

KEMPSEY SHIRE COUNCIL

**APPROVAL, INSPECTION AND MAINTENANCE OF  
PUBLIC GATES AND BYPASS (GRIDS)**

**Procedure 3.1.6**

|                      |                   |  |
|----------------------|-------------------|--|
| Policy No. and Title | 3.1               | Roads Policy   |
| Procedure            | 3.1.6             | Approval, Inspection and Maintenance of Public<br>Gates and Bypass (Grids) |
| Version              | 1                 |  |
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## Table of Contents

|   |           |
|---|-----------|
| <b>1. PURPOSE</b>   | <b>3</b>  |
| <b>2. OBJECTIVES</b>  | <b>3</b>  |
| <b>3. APPROVAL</b>  | <b>3</b>  |
| <b>4. NUMBERING/IDENTIFICATION SYSTEM</b>                                   | <b>3</b>  |
| <b>5. APPLICATION FOR PUBLIC GATE PERMIT</b>                                | <b>3</b>  |
| 5.1 SUBMITTING AN APPLICATION   | 4         |
| 5.2 APPLICATION REFUSED   | 4         |
| 5.3 UNREGISTERED PUBLIC GATES AND BYPASS (GRIDS)                            | 4         |
| <b>6. REMOVAL OF UNREGISTERED OR UNSAFE PUBLIC GATES AND BYPASS (GRIDS)</b> | <b>4</b>  |
| <b>7. SALE OF LAND</b>  | <b>5</b>  |
| <b>8. CONSTRUCTION STANDARDS</b>  | <b>5</b>  |
| 8.1 GRID AND ROAD APPROACHES  | 5         |
| 8.2 PUBLIC GATE   | 5         |
| 8.3 SIDE TRACK (BYPASS)   | 6         |
| 8.4 SIGNAGE   | 6         |
| <b>9. MAINTENANCE REQUIREMENTS</b>  | <b>6</b>  |
| 9.1 ROAD FORMATION  | 6         |
| 9.2 FAILURE TO MAINTAIN   | 6         |
| 9.3 PUBLIC GATES AND BYPASS (GRIDS) IN A DANGEROUS CONDITION                | 7         |
| 9.4 RENEWAL/REPLACEMENT   | 7         |
| 9.5 INSPECTIONS   | 7         |
| 9.6 PROACTIVE INSPECTIONS   | 7         |
| 9.7 REACTIVE INSPECTIONS  | 7         |
| <b>10. COMPLIANCE REVIEW</b>  | <b>7</b>  |
| <b>11. INSURANCE</b>  | <b>7</b>  |
| <b>APPENDICES</b>   | <b>9</b>  |
| <b>APPENDIX A</b>   | <b>10</b> |
| <b>APPENDIX B</b>   | <b>12</b> |
| <b>APPENDIX C</b>   | <b>17</b> |
| <b>APPENDIX D</b>   | <b>18</b> |
| <b>APPENDIX E</b>   | <b>19</b> |
| <b>APPENDIX F</b>   | <b>20</b> |
| <b>APPENDIX G</b>   | <b>21</b> |
| <b>APPENDIX H</b>   | <b>22</b> |

## **1. Purpose**

Council's document titled Procedures 3.1.6 for the Approval, Inspection and Maintenance of Public Gates and Bypass (Grids) aims to reduce the exposure of the landowner and Council to the possibility of a claim through the management of the risks associated with Public Gates and Bypass (Grids). This shall be achieved by developing and maintaining a systematic approach to approval, inspection, evaluation, maintenance and repair of all Public Gates and Bypass (Grids) as identified in the Public Gate and Bypass (Grids) Register.

All current Gate/Grid permits require regular compliance checks to ensure the structure is being maintained to a satisfactory standard, and that the appropriate Public Liability Insurance is held by the Public Gate Permit holder.

All gates and grids on public roads that are controlled by Council must be registered and a permit obtained. Council as the Road Authority reserves the right to revoke a Public Gate Permit at any time.

Upon approval of a new application, the applicant shall pay to Council a bond to cover the estimated cost to remove the gate/grid and restore the road to the standard prior to installation. Note: that this is a once off payment. All existing gates/grids shall be excluded from this requirement.

## **2. Objectives**

These procedures aim to:

- a) Document a transparent system for the approval and issue of Public Gates and Bypass (Grids) Permits.
- b) Regulate the conditions under which public gates and grids may be permitted across public roads.
- c) Identify standards for the construction of Public Gates and Bypass (Grids).
- d) Define maintenance responsibilities for Public Gate and Bypass (Grids) Permit Holders.
- e) Define registration and recording procedures for Public Gates and Bypass (Grids).
- f) To reduce the risk presented by public gates and cattle grids to road users, Council and landowners.
- g) To permit the installation of gates and Bypass (grids) at no cost to the community.

## **3. Approval**

Council is given the ability to issue Public Gate Permits under the Roads Act 1993. A new Public Gate Permit can only be granted where the following conditions are met:

- a) The road must be unfenced on at least on one side.
- b) The road must pass through a parcel of land occupied by the Applicant.
- c) An application for permission to erect a Public gate and/or Bypass (Grid) is completed
- d) The Public Gate must be placed at a point where the road intersects a boundary fence.

For all current permits and new approvals, the permit owner will be required to enter into a Deed of Agreement which will be registered on the title to the property. The Deed of Agreement will confer responsibility for the gate/grid to the landowner and ensure that heirs and successors in title are bound by the same terms. The Deed of Agreement is attached as (*Appendix A*).

## **4. Numbering/Identification System**

Each public gate/Bypass (grid) or combination will be numbered for identification according to the road number it is on and its chainage along the road (i.e. 88-1030, where 88 is the road number and the gate is located at a chainage of 10.3kms).

## **5. Application for Public Gate Permit**

Details of all Public Gate Permits on the Council's Road Network shall be recorded on the Public Gate & Grid Register.

## **5.1 Submitting an Application**

To apply for a Public Gate Permit the owner of the land through which the public road passes must complete a Public Gate Permit Application form (*Appendix B*) and pay the applicable application fee.

Where the applicant owns land on one side only of the road across which the proposed grid/gate combination is to be erected, the application must be accompanied by the written consent of the landowner on the other side of the road.

When an application for a public gate permit is received, the application will be advertised in the local newspaper inviting comments from the public for a period of at least 28 days from the date the advertisement is published. In addition, a sign will be placed at the location of the requested gate/grid advising of the application and specify a date by which submissions will be received by Council.

For further explanation of the procedure to be followed refer to (*Appendix G*) – Flowchart for New Applications for a Public Gate Permit and (*Appendix B*) – Erect a Public Gate and Grid (Motor Bypass) Application Form.

## **5.2 Application Refused**

If an application is refused, 75% of the application fee will be refunded. The applicant will be advised in writing that the application has been refused.

## **5.3 Unregistered Public Gates and Bypass (Grids)**

Where Council is aware of a grid or gate on a public road which has not been approved by Council, it will write to all adjoining landowners to establish its ownership. Where one or more adjoining landowners confirm their ownership of the grid or gate, they will be advised they are singly or jointly responsible for its maintenance to Council's standards.

Unless the owner of the land through which the public road passes is able to produce evidence that a Public Gate & Grid Permit had been issued for the structure, the structure will be regarded as unregistered.

The owner of existing unregistered Public Gate and/or Grid will be required to lodge a Public Gate Permit Application with Council within 28 days of such an instruction being issued by Council. The applicant will be required to identify whether the current condition of the structure complies with the defined construction standard as set out in this document and to show Council current Public Liability Insurance details for the structure to enable a permit to be issued.

In cases where the current condition of the structure does not comply with the appropriate standards, Council will advise the owner of the appropriate measures to be taken.

## **6. Removal of Unregistered or Unsafe Public Gates and Bypass (Grids)**

If no response is received following a request for submissions or the responses do not justify retaining the gate/bypass (grid), Council will take action to remove the structure from the road reserve. The adjoining landowners will be notified a minimum of 28 days prior to the removal of the structure to allow provisions to be made for the containment of stock. The containment of any livestock always remains the responsibility of the stock owner, and Council bears no responsibility for damage or injury arising from or to livestock on public roads.

The costs of removing the structure and impounding of livestock are able to be recovered by Council from the adjoining landowners or registered livestock owners. Where the adjoining landowner has fully fenced the road frontage of their property they will not be required to contribute to the costs of removing the structure. Any materials salvaged will remain the property of Council.

## 7. Sale of Land

When the land parcel that adjoins the Public Gate and/or Bypass (Grid) is sold, the responsibility for the Public Gate Permit and the gate or grid is also transferred with the sale of the land. It is the vendor's (Public Gate Permit Holder) responsibility to advise prospective purchasers of the provisions/associated with the public gate as part of the formal conveyance process.

## 8. Construction Standards

All work is to be carried out in accordance with Council's Road Construction Standards, NSW Occupational Health & Safety requirements, the Roads Act 1993, Roads Regulation 2008, industry standards, and applicable Australian Standards. Council will provide guidance if required. The applicant must provide structural engineers certification that the structure can cater for vehicle loads of up to 42 tonnes (in accordance with AS5100). A number of companies manufacture prefabricated cattle grid units. Subject to their design specifications being referred to Council, such units can be approved for use.

(Appendix D) shows the standards applicable to a Public Gate, and (Appendix E & F) shows a diagrammatic representation of the construction of a Public Gate and Bypass (Grid).

Unless approved otherwise the effective trafficable design width for all future and replacement Bypass (Grids) will be:

- (a) for a double grid 7.4 metres; and
- (b) for a single grid 3.6 metres.

**"effective trafficable width"** means the clear trafficable distance between the inside of the grid side walls when measured at the narrowest points. Council may require a grid of greater width where considered necessary, and may require an existing grid to be widened.

**Council recommends commercially made Bypass (Grids) and there are a number of companies that manufacture prefabricated Bypass (Grids) units.**

### 8.1 Grid and Road Approaches

New Bypass (Grids) shall have a minimum clear width between side fences to suit the requirements identified by Council during the approval process.

The road width of any cattle grid shall be the greater of the minimum standard trafficable width (includes traffic lane and shoulder) for the road class and the existing formation width. Where an existing Public Gate and Bypass (Grid) has been constructed with a width less than this, the signage provided should include a "NO OVERTAKING OR PASSING" warning sign (R6-1A) on each approach, or alternative signage to indicate a narrowing of the road.

The road approaches for a distance of 5 metres each side of the grid and the adjacent gate is to be constructed with a compacted gravel pavement 300 millimetres thick.

A grid must be constructed by way of a pit dug in the road and covered with an open grille so as to enable motor vehicles to pass over it.

The applicant shall construct drainage under the grid and adjacent gated bypass road, to ensure that no damming or ponding of water shall occur on the roadway.

Reflectors or width markers (sign D4-3A) must be provided on both sides of the grid, on both approaches.

An advance warning sign must be erected on both approaches; approximately 100m in advance of the grid, bearing the word "GRID" (sign W5-16B).

### 8.2 Public Gate

The Public Gate shall be made of resilient material of minimum width 3.6 meters and should be arranged to be free swinging and shall remain unlocked. The gate, any support structures, and fencing within the road reserve shall be painted white. (*Appendix E*)

Reflectors must be provided on both sides of the gate. A notice must be attached to both sides of the gate bearing the words "PUBLIC GATE" in letters at least 75mm high. Where there is a public gate along the line of the road not as part of a grid/gate combination, an advance warning sign must be erected on both approaches, approximately 100m in advance of the gate bearing the word "GATE" (sign W5 – 14B).

The road must be constructed and gravelled at least 5 metres on both approaches to the gate.

### **8.3 Side Track (bypass)**

The grid side track which services the Public Gate is to be constructed to a standard such that it is negotiable by normal two wheel drive vehicles under all weather conditions.

### **8.4 Signage**

Signs must be erected for any new Gate/Grid installed as per AS 1742 Manual of Uniform Traffic Control Devices – Traffic Control Devices for General Use.

## **9. Maintenance requirements**

The permit holder shall be responsible for the maintenance of stock Bypass (Grids), signage and their approaches. More specifically, landholders are required to clean out the grid pits, repair or replace broken pits, repair or replace broken and corroded rails, repair or replace wings and fill pot holes for 5 metres either side of the grid. Bypass (Grids) will be inspected as part of the Shire's road inspection regime to ensure that Bypass (Grids) are being properly maintained.

The Public Gate Permit holder is responsible to maintain the structure and signage of the Public Gate and Bypass (Grid) to ensure compliance with the Construction Standards. All maintenance work is to be carried out in accordance with the Council Road Maintenance Standards, NSW Occupational Health & Safety requirements, the Roads Act 1993, Roads Regulation 2008 and applicable Australian Standards.

Maintenance works shall include as a minimum the following items:

- a) Ensuring that all warning signs and components of the grid are in a sound condition
- b) Removing all silt, debris and rubbish from the drain under the grid and keep the outflow drains clear
- c) Maintaining the height of grass and vegetation in the area of the grid to a maximum of 100 mm.
- d) Repaint fence posts in white on a regular basis
- e) Removing litter and wind-blown vegetation from the grid
- f) Ensuring that all wires, ties and fences are in a sound condition.

### **9.1 Road Formation**

The Public Gate Permit holder is responsible for maintenance of the road formation for a distance of 5 meters either side of the structure. The permit holder may not carry out maintenance works on the road without written approval from Council. Maintenance of sealed road pavements shall be carried out by Council only. Council may carry out maintenance of the road within this distance from the structure at the owner's expense.

Council reserves the right to vary the distance based on the circumstances of the application, up to a maximum of 20 metres.

### **9.2 Failure to Maintain**

Where an existing gate/bypass (grid) is not being maintained to the appropriate standard, Council will serve notice on the permit holder to carry out remedial works. Failure to comply with

the notice will result in the levying of penalties as contained in the Roads Act, or cancellation of the permit. Council's Director Infrastructure Services may cancel the permit for failure to carry out remedial work or when changes occur to the classification or alignment of the road. Alternatively, Council may undertake the work and recover the costs from the permit holder.

### **9.3 Public Gates and Bypass (Grids) in a Dangerous Condition**

Where a Public Gate or Bypass (Grid) is deemed by Council to be in a dangerous condition and the Public Gate Permit holder cannot be contacted within seven (7) business days the grid will be temporarily repaired by Council at the Public Gate Permit holder cost. This will include any steps Council's Director Infrastructure Services deems as necessary to make the structure safe for traffic, and may include temporary filling of the cattle grid with compacted gravel or complete removal of the grid. The Public Gate Permit holder will be held solely responsible for any damage or injury caused by the structure.

### **9.4 Renewal/Replacement**

Renewal/replacement of a gate and Bypass (grid) may require upgrading of the gate/grid to comply with the current standards. Permit holders will require approval in writing from Council prior to replacement/renewal.

### **9.5 Inspections**

If on inspection an existing structure is not deemed to constitute an obvious safety hazard, Council may issue a permit on condition that other identified non-compliance issues are addressed within a one year period from the permit date. This period may be extended for landholders who have permits for more than one gate.

In cases where the structure cannot comply with current standards Council will advise the owner of the appropriate measures to be taken. These may include:

- a) Elimination of the Public Gate and Bypass (Grid) by fencing the road reserve
- b) Upgrading the structure to current standards
- c) Replacement of the structure with one that meets current standards.

### **9.6 Proactive Inspections**

The permit holder is responsible for carrying out regular inspections to ensure the structures comply with specified standards. Council staff will inspect Public Gates and Bypass (Grid) as part of scheduled road network inspections. Any identified condition defects will be advised to the permit holder for rectification or removal.

### **9.7 Reactive Inspections**

Council staff will respond to Customer Requests and any defects observed during the course of such inspections will be advised to the permit holder for attention.

## **10. Compliance review**

Compliance of the structures with the construction and maintenance standards will be reviewed and the owner shall pay the annual registration fee as detailed in Council's Fees and Charges. Council will advise the owner when the review is due in writing including providing a Public Gate and Bypass (Grid) Inspection Report as per (Appendix C). The owner is required to carry out a condition inspection of the structure and submit a Certificate of Currency of Public Liability Insurance with a minimum cover of \$10,000,000 for the structure and return the forms to Council within 28 days. Council will conduct a sample audit check of the information submitted and inspections of structures at random to confirm the accuracy of condition inspections. If the structure is found not to comply with requirements, or the Public Liability Insurance is invalid or inadequate, Council will take action as necessary to remedy the non-compliance.

## **11. Insurance**

An occupier of land who has an installed gate or bypass (grid) on a road must have current and adequate insurance cover for all liability and risk. Council must be listed as an interested party on the insurance for the property and evidence in terms of certificate of currency shall be provided on demand.

### **VARIATION**

Council reserves the right to renew, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.



# APPENDICES

**APPENDIX A**

**PUBLIC GATE/BYPASS (GRID) PERMIT**  
**DEED OF AGREEMENT FOR THE INSTALLATION OF A PUBLIC GATE/BYPASS**  
**(GRID) IN PUBLIC ROADS**

**AGREEMENT** made this .....(Date) **BETWEEN** .....  
(Name)

of ..... (Address) in the State of New South Wales (Hereinafter called 'the **Occupier**' which expression includes his/her heirs, executors, administrators, assigns and successors in title) of the one part and Kempsey Shire Council (hereinafter called 'the **Council**'), of the other part **WHEREAS** the Occupier is in possession of the property known as ..... **(Land)** at.....(Address) in the State of New South Wales through which passes an unfenced public road being ..... (Name of Road) **AND WHEREAS** the Occupier has requested permission to construct ..... (Description of Items) as hereinafter provided on ..... (Road Name) at ..... (Location of Items).

In consideration of the Council granting permission for the erection of such ..... (Description of Items) **IT IS AGREED** by and between the parties to this agreement as follows:

1. The Occupier at his/her own cost, must construct ..... **(Structure)** in accordance with the plan/s supplied and approved by Council.
2. This agreement commences on the date stated above and ends upon Council giving notice to that effect to the Occupier.
3. The Occupier at his/her own cost, must keep and maintain the Structure in good and substantial repair, order and condition at all times in accordance with the directions and requirements of Council from time to time.
4. The Occupier is responsible for the maintenance of the Structure and any signage placed on, or associated with, the structure, as well as their replacement when it is considered necessary by Council.
5. The Occupier must ensure that the road approaches to the Structure are maintained in a good condition at all times for such distance (not exceeding 20 metres) from each side of the Structure, and for such width, as Council may determine from time to time.
6. The Occupier must ensure that the Structure is white, is fitted with standard signage and is also fitted with reflectors facing the road in either direction.
7. The Occupier must comply at all times with all notices, directions, orders or other requests served upon it by Council with respect to the Structure.
8. The Occupier acknowledges that all work in relation to the Structure is to be carried out in accordance with:
  - a) the *Roads Act 1993* (NSW);
  - b) the *Roads (General) Regulation 2008* (NSW);
  - c) *Work Health and Safety Act 2011* (NSW);
  - d) *Work, Health and Safety Regulations 2011* (NSW); and

- e) applicable Australian standards.
9. The Occupier must effect and keep current and in force a standard policy of public liability insurance for an amount not less than ten million dollars (\$10,000,000.00), or such other amount required by Council from time to time, with respect to the Structure.
  10. Any such policy of insurance to be maintained by the Occupier must:
    - a) if possible, note the interest of Council as an interested party;
    - b) be maintained at the Occupier's expense;
    - c) be maintained at all times throughout the Term; and
    - d) be produced to Council upon request as evidence of the currency of such policy.
  11. If any policy of insurance is cancelled either by the Occupier or the insurer, the Occupier must notify Council immediately.
  12. The Occupier agrees that it has no claim whatsoever against Council if and when Council terminates this agreement.
  13. The Occupier agrees to fully reimburse Council for any work undertaken with respect to the Structure as a result of the Occupier's failure to maintain the Structure or undertake work as required/directed by Council.
  14. The Occupier acknowledges and agrees that Council has a right to enter the Land and to inspect the Structure as part of scheduled road network inspections to ensure the Structure is in good condition and meets Council's maintenance standards.
  15. The Occupier must indemnify and keep indemnified Council against any claim (of whatever nature) arising through any act or omission on the part of the Occupier in relation to the construction, reconstruction, repairs or failure to repair the Structure whether or not arising out of any direction of Council.
  16. Nothing in this agreement effects any obligation imposed by the *Local Government Act 1993* (NSW), the *Roads Act 1993* (NSW) and the *Roads (General) Regulation 2008* (NSW), and the Occupier is bound by the provisions of those laws.

The agreement is duly executed by both parties.

**Executed** by the

\_\_\_\_\_

Occupier

\_\_\_\_\_

Witness

\_\_\_\_\_

*Print name*

\_\_\_\_\_

*Print Name*

**Executed** by **Kempsey Shire Council** by its duly authorised officer pursuant to delegation from Council and in the presence of:

\_\_\_\_\_

Witness (Signature)

\_\_\_\_\_

Authorised Officer (Signature)

\_\_\_\_\_

Name of Witness (Print Name)

\_\_\_\_\_

Name of Authorised Officer  
(Print Name)

**APPENDIX B**

**APPLICATION TO ERECT A PUBLIC GATE AND GRID (MOTOR BYPASS)**

The General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

FILE NUMBER:.....

LA:.....

As an occupier of land through which an unfenced public road passes. Application is made for approval to erect a Public Gate and/or Grid (Motor Bypass) as under:

ROAD: \_\_\_\_\_

EXACT LOCATION:  
\_\_\_\_\_  
\_\_\_\_\_

WIDTH OF GATE: \_\_\_\_\_ WIDTH OF GRID: \_\_\_\_\_

MATERIALS PROPOSED: \_\_\_\_\_  
\_\_\_\_\_

FURTHER INFRASTRUCTURE:  
\_\_\_\_\_  
\_\_\_\_\_

**NOTE:** Public Gate/Bypass (Grid) applications will only be considered on low traffic local roads. Applications on collector/distributor roads or bus routes will be refused.

I agree to observe the provisions of the Roads Act 1993 No. 33 and Roads Regulations 2008 relating thereto and pay to Council Application and Annual Fees as per the fees & charges. In addition I agree to prepay a bond equivalent to the cost of removing the structure.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No: \_\_\_\_\_ Date: \_\_\_\_\_

**OFFICE USE ONLY**

Date Application Received: \_\_\_\_\_ Date Fees Paid: \_\_\_\_\_

Operations Officer's Report:  
\_\_\_\_\_  
\_\_\_\_\_

Notice Inviting Objections Published in \_\_\_\_\_ Newspaper on \_\_\_\_\_

Council's Resolution to Approve of the Gate/Grid: \_\_\_\_\_ Date: \_\_\_\_\_

Advertisement Advising of Approval:  
\_\_\_\_\_

Notice of Approval: \_\_\_\_\_ Letter Dated: \_\_\_\_\_

Issue Gate Number: \_\_\_\_\_ Issue of Public Gate Sign: \_\_\_\_\_

Issue of GRID or GATE SIGNS: \_\_\_\_\_

Inspection of Grid/Gate: \_\_\_\_\_

## **PUBLIC GATE AND MOTOR BYPASS**

### **(ROADS ACT 1993 NO. 33)**

The following provisions of the Roads Act 1993 No. 33 applies to the application, approval, erection, maintenance and transfer of obligations concerning Public Gates and Motor Bypasses:

1. Application must be made in writing to Council seeking permission to erect a Public Gate/Motor Bypass.
  - (a) An application under Division 2 of the Roads Act 1993 No. 33 for permission to erect a public gate shall be sent to the General Manager.
  - (b) To defray the necessary expenses of enquiring with respect thereto, the applicant shall pay, on demand, such reasonable fee as the Council may fix.

Council has fixed a fee as per the fees & charges which is subject to annual review.

2. Where applicable the consent in writing of adjoining owners is to accompany the application.

Where the applicant owns land on one side only of the road across which it is proposed to erect a public gate, he/she shall forward to the General Manager the consent in writing of the owner of the land on the other side of such road adjoining the proposed site of the gate.

3. Council will decide if it agrees in principle to the gate/grid and will then if approved in principle:
  - (a) Advertise calling for objections (twenty eight (28) days after the publication of the notice is allowed for people to lodge objections).
  - (b) Consider any objections and if proposal is to go ahead.
  - (c) Formally resolve to approve of the application.
  - (d) Advertise the approval - allow another month before work may proceed.
  - (e) Formally advise the applicant of the approval.

### **ERECTION AND MAINTENANCE OF PUBLIC GATES**

1. The holder of a public gate permit may, at any time after one (1) month from publication of the notice of the granting of the permit, erect a gate in accordance with the permit.
2. The holder of the public gate permit must ensure that:
  - (a) a notice is attached to both sides of the gate bearing words "PUBLIC GATE" in letters seventy five (75) millimetres high;
  - (b) both the gate and notice are maintained in good condition at his/her own expense.
3. The Council may require the holder of the permit to, at his/her own expense to upgrade the gate and notice boards from time to time and alter the wording on the notice as may be necessary so that it bears the words in symbols as required from time to time.
4. Every applicant to whom permission has been given to erect a public gate shall construct, to the satisfaction of the Director Infrastructure or other Council Officers, road approaches for not exceeding 20 metres from each side thereof, and of such width as the Council may require.

### **Revocation of Permit**

1. The Council may at any time revoke a public gate permit.

2. The occupier of the land, the subject of a permit that has been revoked must remove the gate within one (1) month after the note of the revocation is served.

### **Effect of Permit**

1. While a public gate permit is in force, the public gate to which it relates is taken not to constitute a public nuisance and does not give rise to an offence against this or any other Act.

### **Offences with respect to Public Gate**

1. A person must not cause any damage to a public gate or to any notice attached to the gate in accordance with this division.
2. A person who opens a public gate must cause it to be closed again immediately after it has been used.
3. A person who fails to cause a public gate to be closed is liable for any loss or damage suffered by the occupier of the land adjoining the public road on which the gate is situated as a result of the gate having been left open.

### **CONSTRUCTION OF A BYPASS AROUND ROAD GATE**

1. An occupier of land adjoining an unfenced public road across which a public gate is situated at the point where the road intersects a boundary fence:
  - (a) must not, unless Council so permits,
  - (b) must, if Council so requires, construct a Bypass for vehicles at the intersection of the road with the boundary fence.
2. The Council may not permit or require the construction of a Bypass:
  - (a) if the bypass is to be used in connection with a public gate across a main road, except with the concurrence of the Roads and Maritime Services;
  - (b) if the public gate is part of a rabbit-proof, dog-proof or marsupial-proof fence except with the concurrence of the local Mid Coast Livestock Health and Pest Authority.

A Bypass is to consist of:

- (a) a ramp to allow vehicles to be driven over the top of the boundary fence; or
  - (b) a cattle grid or sheep grid located by the gate and must be constructed in accordance with such specifications as may be approved by Council.
4. If the Council so requires, the person permitted or required to construct a Bypass:
    - (a) must construct the Bypass along the line of the road;
    - (b) must relocate the gate beside the Bypass.
  5. The occupier for the time being of the land to which a permit relates is taken to be the holder of the permit.

Attached is a copy of Council's specification for a GRID. (Council will usually only consider a gate by itself if it is the last access on any road).

### **Noticeboard to be erected at Bypass**

1. The Occupier of land on which a Bypass is constructed must ensure that:

- (a) a notice, in the form required by Council, is exhibited on a conspicuous notice board near each end of the Bypass;
  - (b) both the Bypass and the notice are maintained in good condition.
2. A notice may prohibit vehicles exceeding a specified laden weight from being driven over the Bypass.

### **Revocation of Bypass Permit**

1. The Council may revoke a permit given with respect to a Bypass by means of a notice served on the holder of the permit.
2. The occupier of the land, the subject of the permit must, within the time specified in the notice:
  - (a) remove the Bypass and its notices;
  - (b) take steps as are specified in the notice to ensure the safety of persons using the road.

### **Closing of Bypass**

1. A Bypass may be closed and the notices relating to the Bypass may be removed:
  - (a) if the public gate in connection with which the Bypass was constructed is removed;
  - (b) if the fence of which the Bypass forms part is made rabbit-proof, dog-proof or marsupial-proof.

A person who closes a Bypass:

- (a) must give notice of the closure to the Council before or immediately after the closure;
- (b) must take steps as the Council directs to ensure the safety of persons using the road.

### **Offences**

1. A person must not:
  - (a) drive a vehicle over a Bypass in contravention of a notice displayed in connection with the Bypass; or
  - (b) wilfully damage or remove a notice displayed in connection with a Bypass; or
  - (c) wilfully obstruct or damage a Bypass.
2. A person who causes damage to a Bypass as a result of driving a vehicle over the Bypass in contravention of such a notice is liable for:
  - (a) the cost of any repairs to the Bypass necessary as a result of the contravention;
  - (b) any loss or damage suffered by any other person as a result of the damage to the Bypass.

The Council at whose requirement or by whose permission a Bypass is erected in pursuance of this section shall not be liable for any damage sustained unless it is shown that the Council has been negligent in some regard in connection with the Bypass.

### **TRANSFER OF PERMISSION**

Where any person, on selling or leasing any land, desires to transfer therewith the permission of the Council to maintain a public gate, such transfer shall be subject to the approval of the Council. The transferee shall apply for such approval.

If no such action is taken the gate/grid is to be removed to the satisfaction of Council by the person selling the property.

All of the above requirements apply to the holder of the permit at the time of issuing and become binding upon his/her heirs or successor/s in title.



**APPENDIX C**

**PUBLIC GATE AND GRID INSPECTION REPORT/CHECKLIST**

Owner \_\_\_\_\_

Inspected by ..... Inspection Date:...../...../.....

Road Name:..... Permit No.....

Distance from.....is.....KM

Grid description (material used, rail spacing etc.).....

.....  
 .....

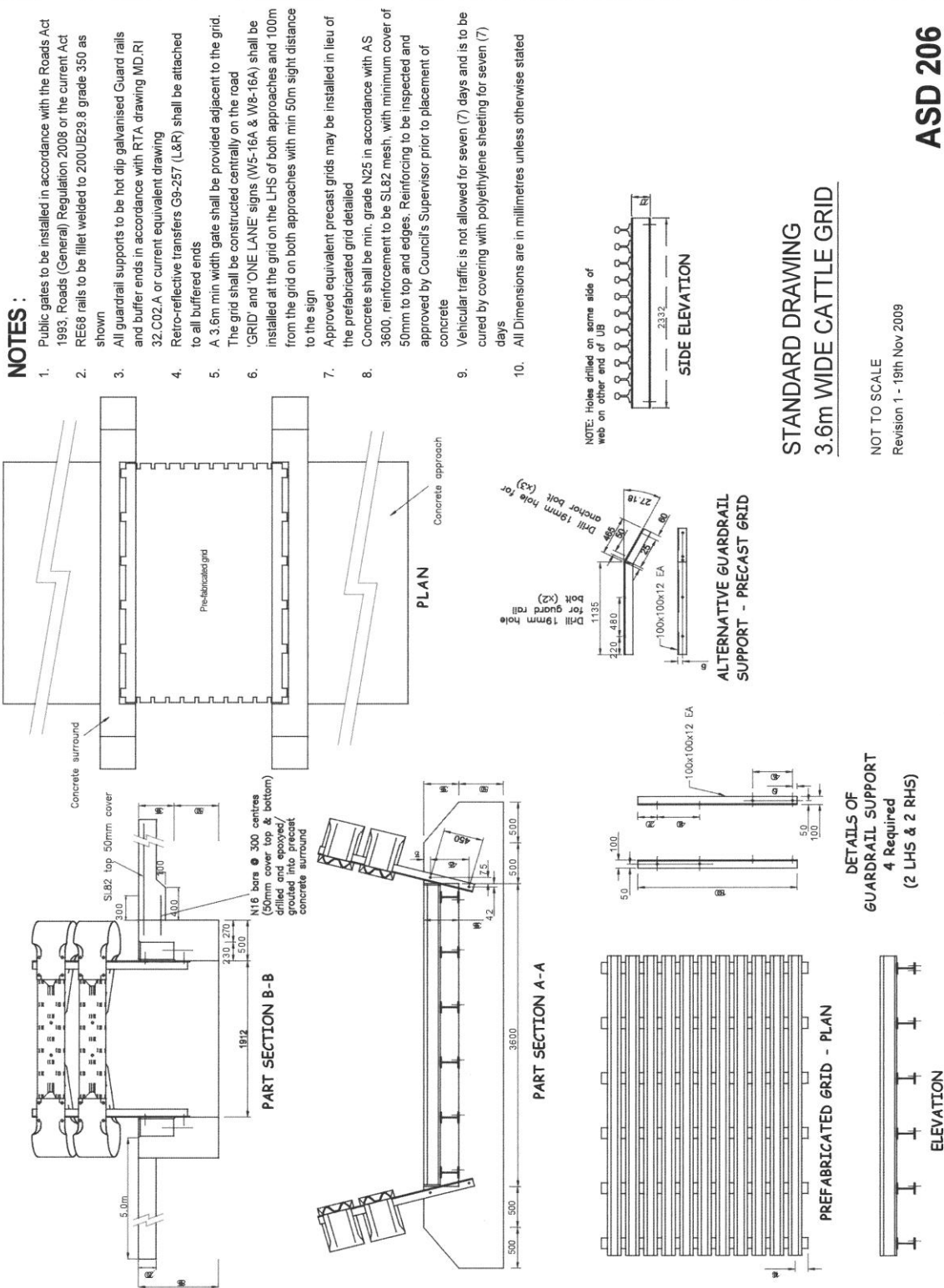
|                                   |  | YES                      | NO                       | N/A                      |
|-----------------------------------|--|--------------------------|--------------------------|--------------------------|
| <b>Grid Condition</b>             | The grid is level with road surface  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Are there loose or broken rails?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Is there excessive movement of the Grid within the concrete support structure? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Is there excessive build up under the Grid preventing road drainage?           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>Guard Rail</b>                 | Is the guard rail construction adequate?                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Are there any rails missing?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Are there any rails loose or protruding?                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | White paint is suitable condition  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>Signage</b>                    | D4-3 (HAZARD) Signs are visible with no defects                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | W5-16 (GRID) Signs are visible with no defects                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | W4-1 (NARROW ROAD) Signs are visible with no defects                           |                          |                          |                          |
|                                   | Reflectors or Guideposts   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>Gate Condition</b>             | The gate is in working condition   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | White paint is suitable condition  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | The "Public Gate" sign is on the gate  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | The Permit No is on display  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | The Bypass track is trafficable  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>5m Road Approach Condition</b> | Road Formation shape is adequate   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Potholes, Corrugations and Rutting are minimal                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                                   | Water is not near the Grid   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Inspector's Comments:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Public Liability Insurance Details.....**

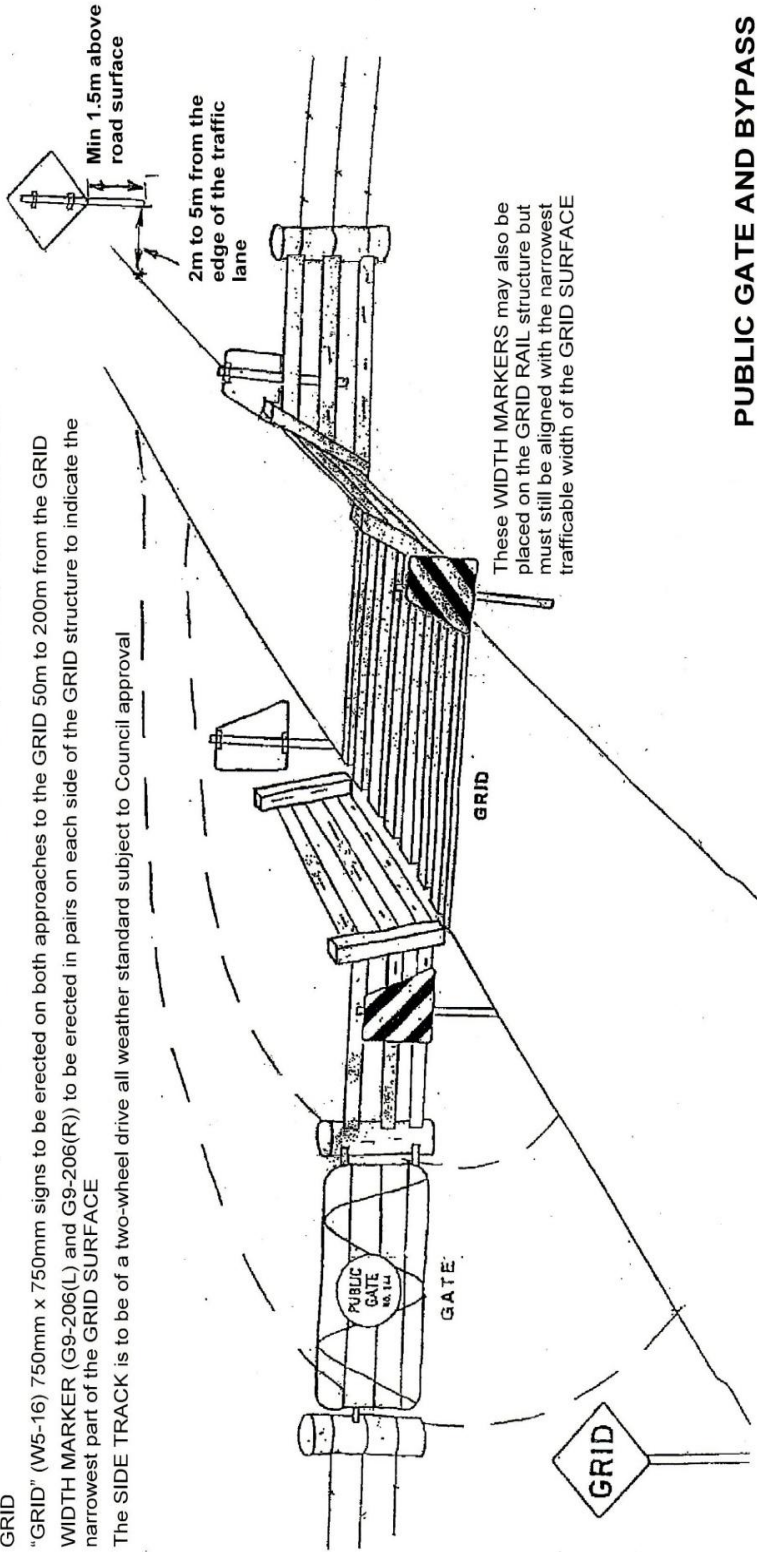
Photos taken



**APPENDIX E – DIAGRAMATIC VIEW OF PUBLIC GATE AND BYPASS (CATTLE GRID)**

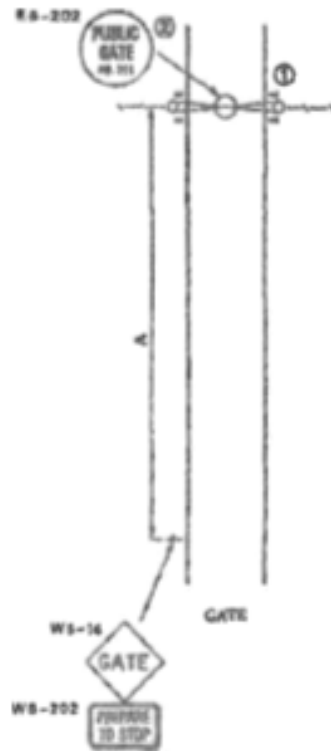
Notes:

- GRID SURFACE to be at a width specified by Council and a minimum 2.1m long along road
- GRID to have at least 300mm clearance underneath the entire GRID
- Where possible the roadside drainage should be directed under the GRID to aid in self cleaning of GRID
- PUBLIC GATE PERMIT HOLDER is responsible for the maintenance of the road for a specified length either side of the GRID
- "GRID" (W5-16) 750mm x 750mm signs to be erected on both approaches to the GRID 50m to 200m from the GRID
- WIDTH MARKER (G9-206(L) and G9-206(R)) to be erected in pairs on each side of the GRID structure to indicate the narrowest part of the GRID SURFACE
- The SIDE TRACK is to be of a two-wheel drive all weather standard subject to Council approval



**PUBLIC GATE AND BYPASS  
DIAGRAMATIC REPRESENTATION**

R6-202 Sign  
SITUATION DIAGRAM

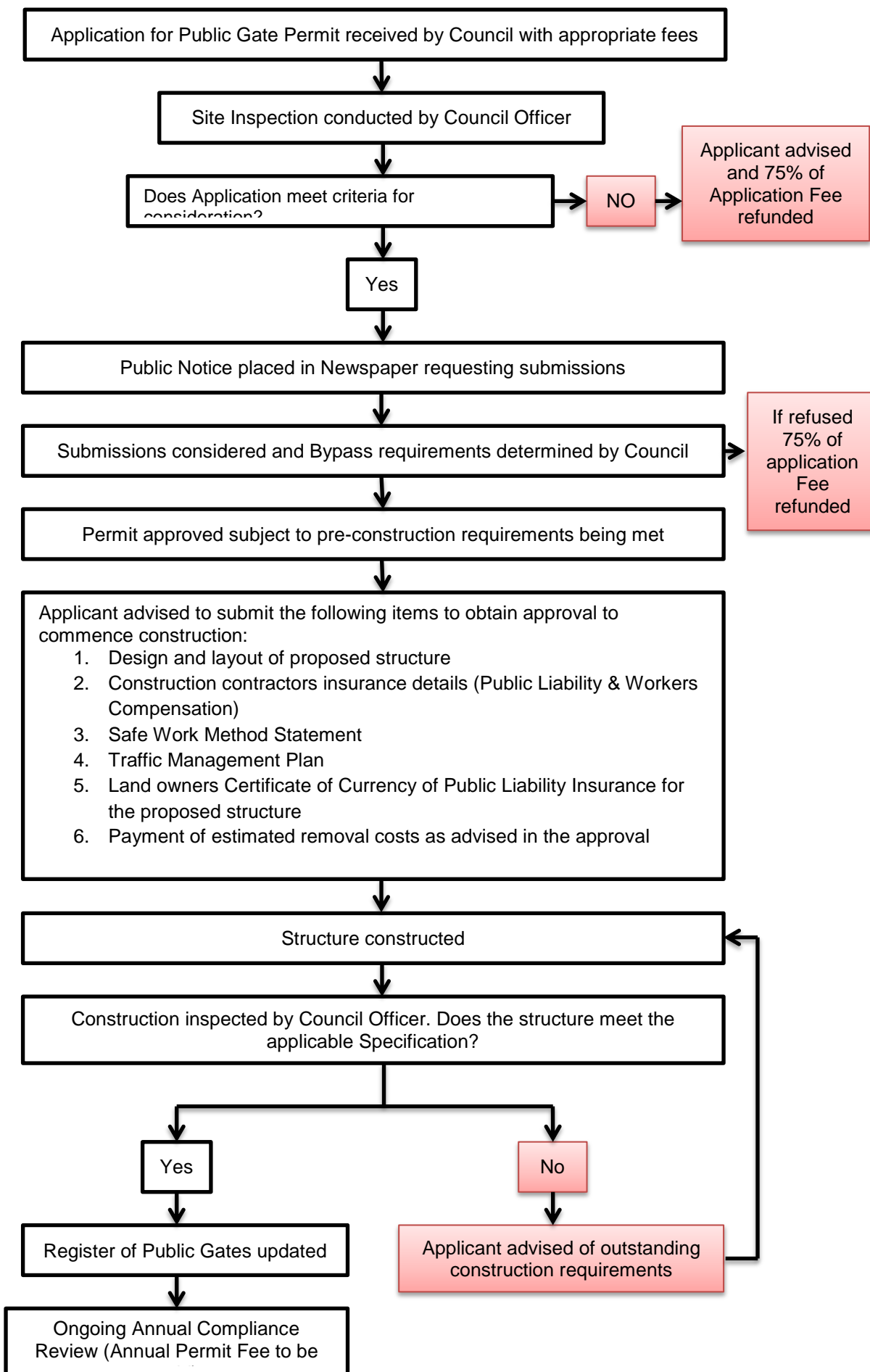


| V <sub>85</sub><br>(km/h) | A<br>(m) |
|---------------------------|----------|
| 50                        | 60-80    |
| 60                        | 80-100   |
| 70                        | 100-120  |
| 80                        | 120-140  |
| 90                        | 140-170  |
| 100                       | 170-210  |
| 110                       | 210-260  |

ADDITIONAL NOTES

1. The permit holder is responsible for erecting the gate and maintaining it in good condition.
2. Two signs are to be placed on the gate, one on each side. The permit holder is responsible for the initial signs and maintaining them in good condition.
3. Guide posts with reflectors are to be installed on each side of the road in each direction, as shown.

**APPENDIX G**



**APPENDIX H**

Form: 13PC  
 Licence: 06-09-753  
 Licensee: Softdocs  
 Marsdens Law Group

**POSITIVE COVENANT**  
 New South Wales  
 Section 88E(3) Conveyancing Act 1919

APPENDIX H  
 Leave this space clear. Affix additional pages to the left-hand corner.

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

|                                |   |  |                              |
|--------------------------------|---|--|------------------------------|
| (A) TORRENS TITLE              |   |  |                              |
| (B) LODGED BY                  | Document Collection Box<br><br><b>570E</b>  | Name, Address or DX, Telephone, and Customer Account Number if any<br><br>MARSDENS LAW GROUP<br>DX 5107, Campbelltown<br>Tel: (02) 4626 5077<br><br>Reference (optional): JRT:SEH:364975 | <b>CODE</b><br><br><b>PC</b> |
| (C) REGISTERED PROPRIETOR      | Of the above land   |  |                              |
| (D) LESSEE MORTGAGEE or CHARGE | Of the above land agreeing to be bound by this positive covenant  |  |                              |
|                                | Nature of Interest  | Number of instrument   | Name                         |
|                                | NOT APPLICABLE  |  |                              |
| (E) PRESCRIBED AUTHORITY       | Within the meaning of section 88E(1) of the Conveyancing Act 1919<br>KEMPSEY SHIRE COUNCIL (ABN 70 705 618 663) |  |                              |

(F) The prescribed authority having imposed on the above land a positive covenant the terms set out in annexure **A** hereto applies to have it recorded in the Register and certifies this application correct for the purposes of the Real Property Act 1900.

DATE ..... / ..... / .....

**(G) EXECUTION BY THE PRESCRIBED AUTHORITY**

I certify I am an eligible witness and that an authorised officer of the prescribed authority signed this application in my presence. [See note\* below]

|                       |                                     |
|-----------------------|-------------------------------------|
| Signature of witness: | Signature of an authorised officer: |
| Name of witness:      | Name of authorised officer:         |
| Address of witness:   | Position of authorised officer:     |

**(G) EXECUTION BY THE REGISTERED PROPRIETOR**

I certify I am an eligible witness and that the registered proprietor signed this dealing in my presence. [See note\* below]

Certified correct for the purposes of the Real Property Act 1900 by the registered proprietor.

|                       |                                     |
|-----------------------|-------------------------------------|
| Signature of witness: | Signature of registered proprietor: |
| Name of witness:      |                                     |
| Address of witness:   |                                     |

**(H) CONSENT OF THE LESSEE/MORTGAGEE/CHARGE**

The **N.A** under **N.A** No. **N.A** **N.A** agrees to be bound by this positive covenant. I certify I am an eligible witness and that the **N.A** signed this application in my presence. [See note\* below]

|                       |  |
|-----------------------|--|
| Signature of witness: | Signature of lessee/mortgagee/chargee: |
| Name of witness:      |  |
| Address of witness:   |  |

\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.

Annexure A to POSITIVE COVENANT

Parties: \*\*\*RegdPropName\*\*\* and KEMPSEY SHIRE COUNCIL (ABN 70 705 618 663)

Dated: ..... / ..... / .....