Electronic Plan Lodgement (EPL).

Once the final plan has been approved, and if there are any unresolved objections a report is prepared and forwarded to the Minister with a recommendation from the Surveyor-General. 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, the Minister may confirm the Road Process Order.

The Roads Group will place a notice in the government gazette providing confirmation on deposit of the final plan. LSSA will deposit the plan and issue new Certificate/s of Title.

# Guidelines – Roads (Opening & Closing) Act 1991

#### 4.3 Fees

The prescribed fees associated with lodgement are set out in the government gazette and are adjusted 1<sup>st</sup> July each year.

SA Government Gazette 18 May 2023, (pages 1223 & 1224)

#### Fee Schedule (as of 1 July, 2023)

Lodgement Type	Fee
Stars 1 Ladramant	
Stage 1 Lodgement	
Preliminary Plan	\$300.00
Stage 2 Lodgement	
Roads Act Administration Fee	\$277.00
Each new Title to issue as per Agreement or Application document	\$208.00
Where State Commission Assessment Panel (SCAP) becomes the Relevant Authority and the Surveyor-General undertakes the public notification process.	\$842.00
Where the Surveyor-General is required to undertake notification of an order pursuant to Sections 34 and 37 of the Act.	\$208.00
Application by Council requesting a Certificate of Title to issue in their name for old closed road.	\$208.00
Withdrawal of any documents submitted to the Surveyor-General	\$74.50
Minimum Road Width Declaration (less than 12.00 Metres)	\$79.50

# Changes to Payment Method - (as of 1 August 2023)

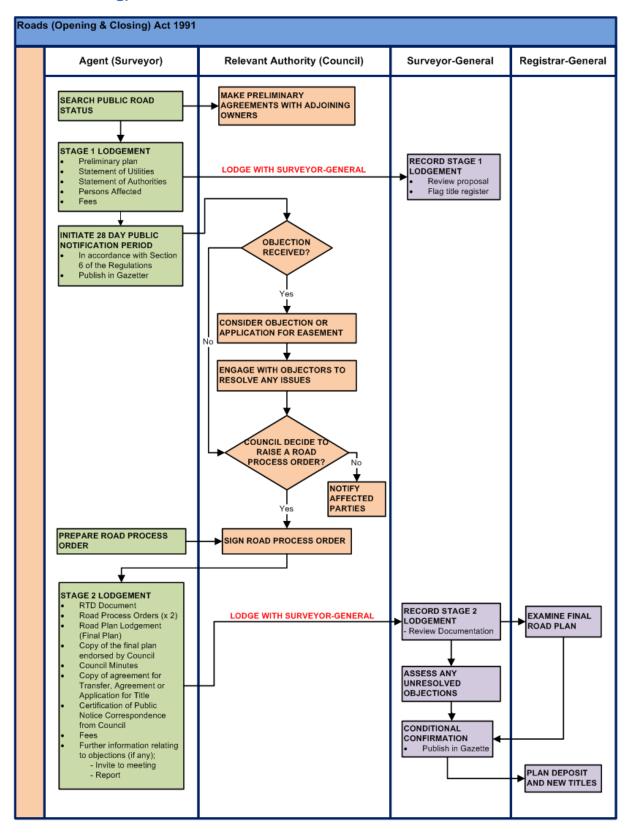
From 1 August 2023 the Office of the Surveyor-General (Roads Group) will no longer be accepting cheques as a form of payment for Stage 1 & Stage 2 lodgement fees.

Upon lodgement of Stage 1 and Stage 2 documentation (see section **3**. *page 6*), Roads Group will raise an invoice and forward to the lodging agent/surveyor an email with a link to allow an EFT payment for the respective associated fees.

Furthermore, fees related to each stage lodgement must also be referenced on the relevant 'Checklist – Stage 1 Lodgement' form (APPENDIX M), or 'Checklist – Stage 2 Lodgement' form (APPENDIX N), by the lodging agent/surveyor.

# Guidelines – Roads (Opening & Closing) Act 1991

# 5. Diagram providing an overview of the Roads (Opening and Closing) Act 1991



# 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 search to establish the tenure of the road 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*).

\*NOTE: Roads Group will investigate the authority of a Public Road, as certified by a Licensed Surveyor on the Preliminary Plan. However, if the authority is determined to be incorrect and/or can't be satisfactorily researched, the status of the road will need to be determined by Land Services SA. Email: <u>customersupport@landservices.com.au</u>

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 offices of Land 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* states, any street, road, or thoroughfare shown on a deposit or file plan lodged in LSSA is deemed to be public road.

#### 6.3 Public Road Declarations

Pursuant to section 208 of the *Local Government Act 1999*, the council can 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 LSSA have 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 confusion 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 South Australian Property and Planning Atlas (SAPPA) by an identifier referring to road plan and parcel letter, for example R7515 AA 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:

#### • Retained / Reserved in the ownership of the Council,

Council owned land and only Council is entitled to execute an 'Application for Document of Title' (see **APPENDIX G**) pursuant to Section 28 of the Roads (Opening & Closing) Act 1991 for a Title to be issued in the name of the Council. Application Fee applies per Title. No Stamp Duty is payable where applicant is the Council. or,

#### • Transfer / Sold to adjoining property owner,

Council owned land, which can be sold and vested to an adjoining owner. Council can execute an 'Application for Document of Title' (see **APPENDIX G**) pursuant to Section 28 of the Roads (Opening & Closing) Act 1991 for a Title in the name of the Council. Application Fee applies per Title. No Stamp Duty is payable where applicant is the Council. Upon issue of Title, Council can engage in negotiation with the property owner to undertake a normal land sale transaction of the land. or,

#### • Exchange of land between a property owner and Council for new road,

Where the applicant is occupying (in possession of) the land, the applicant can execute an 'Application for Document of Title' (see **APPENDIX G**) pursuant to Section 37 of the Roads (Opening and Closing) Act 1991 for a Title to be issued in the applicant's name. As per Section 37(1) of the Act, the Surveyor-General may publish a Notice in the Gazette allowing 28 days notification for any person to claim an interest in the subject land. Council are not involved and no Stamp Duty is payable (duty was paid previously on the exchange of land). Application Fee applies per Title. or,

#### • Surrendered / Vested to the Crown.

All enquiries related to closed road being surrendered / vested to the Crown are to be directed to DEW via <u>DEW.CrownLandsEnquiries@sa.gov.au</u>. DEW will prepare an 'Application for Crown Record' which is lodged with Land Services SA. Roads Group do not get involved.

Where applicable fees are required Roads Group will raise an invoice and forward a link via email to the applicant / Council, allowing for payment via EFT.

\*NOTE: Where the applicant is the Council, <u>NO Stamp Duty is payable.</u> Application is <u>NOT required to be assessed for Stamp Duty purposes</u>. The "I HEREBY CERTIFY" section on the 'Application for Document of Title' form on **APPENDIX G** can be struck 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 unalienated crown land, the Roads Group must be contacted to arrange a native title search to establish whether native title has been extinguished.

The following actions will be taken;

Is the road being opened over un- alienated crown land and in a recognised Native Title Claim area?	Has native title been extinguished?	Action Required	
	YES	NO action is required.	
YES	NO	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 <i>Commonwealth Native Title Act 1993</i> and give 2 calendar months to comment on the matter.	
NONOAboriginal Legal R notify a person who for the area in acc <i>Commonwealth Na</i>		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 <i>Commonwealth Native Title Act 1993</i> and give 2 calendar months to comment on the matter.	

Any feedback as part of this consultation will form part of the overall road process.

#### 7.5 Major Development – Road Process under Section 34C

If a road closure is being undertaken in conjunction with a declared Major Development, the Minister for Planning is responsible for making and confirming the Road Process Order under Section 34C of *the Act*.

The requirements when undertaking a road process under section 34C differ to that of the more common Section 10 process.

In this instance, please contact the Roads Group before undertaking the Stage 1 requirements of the road process.

#### 7.6 Where the Relevant Authority is the State Planning Commission

If a road process is directly related to a development that requires the approval of the State Planning Commission (SPC), becomes the 'relevant authority' for the road process.

The requirements when undertaking a road process when SPC are the relevant authority differ to that of the more common process where council are the relevant authority.

In this instance, please contact the Roads Group before undertaking the Stage 1 requirements of the road process.

# 8. Stage 1 Lodgement

The Stage 1 lodgement comprises of;

- **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)
- Checklist Stage 1 Lodgement (see APPENDIX M)
- Fee Payment (Refer to section 4.3 Fees, page 9)

# 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) to be lodged with the Surveyor-General. The Preliminary 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 Preliminary 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 if 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).

\*NOTE: Fee payment is undertaken in accordance with section 4.3 Fees, page 9.

A licensed surveyor certifies that the road to be closed is public and Council certifies the Preliminary Plan correct.

The plan format is less detailed than the final plan that is lodged with LSSA, 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 (LGA), 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 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 21)
- 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;

I HEREBY CERTIFY THAT THE PORTION OF THE ROAD TO BE CLOSED LETTERED 'A' HEREON IS PUBLIC ROAD WITHIN THE MEANING OF SECTION 3 OF THE ROADS (OPENING AND CLOSING) ACT 1991.

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, aerial imagery must be used as a background layer on the Preliminary 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 georeferenced so that it coincides with the cadastral boundaries. Other information such as improvements may also be shown.

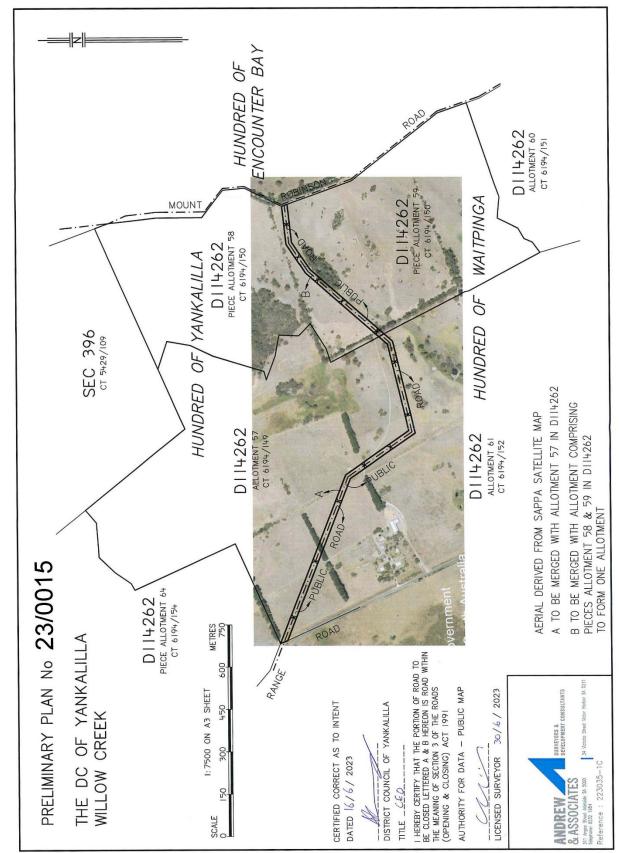
A note is to be placed on the Preliminary Plan acknowledging the source of the imagery and (if possible) the date the imagery was captured.

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

# Guidelines – Roads (Opening & Closing) Act 1991

## Preliminary Plan Example 1: Road Closing (only)



18

#### 08 8842 1228 ADELAIDE A MURRAY BRIDGE 853 20 BAL, GWJ THERE CERTER THAT THE PORTION OF ROAD TO THE CLOSED LETTERED A HEREON S PUBLIC ROAD WITHIN THE REARING OF SECTION 3 OF THE ROADS OPPHING AND LLOSINGI ACT, 1951. (AUTHORATY - HUMORED OF DUTTON - DBP 27) PRELIMINARY PLAN No 19/0041 ORTART NOTE: This pion was prepared for public regions es o posteriorary proceeding for a fload case Orest, and the information on this pion is satisfied for any other purposis. KADINA 6 Graves Street SA 6654 08 8813 5544 \*monat.com.av participier, na referroe atravid be placed on the crimotion on the plon for deficient subdivision a for any financial desirings insolving this lond. presenty description, rood identification and large have been compiled from adding inform have red been welling by field survey. mosel.com.au vCN 144 515 308 role is an integral part of this plan. DATE: 08/08/19 plon may change when either infern lickle under the Rood Process Order. DATE 44 /100 19. MOSEL DAVID JERICHO Rencho REF: C19046P1.1 THE REGIONAL COUNCIL OF GOYDER HUNDRED OF DUTTON RIMO TO RE CLOSED LETTERED "A", "B" AND "C" "A" TO MRRGE MITH SEC 452 "TO TO MRRGE MITH SEC 452 "T TO MRRGE MITH SEC 452 "C" TO PRRGE MITH SEC 452 2019 SEC 407 CT STLOVA31 eller. APPROVED BY THE REGIONAL COUNCIL OF GOYDER FRANKTON 10 DAY OF Ochla ROAD TO BE OPENED NUMBERED 1 AND 2 COUNCIL me Chib Kreehi DATED THIS .. PUB SEC 452 FUREAT IMAGERY DERIVED FROM: PROPERTY LOCATION BROWSER DATED: 2014 SEC 357 CT 6110/672 I SEC 421 01 5535/709 ANTON BALL SEC 453 WATCHBOX-ROAD AIL ASTROAD Ed SEC 356 SE( 453 ROAD DUTTON KOK PUBLIC ROAD FRANKTON SEC 355 SEC CT 59

# Guidelines – Roads (Opening & Closing) Act 1991

OFFICIAL

Preliminary Plan Example 2: Road Opening and Closing

## 8.2 Statement of Prescribed Public Utilities

The prescribed public utilities, as set out in Part 4 (*pages 1 & 2*) of the <u>Roads (Opening</u> <u>and Closing) Regulations 2021 (Version: 3.6.2021)</u> 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 <u>Roads (Opening and</u> <u>Closing) Regulations 2021 (Version: 3.6.2021)</u> 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)* 

\*NOTE: Personal details of persons affected are to be forwarded to the Roads Group as part of the submission and are **NOT** for public distribution / display.

# 8.5 Notify Local Member of Parliament

The appropriate local Member of Parliament for the affected location must be notified in writing of the road proposal. This to be undertaken at the same time and in the same way the public authorities are notified of the 28-day public consultation process.

#### To search for Local Member of Parliament –

- a) Determine the Electoral District visit the <u>Electoral Commission SA</u> website.
- b) Determine the Local Member visit the *Parliament SA Member* website.
  - Input the 'Electorate' via scroll-down menu, then select 'SEARCH' tab.

# To view contact details of Local Member of Parliament –

a) Select Members surname (should be hyperlinked).

Members of Parliament must **ONLY** be contacted in writing via their Electorate Email or Electorate Mailing Address

\*NOTE: Provision has been made on the 'Checklist – Stage 1 Lodgement' (see APPENDIX M) to ensure the lodging party has undertaken this task.

#### 8.6 Fee Payment

Upon lodgement of Stage 1 documentation, Roads Group will raise an invoice and forward to the lodging agent/surveyor an email with a link to allow an EFT payment for the associated fee. (Refer section **4.3 Fees**, *page* 9)

# 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 <u>DTI.RoadOpeningClosing@sa.gov.au</u>

Upon the public notice being published in the government gazette, the Roads Group will add the commencement of the notification of the public consultation process to the sa.gov.au website - <u>www.sa.gov.au/roadsactproposals</u>

The website will display the current proposal and include a copy of the gazette notice initiating the 28-day public consultation process, Preliminary Plan and a deadline date 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 2021 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 <u>must</u> 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

No. 78 p. 3506

THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE

12 October 2023

#### CITY OF VICTOR HARBOR

ROADS (OPENING AND CLOSING) ACT 1991

Road Closing-Unmade Public Road, Inman Valley

Notice is hereby given, pursuant to section 10 of the *Roads (Opening and Closing) Act 1991* that the City of Victor Harbor proposes to make a Road Process Order to close and merge with Sections 622 and 633 in the Hundred of Encounter Bay the whole of the public road adjoining Sections 622, 633 and 71 in the Hundred of Encounter Bay, more particularly delineated and lettered "A" on preliminary plan PP 23/0023.

The preliminary plan and statement of persons affected is available for public inspection at the offices of the City of Victor Harbor, 1 Bay Road, Victor Harbor and the Adelaide Office of the Surveyor-General during normal office hours. The preliminary plan can also be viewed at <a href="http://www.sa.gov.au/roadsactproposals">www.sa.gov.au/roadsactproposals</a>.

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 City of Victor Harbor, PO Box 11, Victor Harbor SA 5211 within 28 days of this notice and a copy must be forwarded to the Surveyor-General at GPO Box 1815, Adelaide SA 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: 12 October 2023

VICTORIA MACKIRDY Chief Executive Officer

# 10. Stage 2 lodgement

The Stage 2 lodgement 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 -

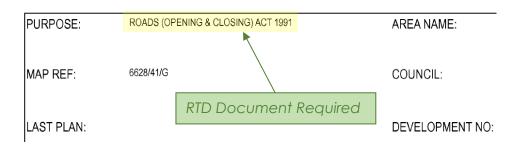
- RTD Document (or RTC/RTU where land division occurs) (see 10.1 page 23)
   \*(The RTD Document (or RTC/RTU) must accompany Stage 2 Lodgement and <u>MUST NOT</u> be lodged separately with Land Services SA. This document must be posted, or hand delivered in accordance with section 3. (page 6). If plan purpose includes 'Division' an RTC/RTU Document is required.
- **Road Process Order** (originals, 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)
- **Objections** (Confirmation of process)
  - Invitation to meeting
  - Report by Relevant Authority
- Checklist Stage 2 Lodgement (see APPENDIX N)
- Fee Payment (refer to section 4.3 Fees, page 9)

# 10.1 RTD Document (or RTC/RTU)

The RTD Document (Form) is the lodgement document for the final plan that is lodged through EPL. The agent usually prepares this document. The form and guidance notes can be found at the following link;

<u>https://www.landservices.com.au/businesses-and-property-industry-professionals/land-transactions/forms-and-guidance-notes</u>

The RTD Document is used in every instance where the final plan PURPOSE <u>only</u> 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.

PURPOSE:	ROADS (OPENING & CLOSING) ACT 1991 AND DIVISION	AREA NAME:
	1	
MAP REF:	7024/28, 7024/22, 7024/29	COUNCIL:
LAST PLAN:		DEVELOPMENT NO:
	, RTC or RTU Document Required	DEVELOR MENTINO.

### **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 36 months has lapsed since the expiration of the statutory period and a Road Process Order has not been raised, 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 original Road Process Order is required as part of the Stage 2 Lodgement and must be produced in duplicate. It must be posted or hand delivered in accordance with section **3.** (page 6). The specifications for the Road Process Order and example clauses are shown in APPENDIX J.

# **10.3 Final Plan lodgement (Deposited Plan)**

The final plan (deposited plan) must be lodged with LSSA through the Electronic Plan Lodgement (EPL). The plan must be drawn in accordance with the instructions set out in the Plan Presentation Guidelines (PPG, *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 relevant Council 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.

Cont.

As a result, the relevant authority must certify whether;

- No objections or requests for easement were received, or
- If objections or requests for easement were received, then a list of those persons and a summary must be provided.

\*NOTE: This form (see APPENDIX H) <u>MUST</u> 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) Stamp Duty is <u>NOT</u> applicable

\*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**

Upon lodgement of Stage 2 documentation, Roads Group will raise an invoice and forward to the lodging agent/surveyor an email with a link to allow an EFT payment for the associated fees. (refer section **4.3 Fees**, *page 9*)

# **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 because 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 Roads Group on behalf of 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)*

# Guidelines – Roads (Opening & Closing) Act 1991

#### 11.5 Road Closure Associated with Crown Land (Section 6 & 34)

Section 6 & 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.

Where private land diagonally adjoins the proposed closure of a public road, Section 6 & 34 of *the Act* cannot be used. The road process must be undertaken using Section 10 of *the Act* in this instance.

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 used by state government and local government agencies. An example being, to close unmade road adjacent to national parks with the intention 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.

Guidelines – Roads (Opening & Closing) Act 1991

# **Examples**

# Guidelines – Roads (Opening & Closing) Act 1991

# Example A – Public Map

No.7A	ROBE Hundred of Waterhouse
PT :	31 21
LAKE BUTLER 22 22 23 35 35 35 35 35 35 35 35 35 35 35 35 35	$ \begin{array}{c ccccccccccccccccccccccccccccccccccc$
	$\begin{array}{c ccccccccccccccccccccccccccccccccccc$
Br Surveyor General.	(andre ung and a SCALE SCALE SCALE) SChains On No Cantor For Chains Ung Chains State

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

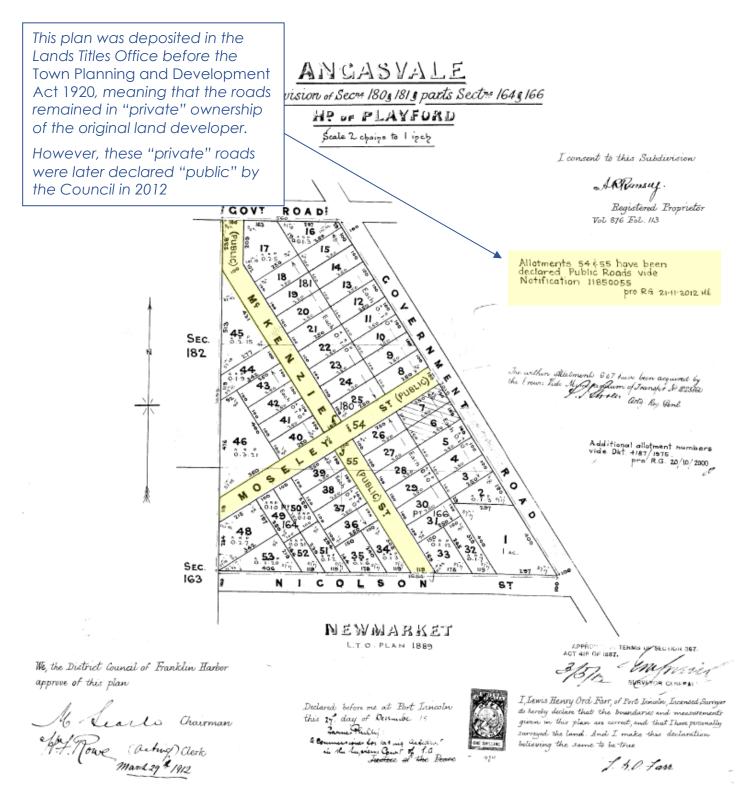
Brown – Public Road

Red – Reserve

Green - Freehold

# Guidelines – Roads (Opening & Closing) Act 1991

## Example B – Original Deposited Plan

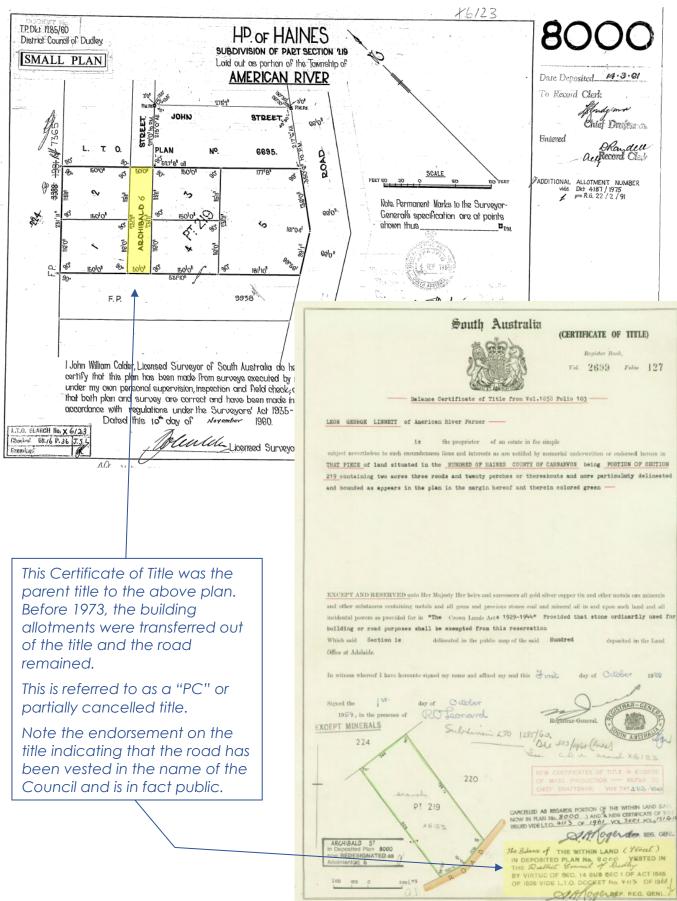


# Example C – Certificate of Title for Public Road

Government of South Australia Department of Plenning, Transport and Infrastructure		Product Date/Time	Register Search 10/03/2017 08:42AM
	neral certifies that this Title Regi otations at the time of searching		maintained in the Register
			ALL RAILE
C	-6 Title - Malance - 647	4 E-11- 000	Registrar-General
	of Title - Volume 617	1 Folio 299	
Parent Title(s)	CT 6169/151		REAL PROPERTY ACT, 1986
Dealing(s) Creating Title	RTU 12485842		Basti Australia
Title Issued	17/03/2016		
Edition	1		
Edition Issued	17/03/2016	Circ o o	1072 e construito Contificant
Diagram Reference		of Title	1973, a separate Certificate e has issued for the roads
Estate Typ	e	being divisio	created in a plan of
FEE SIMPLE (PUE	BLIC ROAD)		
Registered	Proprietor		all the roads created in a will be shown in the one title
MID MURRAY CO OF PO BOX 2	UNCIL 28 MANNUM SA 5238	plan	
Description	n of Land		
ALLOTMENT (RO IN THE AREA NAI HUNDRED OF FIN		)	
Easements	5		
NIL	-		
	of Dealings		
Dealing Number	Description		
12116213	-	ELOPMENT ACT, 1993 PURSUAN	T TO SECTION 57(2)
Notations			
Dealings Affecti	ing little		
NIL Priority Notices			

# Guidelines – Roads (Opening & Closing) Act 1991

## **Example D** – PC Title



#### Example E – Public Road Declaration

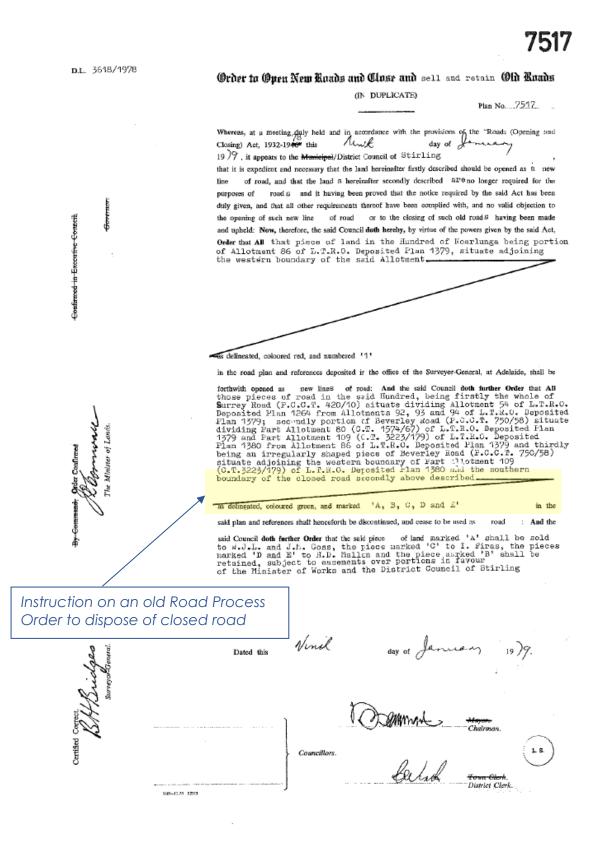
#### 5350 THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE 24 December 2015 CITY OF ADELAIDE A public hearing will be held on Wednesday, 2 March 2016 at 5.30 p.m. at the City of Mount Gambier Council Offices, Civic Centre, 10 Watson Terrace, Mount Gambier at which time Declaration as Public Road NOTICE is hereby given pursuant to Section 210 of the Local interested persons may be heard in relation to the DPA and the Government Act 1999, that at its meeting held on 15 December 2015, Council declared the un-named private road running west off Register Street, Adelaide (delineated as Allotment 17 in Deposited Plan No. 451) to be a public road. 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 M. GOLDSTONE, Chief Executive Officer 2530 or by email city@mountgambier.sa.gov.au. M. MCSHANE, Chief Executive Officer CITY OF MOUNT GAMBIER CITY OF PROSPECT DEVELOPMENT ACT 1993 Industry (Timber Mill) Zone Development Plan Amendment By-law Applications (DPA)-Public Consultation NOTICE is hereby given that City of Prospect has resolved: NOTICE is hereby given that the City of Mount Gambier, (1) In accordance with Section 246 (3) (a) of the Local Private Road declared "Public" by Council and published in the Government Gazette.

# Guidelines – Roads (Opening & Closing) Act 1991

#### Example F - Road Transferred out to the Council

South Australia (CERTIFICATE OF TITLE) Register Book,\_ 7 3429 Folio Vol. Balance Certificate of Title from Vol.2069 Folio 8 THOMAS HENRY ROWLANDS of Coomandook Grazier and KATHLEEN GRACE ROWLANDS his wife are the proprietor s of an estate in fee simple subject nevertheless to such encumbrances liens and interests as are notified by memorial underwritten or endorsed hereon in THAT piece of land situate in the HUNDRED of GOOLMA COUNTY of HINDMARSH being the ALLOTMENT 64 of the subdivision of portion of Section 19 laid out as ADARE PARK and bounded as appears in the plan in the margin hereof and therein coloured green and in the plan deposited in the Lands Titles Registration Office, No. 14410 which said Section is delineated in the public map of the said Hundred deposited in the Land Office at Adelaide. Except such portion of the within land acquired by the Crown Brok purpose 4th day of august 1966 In witness whereof I have hereunto signed my name and affixed my seal this ned the 4th day of lugust 1966, in the presence of PBaltyr Signed the AR-G Registrar-General H AUSTR SPER No. 2808214 & HER MAJESTY QUEEN ELIZABETH THE BECOMB 28-3-195 AT 2 53AM B. Mehaon Hayler REG. GEN CANCELLED AS EMPAREDS LAND IN TRANSPER 65 H. 28082/ 4 THE SAID LAND BAVING ENEM 64 AGODIRAD BY THE CROWN FOR ROAD FURPOSIS 63 Mehoon 380, 136, 631 Miss 7225 MORTGAGE No. 3 007325 9.5. 1969 AT19 35 at Medeon Beagles DEP. REG. GEN. 80 F 7 HAU

#### Example G – Old Road Process Order



Guidelines – Roads (Opening & Closing) Act 1991

# **Appendices**

### Guidelines – Roads (Opening & Closing) Act 1991

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].

# Guidelines – Roads (Opening & Closing) Act 1991

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 <u>www.sa.gov.au/roadsactproposals</u>

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 1815, Adelaide SA 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 of authorised Council Officer*] Chief Executive Officer/City Manager

# Guidelines – Roads (Opening & Closing) Act 1991

# **APPENDIX B** – Statement of Prescribed Public Utilities

PUBLIC UTILITIES TO BE NOTIFIED IN EVERY INSTANCE			
UTILITY NAME	ADDRESS FOR NOTIFICATION	Y/N	
SA Water Corporation	Property Services GPO Box 1751 ADELAIDE SA 5001 propertyservices@sawater.com.au chris.kalatzis@sawater.com.au		
ElectraNet SA & Transmission Lessor Corporation	Building and Property Services GPO Box 7096 Hutt Street Post Office ADELAIDE SA 5001 <u>easements@electranet.com.au</u> <u>headland.tamra@electranet.com.au</u>		
SA Power Networks & Distribution Lessor Corporation	Real Estate Branch GPO Box 77 ADELAIDE SA 5001 <u>realestateadmin@sapowernetworks.com.au</u> <u>angela.clark@sapowernetworks.com.au</u>		
Epic Energy (SA) Pty Ltd (Gas)	Corporate Services 26 High Street DRY CREEK SA 5094 <u>brian.o'callaghan@epic.com.au</u>		
<b>APA Group</b> (Gas) (Representing Australian Gas Networks (SA) Ltd)	South Australian Networks PO Box 171 FINDON SA 5023 <u>daniel.cooper@apa.com.au</u>		
TELSTRA Corporation Ltd	Cable Location Co-Ordinator Network Integrity and Compliance (Prefer to only accept email) <u>F0501488@team.telstra.com</u>		
NBN Co Ltd	NBN Co Ltd advise notification NOT required in accordance with Schedule 3 of the Telecommunications Act 1997. Relocation of NBN assets can be undertaken by NBN following an application by the owner and are undertaken at the landowner's cost.	N/A	

# Guidelines – Roads (Opening & Closing) Act 1991

# **APPENDIX C** – Statement of Prescribed Public Authorities

PUBLIC AUTHORITIES TO BE NOTIFIED <b>ONLY</b> IN THE FOLLOWING SITUATIONS			
AUTHORITY NAME	ADDRESS FOR NOTIFICATION	Y/N	
Department for Infrastructure and Transport (Notify if proposal is adjacent to land under the control of the Commissioner of Highways)	Commissioner of Highways Department for Infrastructure & Transport GPO Box 1533 ADELAIDE SA 5001 <u>DIT.LandUseCoordination@sa.gov.au</u>		
<b>Coast Protection Board</b> (Notify if proposal is within a Coastal Protection District)	Coast and Marine Branch Department for Environment and Water GPO Box 1047 ADELAIDE SA 5001 <u>DEWCoastProtectionBoard@sa.gov.au</u>		
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 <i>DX 138</i> <u>DEW.CrownLandsEnquiries@sa.gov.au</u>		
<b>Native Vegetation Council</b> (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 <u>nvc@sa.gov.au</u>		
Office for Recreation, Sport and Racing (Notify when closing unmade road)	Office for Recreation, Sport and Racing PO Box 219 BROOKLYN PARK SA 5032 <i>DX 354</i> <u>ORSR.Enquiries@sa.gov.au</u>		

# Guidelines – Roads (Opening & Closing) Act 1991

APPENDIX D - Statement of Persons Affected

### 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 all parties that have a legal or equitable <u>interest</u> in land.

The 'Statement of Persons Affected' is to be forwarded to the Roads Group as part of the lodgement and is <u>NOT</u> for public distribution or display.

Land Description	Owner and Address	Occupiers and Address	Parties with an interest in the land eg. Mortgagee, Encumbrance etc.

# Guidelines – Roads (Opening & Closing) Act 1991

**APPENDIX E** – Agreement for Exchange

### 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.

[IN THE CASE OF NIL CONSIDERATION <u>THE FOLLOWING CERTIFICATION IS REQUIRED]</u> 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)

[To be signed by authorised Council delegate/s]

#### CHIEF EXECUTIVE OFFICER

MAYOR

"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.

# Guidelines – Roads (Opening & Closing) Act 1991

**APPENDIX F** – Agreement for Transfer

# 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 <u>THE FOLLOWING CERTIFICATION IS REQUIRED]</u> 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)

[To be signed by authorised Council delegate/s]

### CHIEF EXECUTIVE OFFICER

MAYOR

"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.

# Guidelines – Roads (Opening & Closing) Act 1991

# APPENDIX G – Application for Document of Title

# 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 or Council			
2. Description of Closed Road(s) applied for			
3. Description of Adjoining Land to be Merged			
<b>4. Statement</b> (strike through if not applicable)	The land described in 2. (above, or caveat registered in respect o		
5. Description of Additional Land to be Included in Merger			
Dated this _ 6. Signatures Signed by the second sec	day of ne said:	20_	
APPLICANT/S	or C		E OFFICER / MAYOR thorised Council delegate/s)
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	20		
<i>Signed</i> (Chief Executive Officer or Delegate)			Official Receipt No.

[NOTE: This application must be appropriately endorsed by the Commissioner of Stamps in accordance with the Stamp Duties Act, 1923]

# Guidelines – Roads (Opening & Closing) Act 1991

#### **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, <u>NO stamp duty is payable</u> and this Application is <u>NOT required to be assessed for Stamp Duty</u> purposes. Certification can be crossed with a diagonal line through this section.

# Guidelines – Roads (Opening & Closing) Act 1991

**APPENDIX H** – Certification of Public Notice Correspondence

# **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) \* <u>NO</u> objections or requests for easements were received;

or

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

(\* Strike through the inapplicable)

Name of Person/Utility making objection or requesting an easement	Summary of Request

Dated: / / 20\_\_\_

Council Delegate / Authorised Person (Agent)

# Guidelines – Roads (Opening & Closing) Act 1991

APPENDIX J – Road Process Order

### 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.

Guidelines – Roads (Opening & Closing) Act 1991

# **ROAD PROCESS ORDER**

**Deposited Plan** 

Insert here with Schedules 1, 2 or 3 (shown on the following pages)

Dated this \_\_\_\_\_day of \_\_\_\_\_\_ 20\_\_\_\_

[To be signed by authorised Council delegate/s]

# CHIEF EXECUTIVE OFFICER

MAYOR

**Certified Correct** 

Confirmed

Authorised delegate for SURVEYOR-GENERAL

Authorised delegate for **MINISTER FOR PLANNING** 

# Guidelines – Roads (Opening & Closing) Act 1991

### **SCHEDULE 1**

# 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)*

# Guidelines – Roads (Opening & Closing) Act 1991

- 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 <u>No Consideration</u>)

- 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]

# Guidelines – Roads (Opening & Closing) Act 1991

# 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].

# Guidelines – Roads (Opening & Closing) Act 1991

## SCHEDULE 2

# 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.]

# Guidelines – Roads (Opening & Closing) Act 1991

### SCHEDULE 3

# 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

(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]

### 3. LAND TO BE EXCHANGED FOR CLOSED ROAD

(where 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]

# Guidelines – Roads (Opening & Closing) Act 1991

# 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)*

# Guidelines – Roads (Opening & Closing) Act 1991

- (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].

# Guidelines – Roads (Opening & Closing) Act 1991

**APPENDIX K** – Intention to Acquire

# ROADS (OPENING AND CLOSING) ACT 1991 (Section 33)

# 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;

# Guidelines – Roads (Opening & Closing) Act 1991

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.

Disclosure, and the delivery of documents on request, are required by Section 11 of the *Roads* (*Opening and Closing*) Act 1991.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

[To be signed by authorised Council delegate/s]

CHIEF EXECUTIVE OFFICER

MAYOR

# Guidelines – Roads (Opening & Closing) Act 1991

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. 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, 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\_\_\_

[To be signed by authorised Council delegate/s]

### CHIEF EXECUTIVE OFFICER

MAYOR

# Guidelines – Roads (Opening & Closing) Act 1991

**APPENDIX M** – Checklist for Stage 1 Lodgement with the Surveyor-General

Surveyor's Reference :	-	
Checklist – Stage 1 Lodgement (to the Sur	veyor-General)	✓ or NA
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 c	onfirming intent)	
<b>PP Plan</b> ( <i>Certified as Public Road by Licensed Sur</i> Within the meaning of Sec. 3 of the Roads (Opening and Cl		
<b>Public Utilities</b> – (APPENDIX B) Preparation of notice of the proposal to the prescribed Publi	ic Utilities	
<b>Public Authorities</b> – (APPENDIX C) Preparation of notice of the proposal to the prescribed Publi	ic Authorities	
<b>Persons Affected</b> – (APPENDIX D) Preparation of notice of the proposal to the prescribed Pers	ons affected	
Notify Local Member of Parliament – The Local Member of Parliament must be notified in <u>ALL</u> ins (*Refer section 8.5 (page 20) of S-G's Guideline		
Fee -Pay by EFT7	Total Fee - \$	

 Certified Complete:
 Date:
 /
 /

 (Surveyor/Conveyancer/Agent)
 Date:
 /
 /
 .

\*Note: This checklist is required to be submitted as part of the Stage 1 Lodgement.

# Guidelines – Roads (Opening & Closing) Act 1991

**APPENDIX N** – Checklist for Stage 2 Lodgement with the Surveyor-General

Reference: PP/			
Checklist - Stage 2 Lodgement (to the Surveyor-General)	✓ or NA		
<b>Offers to Adjoining Owners</b> – 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?			
Final Plan lodged through EPL – Check intent is consistent with PP Plan			
RTD Form - Where there is <u>no land division</u> occurring. RTC/RTU Form - Where land division occurs.			
Road Process Orders – in duplicate (original signed copies only accepted)			
Council Certified Final Plan - Copy of the Road Plan (final plan) signed by Council			
Council Minutes – Certified true and correct copy where road process has been discussed			
Agreement for Transfer Agreement for Exchange Application for Document of Title ✓ or NA appropriate			
Stamp Duty – Provide receipt from Revenue SA (if applicable).			
Certification of Public Notice Correspondence – (APPENDIX H)			
<b>Objections / Request for Easement</b> – 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.			
Council Report – Where there are outstanding objections or requests for easement.			
Road Openings – Evidence of "offer of compensation" by Council to owner of land, in which portion of land is being opened as new road.			
Minimum Road Width Declaration - Is a Minimum Road Width Declaration required (<12m)?			
Email Roads Unit - Add <u>DTI.RoadOpeningClosing@sa.gov.au</u> to the EPL 3 <sup>rd</sup> party notification list.			
Fees –   Administration Fee - \$			
Total Agreement / Application Fee/s (per Title) - \$			
Pay by EFT Total Fee - \$			

Certified Complete:

(Surveyor/Conveyancer/Agent)

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

# Guidelines – Roads (Opening & Closing) Act 1991

# Glossary of Amended Versions –

### Version 8.2 – Issued December 2023

1. Glossary of Terms (page 5) Update to the PP Plan (Preliminary Plan) statement – "The fee payment is processed via EFT."

#### 2. Background (page 6)

Hyperlinks created to latest versions of -

- Roads (Opening & Closing) Act 1991 (Version 22.6.2023)
- Roads (Opening & Closing) Regulations 2021 (Version 3.6.2021)
- 3. Lodgement of hardcopy Stage 1 and Stage 2 Applications (page 6) Update to the postal lodgement address -Office of the Surveyor-General, Roads Group, GPO Box 1815, ADELAIDE SA 5001

Update to hand delivery of lodgements – Pre-arrange with the Roads Group via email or phone (08) 7133 3022 to arrange a time to hand deliver paperwork.

#### **7.2** Old Closed Road (pages 12 & 13)

Details in regard to disposal instructions as per original Road Process Order;

- Retained / Reserved in the ownership of Council
- Transfer / Sold to adjoining property owner
- Exchange of land between a property owner and Council for new road
- Surrendered / Vested to the Crown
- 8.1.1 Background Imagery on Preliminary Plans (pages 17 & 18) Updated diagram - Preliminary Plan Example 1: Road Closing (only)
- 8.2 Statement of Prescribed Public Utilities (page 20) Hyperlink created to latest version of – Roads (Opening & Closing) Regulations 2021
- 8.3 Statement of Prescribed Public Authorities (page 20) Hyperlink created to latest version of – Roads (Opening & Closing) Regulations 2021

#### 8.4 Statement of Persons Affected (page 20)

Addition of note - \* Personal details of persons affected are to be forwarded to the Roads Group as part of the submission and are <u>NOT</u> for public distribution / display.

#### 8.5 Notify Local Member of Parliament (page 20)

Details on how to search and view contact information for Local Member of Parliament:

- How to determine the Electorate District
- How to determine the Local Member
- How to view the contact details of the Local Member of Parliament

Addition of note -MP's must <u>ONLY</u> be contacted in writing via their Electorate Email or Electorate Mailing Address.

#### **9. Public Notification** (page 21)

Updated Example - Public Notice showing updated GPO Box address of Surveyor-General

# Guidelines – Roads (Opening & Closing) Act 1991

#### APPENDIX D - Statement of Persons Affected (page 41)

Addition of note – The 'Statement of Persons Affected' is to be forwarded to the Roads Group as part of the lodgement and is <u>NOT</u> for public distribution or display

#### APPENDIX E - Agreement for Exchange (page 42)

Addition of signature block for authorised Council delegate/s.

#### **APPENDIX F – Agreement for Transfer** (page 43)

Addition of signature block for authorised Council delegate/s.

#### APPENDIX G - Application for Document of Title (page 44)

Update of signature block - to be signed by Applicant/s or authorised Council delegate/s

#### APPENDIX J - Road Process Order (page 48)

Addition of signature block for authorised Council delegate/s.

#### APPENDIX K - Intention to Acquire (page 57)

Addition of signature block for authorised Council delegate/s.

#### APPENDIX L - Offer of Compensation (page 58)

Addition of signature block for authorised Council delegate/s.

#### APPENDIX M - Checklist for Stage 1 Lodgement (page 59)

Update to checklist – Notify Local Member of Parliament Addition of note – Refer Section 8.5 (page 20) of S-G's Guidelines for guidance and links

#### APPENDIX N – Checklist for Stage 2 Lodgement (page 59)

Update to checklist – Objections / Request for Easement

#### Version 8.1 – Issued July 2023

- 3. Lodgement of hardcopy Stage 1 and Stage 2 Applications (page 6)
  - Update of how Stage 1 and Stage 2 applications can be lodged;
    - via email
    - via post
    - via hand delivery

#### **4.3** Fees (New Addition - page 9)

Changes to the Payment Method (as of 1 August 2023) Cheques will <u>no longer</u> be accepted. Upon lodgement od Stage 1 and Stage 2 documentation (see Section 3, page 6), Roads Group will raise an invoice and forward to the lodging agent/surveyor an email with a link to allow an EFT payment via BPOINT for the respective associated fees. Fees related to each stage lodgement must also be referenced on the relevant 'Checklist – Stage 1 Lodgement' form (APPENDIX M), or 'Checklist – Stage 2 Lodgement' form (APPENDIX N), by the lodging agent/surveyor.

#### 7.2 Old Closed Road (page 12)

Roads Group will raise an invoice for the applicable fee and forward a link via email to allow for payment.

#### 8.1 Preliminary Plans (page 15)

Fee payment is undertaken in accordance with section 4.3 Fees, page 9.

# Guidelines – Roads (Opening & Closing) Act 1991

#### 8.6 Fee Payment (page 20)

Upon lodgement of Stage 1 documentation, Roads Group will raise an invoice and forward to the lodging agent/surveyor an email with a link to allow an EFT payment via BPOINT for the associated fee. (refer section 4.3 Fees, page 9)

#### 10.8 Fee Payment (page 25)

Upon lodgement of Stage 2 documentation, Roads Group will raise an invoice and forward to the lodging agent/surveyor an email with a link to allow an EFT payment via BPOINT for the associated fee. (refer section 4.3 Fees, page 9)

#### APPENDIX M - Checklist - Stage 1 Lodgement (page 59)

Update to checklist – addition of 'Fee' – agent/surveyor to input outstanding Fee Total.

#### APPENDIX N - Checklist - Stage 2 Lodgement (page 60)

Update to checklist – addition of 'Fees' – agent/surveyor to input breakdown of outstanding fees and Fee Total.

### Version 8.0 – Issued July 2023

3. Physical Lodgement of Hardcopy Stage 1 and Stage 2 Applications (page 6) Update of the postal lodgement address -Surveyor-General, GPO Box 1815, ADELAIDE SA 5001

Update of the Roads Group contact phone number -Roads Group – (08) 7133 3022

Update to the physical address for hand delivery of lodgements -Ground Floor, 83 Pirie Street, ADELAIDE SA 5000

Update to the Roads Group generic email address for enquiries - <u>DTI.RoadOpeningClosing@sa.gov.au</u>

- **4.1 Stage 1 Lodgement** (page 7) Agent to notify the local Minister of Parliament as part of the public consultation process.
- **4.3** Fees (page 9)

New Fee Schedule (as at 1 July 2023) - as published in the SA Government Gazette dated 18 May 2023 (pages 1223 & 1224)

- 6. Determining if a Road is Public or Private? (page 11) Land Services SA will determine if a road is Public or Private.
- 7.5 Major Development Road Process under Section 34C (New Addition page 14) Details in regard to closing road in conjunction with a declared Major Development.
- 7.6 Where the Relevant Authority is the State Planning Commission (New Addition page 14) Details in regard to the State Planning Commission becoming the relevant authority when related to a development requiring SPC approval.

#### 8.5 Notify Local Member of Parliament (New Addition – page 20)

In <u>ALL</u> instances the appropriate local Member of Parliament for the affected location to be notified in writing.

8.6 Fee Payment (page 20) Cheques are still the <u>ONLY</u> acceptable form of payment at this time.

# Guidelines – Roads (Opening & Closing) Act 1991

#### 9. Public Notification (page 21)

Update to the email address informing the Surveyor-General of the public notification process - <u>DTI.RoadOpeningClosing@sa.gov.au</u>

#### 10.1 RTD Document (or RTC/RTU) (page 23)

Update to the link on where to find an RTD, RTC or RTU Form and guidance notes https://www.landservices.com.au/businesses-and-property-industry-professionals/landtransactions/forms-and-guidance-notes

#### 10.2 Road Process Order (page 24)

Update – where a Road Process Order has not been raised within 36 months (was 12 months) of the statutory period expiration, the notification process under Section 10 of the Act will have to be repeated (at the discretion of the Surveyor-General).

#### 11.5 Road Closure Associated with Crown Land (Section 6 & 34) (page 27)

Update – Private land which diagonally adjoins a proposed road closure is classified as adjoining land, therefore, Section 10 of the Act must be used.

#### APPENDIX M – Checklist - Stage 1 Lodgement (page 59)

Update to checklist – addition of 'Notify Local Member of Parliament'

#### APPENDIX N - Checklist - Stage 2 Lodgement (page 60)

Update to checklist – Roads Group email address DTI.RoadOpeningClosing@sa.gov.au

### Version 7.0 – Issued July 2022

#### 1. Glossary of Terms (page 5)

Update to the Statement of Prescribed Public Utilities and Authorities as set out in Part 4 and Part 5 of the 'Roads (Opening and Closing) Regulations 2021'.

- 3. Physical Lodgement of Hardcopy Stage 1 and Stage 2 Applications (page 6) Update to the Roads Group generic email address for lodgement <u>AGD.RoadOpeningClosing@sa.gov.au</u>
- 4.3 Fees (page 9) New Fee Schedule as at 1 July 2022
- APPENDIX B Statement of Prescribed Public Utilities (page 38) Update of list and additional email addresses

#### APPENDIX C – Statement of Prescribed Public Authorities (page 39) Update of Department for Infrastructure & Transport email address <u>DIT.LandUseCoordination@sa.gov.au</u>

APPENDIX J – Road Process Order (page 47) Update Authorised delegate to the MINISTER FOR PLANNING (formerly Attorney-General)

### Version 6.0 – Issued July 2021

- 2. Introduction (page 6) Inclusion of links to most recent Versions of both the 'Roads (Opening and Closing) Act 1991' and 'Roads (Opening and Closing) Regulations 2021'.
- 4.3 Fees (page 9) New Fee Schedule as at 1 July 2021

# Guidelines – Roads (Opening & Closing) Act 1991

#### APPENDIX C - Statement of Prescribed Public Authorities (page 39)

Update to Department for Infrastructure & Transport's (DIT) email address and postal address

#### APPENDIX J - Road Process Order (page 47)

Updated authorised delegate to the ATTORNEY-GENERAL (formerly Minister for Transport, Infrastructure & Local Government)

### Version 5.0 – Issued July 2020

- 3. Physical Lodgement of Hardcopy Stage 1 and Stage 2 Applications (page 6) Lodgements can <u>no longer</u> be made over the counter at Land Services SA (LSSA)
- 4.3 Fees (page 9) New Fee Schedule as at 1 July 2020
- 8.1.1 Background Imagery on Preliminary Plans (page 16) To assist with public consultation and to avoid unnecessary objections, <u>from 1 July 2020</u> aerial imagery must be used as a background layer on the Preliminary Plan.
- 9. Public Notification (page 20) For transparency, if Council's intention is to retain the public road being closed then <u>Council</u> <u>must state their reasoning/intention</u> 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.
- 10. Stage 2 Lodgement (page 21) RTD Document (or RTC/RTU where land division occurs) <u>must accompany Stage 2</u> <u>Lodgement</u> and <u>must not</u> be lodged separately with LSSA.
- APPENDIX B Statement of Prescribed Public Utilities (page 38) Updated list with email contacts
- APPENDIX C Statement of Prescribed Public Authorities (page 39) Updated list with email contacts
- APPENDIX G Application for Document of Title (pages 43 & 44)

Updated Form

- APPENDIX M Stage 1 Checklist (page 58) Updated Form
- APPENDIX N Stage 2 Checklist (page 59) Updated Form