

COUNCIL POLICY

Council Policy Title:	Installation and Usage of Cattle Grids
Council Policy ref. no:	13.10
Responsible Department:	Infrastructure and Services
Date of adoption/review:	23 October 2013

1. PURPOSE

This policy will attempt to improve the safety of the public road network by assisting landowners and local farmers to locate and install cattle grids to allow for the daily movement of cattle across a road or graze stock within the road reserve without causing adverse impact to other road users.

2. INTRODUCTION

Cattle grids are constructed on Council managed roads to effectively control stock using the road reserve where the road reserve is not completely fenced or where stock need to be moved across a road from one property to another directly opposite. In these situations, the cattle grid is used as a low cost option to safely manage the passage of stock where in the opinion of Council a stock underpass is not a practical or cost effective solution.

Council has a responsibility to provide a safe and efficient road network for all road users. As a preferred position, Council will discourage the use of cattle grids where possible. It is however acknowledged that cattle grids may be required under certain circumstances and where so allowed they must be installed, managed, and maintained in order to comply with the provisions of this policy.

This policy provides a systematic approach to the evaluation, approval, maintenance, repair, and removal of all cattle grids approved for use to ensure that the adjoining landowner who is deriving benefit from their use and Council's exposure to risk is managed adequately.

The objectives of this policy are to:

- Develop a common understanding of the definition and purpose of a cattle grid;
- Provide guidance and consistency for the approval and installation of cattle grids across the municipality;
- Support procedures for the application, approval, construction, maintenance, and repair of cattle grids;
- Identify the standards for the construction of cattle grids;
- Define maintenance responsibilities for cattle grids;
- Define registration and recording procedures for cattle grids;

- Ensure that the location of cattle grids does not materially affect the safety of road users; and
- Control private structures on public roads and to ensure that all associated works are carried out to approved standards

3. SCOPE OF THE POLICY

This policy covers all matters relating to administration and management of both existing and new cattle grids located on Council's public roads.

A cattle grid is a type of infrastructure used to prevent livestock from passing along a road which penetrates the fencing surrounding an enclosed piece of land. Cattle grids generally consist of a depression in the road covered by a transverse grid of bars or rails, normally constructed of metal and firmly fixed to the ground on either side of the depression, such that the gaps between them are wide enough for animals' legs to fall through, but sufficiently narrow not to impede a wheeled vehicle.

4. DISCUSSION

Section 40 of the *Road Management Act 2004* imposes a statutory duty on Council to inspect, maintain, and repair any part of a public road which is a roadway; a pathway; a shoulder; or road infrastructure. For the purposes of this section, a cattle grid is considered an inherent component of a road and can therefore be regarded as road infrastructure.

Whilst Council has the control, care and management responsibility of its public roads, provisions of this policy transfer responsibility to the landowner whom derives direct benefit from the use of a cattle grid or grids which are permitted for use.

All costs associated with the construction, maintenance, and repair of a cattle grid is the responsibility of the owner of the land that the cattle grid or grids benefit.

This policy also requires a compliance check of a permitted cattle grid to ensure that the structure is being maintained to a satisfactory standard and that the appropriate public liability insurance is held by the benefiting landowner. Council reserves the right to undertake maintenance or removal of a cattle grid at the benefiting landowner's expense where it can be demonstrated that it poses a hazard to other road users.

If Council determines that the Cattle Grid is not maintained at the appropriate standard or is not warranted, Council will remove the Cattle Grid and reinstate the road at the benefiting landowner's expense.

5. APPLICATION OF POLICY

The aim of this policy is to ensure that cattle grids are only installed for genuine farming purposes and to an appropriate and consistent standard which minimises any safety risk to all road users.

The basic premise of this policy is that the proponent is fully responsible for the construction, ongoing maintenance, eventual decommissioning or reconstruction of the cattle grid, and having appropriate insurance that covers itself and Council.

Cattle grids at locations which do not address the standards of this policy will not be permitted.

5.1.1 Criteria for Installation of Cattle Grids

A cattle grid can only be constructed if the following criteria are met:

- The location is limited to Access Roads and Minor Roads as defined by Council's Road Management Plan and Municipal Road Register with a traffic count not exceeding 50 vehicles per day;
- The Infrastructure and Services Department must determine that there is no impact on road safety. (e.g. due to a reduction in sight distance);
- The cattle grid is to be used for genuine farming purposes only;
- The owners of all properties having access to the road must be consulted with. Any comments or feedback is to be considered during the assessment of an application;
- The cattle grid must be located at a suitable location which will allow for current road usage patterns to continue and the future traffic requirements of the road will not be impeded;
- The proposed cattle grid must have a width the greater of the minimum standard trafficable width for the road classification or the existing formation width;
- The cattle grid must be designed to cater for HS20-T44 loading with drawings and computations certified by a qualified Structural Engineer;
- Statutory planning requirements must be met if applicable including consideration of potential impacts to roadside vegetation;
- Council approval must be granted and approval is dependent on the applicant following all procedures set by the Infrastructure & Services Department;
- An agreement prepared pursuant to Section 121 of the *Road Management Act 2004* must be signed by the applicant agreeing to full responsibility for all costs associated with the construction, ongoing maintenance and repair, and replacement of the cattle grid;
- The proponent deriving benefit from the cattle grid is required to extend their Public Liability Insurance to cover against any claims for liability occurring as a result of or in connection with the maintenance or use of the cattle grid. Public Liability Insurance shall have a combined single limit of \$10 million ; and
- That all farming operations within the road reserve be conducted in accordance will all relevant Council Local Laws.

All cattle grids will be reviewed on an ongoing basis to ensure that they are still required. If cattle grids are no longer in use, the landowner whom derives benefit from their use will be requested to remove the cattle grid and reinstate the road pavement or agree for Council to undertake the works at the land owners expense. If no agreement is reached and Council is satisfied the need for the cattle grid is no longer warranted, Council will undertake to remove the cattle, reinstate the road, and recover costs thereof from the subject landowner.

This policy shall apply to both new and existing cattle grids. Where there is no record of the installation of any existing cattle grids, they must be:

- Registered with Council by the benefiting landowner and brought up to the necessary standard if the ongoing use of the cattle grid is still required; or
- Removed and the road reinstated at Council's expense.

In situations where the frequent movement of cattle across a road is required and the traffic count for that road is in excess of 50 vehicles per day the use of cattle grids to control the crossing will not be permitted and the installation of a stock underpass shall be considered. A stock underpass is to be constructed consistent with Council's policy for the installation and usage of stock underpasses within the Colac Otway Shire.

5.2 Application and Approval

Existing Cattle Grids which meet Council standards do not require an approval application, unless the Cattle Grid falls into disrepair.

5.2.1 Submitting an Application

To apply for the installation of a cattle grid the owner of the land adjacent to which the public road passes must complete a Cattle Grid Application Form and pay the applicable application fee, as determined by Council. The application fee is 10 fee units in accordance with the *Monetary Units Act 2004*. Fees are reviewed each financial year and changes (if any) apply from 1 July each year.

For further explanation of the process to be followed refer to the Cattle Grid Installation Procedure and Cattle Grid Application Form. The applicant must submit Engineering plans certified by a Structural Engineer and agree to maintain the crossing at the applicants cost.

If an application is unable to be considered due to it failing to meet the necessary criteria, the application fee will not be reimbursed and the applicant will be advised in writing that the application has been rejected.

5.2.2 Unregistered Cattle Grids

Landowners benefiting from the use of existing unregistered cattle grids are required to lodge a Cattle Grid Application Form with Council. The applicant will be required to identify whether the current condition of the structure complies with the defined standards and to advise current Public Liability Insurance details for the structure.

The condition of the structure must comply with the applicable standards to enable approval to be issued. In cases where the current condition of the structure does not comply with the appropriate standards Council will advise the benefiting landowner of the appropriate measures to be taken. These may include:

- Upgrading of the structure or ancillary infrastructure to comply with current standards;
- Replacement of the structure or ancillary infrastructure to comply with current standards; or
- Removal of the structure and reinstatement of the road.

When an unregistered cattle grid is brought to Council's attention, direct consultation with all surrounding landowners will be undertaken to establish the ongoing operational need for a specified structure. To facilitate this, a standard letter will be sent in relation to a specified cattle grid(s) requesting submissions within a period of 28 days. The letter may also indicate the results of the field inspection which initiated the letter. In conjunction with the issuing of a letter to the responsible parties, a notice will also be placed on the specific cattle grid(s). All responses received will be judged on merit and a decision on the future of the grid will be resolved by Council.

If no response is received following a request for submissions, Council will take action to remove the cattle grid and all ancillary infrastructure from the road reserve. The adjoining landowners will be notified a minimum of 28 days prior to the removal of a structure to allow provisions to be made for the containment of stock. The containment of any stock always remains the responsibility of the landowner and Council bears no responsibility for any damage or injury arising from loose livestock.

The costs of removing the cattle grid and/or impounding of any livestock are able to be recovered by Council from the adjoining landowners. Any materials salvaged will remain the property of Council but may be returned to the benefiting landowner at the time of removal at its discretion.

5.2.3 Approval and Ownership

Approval to construct the Cattle Grid in accordance with the Council requirements will only be deemed to have been given after the applicant has received a letter in writing from Council, approving the installation. All Cattle Grids once installed will become the property of Council, notwithstanding the applicants responsibility to maintain.

5.3 Construction Standards

Council requires that all cattle grids on public roads be installed to adequately meet technical requirements including minimum width, load bearing capacity, materials, signage, and visibility markings.

The applicant must provide design details for the structure to cater for HS20-T44 loading and have a design certified by a Structural Engineer. A number of companies manufacture prefabricated cattle grid units. Subject to their design specifications being referred to Council, such units will be approved for use. Council may be able to provide details of manufacturers if required. The applicant shall construct drainage under the cattle grid to ensure that no damming or ponding of stormwater run-off occurs on the carriageway and adjacent areas.

Details of grid structure, foundations, abutments, approaches, and horizontal and vertical alignment shall be submitted with the application for a cattle grid and shall be sufficient to guarantee, under normal circumstances, the safe transit of vehicles and other road users and shall not interfere with the natural drainage of the area.

All works are to be carried out in accordance with Council's Road Management Plan, Victorian Occupational Health & Safety legislation, the *Road Safety Act 1986*, the *Road Management Act 2004*, industry standards, and applicable Australian Standards. Council will provide guidance if required.

The attached plan shows a diagrammatic representation of the construction of a cattle grid, associated by-pass gate, and side track.

5.3.1 Location

A cattle grid shall only be installed at a location approved by Council. A specific location needs to satisfy road traffic safety requirements. Consideration shall be given to issues such as existing road alignment, safe sight distances, etc in evaluating the appropriateness of a proposed location.

A cattle grid shall not be installed at a location where minimum stopping sight distances evaluated in accordance with VicRoads Road Design Guidelines are unable to be achieved. In instances where the proposed cattle grid location is inappropriate, Minimum stopping sight distances are evaluated assuming an 80km/h approach speed.

Council will endeavour to assist the proponent in order to achieve an acceptable outcome where possible.

5.3.2 Trafficable Width

The trafficable width of any cattle grid shall be the greater of the minimum standard trafficable width for the road classification and the existing formation width.

Where an existing cattle 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.

5.3.3 Controlled Stock Crossing (Grids in Series)

Where the intention is to install cattle grids in series for the purpose of establishing a controlled stock crossing, the offset distance between each cattle grid shall not exceed 10-metres where site conditions allow.

Where it is intended to install cattle grids in series to establish a controlled stock crossing, the proponent is required to install adequate gates along the property boundary where the cattle lanes intersect the road.

5.3.4 By-Pass Gate

The by-pass gate shall be made of resilient material of minimum width 3.66-metres and should be arranged to be free swinging and shall remain unlocked and fully functional to allow unimpeded access. By-pass gates shall be constructed at right angles to the road centreline.

By-Pass gates are to be closed at all times except when cattle are passing through them or are accessed by the general public. By-Pass gates are to be closed after use. Signs are to be affixed to these gates advising of this requirement.

The gate, any support structures, and fencing within the road reserve shall be painted white.

5.3.5 Fencing

The type of wing fencing to be constructed is to be nominated by the proponent and should be of a standard which is adequate for its intended use and conforms with the requirements of Council's Local Laws and be of frangible construction. Wing fencing is to be made conspicuous to other road users.

Where, in the opinion of Council, associated signs, fencing, and wing fencing to a cattle grid creates an unreasonable impediment to a required special use of a road, such structures shall be temporarily relocated or removed to adequately cater for this activity. Provisional measures will be implemented to ensure that the cattle grid operates as intended, in a safe manner, while this special arrangement is in place. Any structure removed or relocated shall be reinstated as soon as is practicable after the cessation of any special road use.

Temporary removal, relocation, and reinstatement of any associated signs, fencing, and wing fencing shall be done so at the expense of those parties requesting special use of the road.

5.3.6 Cattle Grid Side Track

The cattle grid side track which services the by-pass gate is to be constructed to a standard suitable for the passage of stock.

5.3.7 Signage

Signage is to be erected in accordance with AS1742.2 Manual of Uniform Traffic Control Devices – Traffic Control Devices for General Use. This requires a 'Grid' warning sign (W5-16) on either side of the cattle grid between 50-metres to 200-metres from the structure. A set of G9-206(L) and G9-206(R) chevrons are also required on either side of the structure.

5.3.4 Maintenance Standards

5.4.1 Structural Components

The applicant is responsible to maintain the structure and signage of the cattle grid to ensure compliance with the construction standards as detailed by this policy. All maintenance work must be authorised and carried out by Council at the applicants full cost in accordance with Victorian Occupational Health & Safety requirements, *the Road Safety Act 1986*, the *Road Management Act 2004*, industry standards, and applicable Australian Standards.

5.4.2 Road Carriageway

The benefiting landowner is responsible to maintain or repair any damage caused to a road where Council is of the reasonable opinion that the maintenance is required because of the use of the road for the crossing of stock.

The benefiting landowner may not carry out maintenance works on a carriageway unless previously approved by Council.

5.4.3 Sight Distance

The benefiting landowner is responsible for the maintenance of roadside areas immediately adjacent to a cattle grid to ensure that minimum stopping sight distances to the structure are maintained. This includes, but is not limited to, trimming of roadside vegetation for a minimum of 2.0-metres from the edge of the carriageway.

All vegetation control activities may be subject to statutory planning approvals. It is the responsibility of the landowner using the cattle grid to determine the extent of those statutory approvals which may be required.

5.4.4 Failure to Maintain

Failure to ensure that maintenance on the cattle grid and associated signage is carried out may result in Council revoking its approval and removing the structure from the road reserve. Council will give notice to the benefiting landowner to conduct repair work prior to taking any such action. If the benefiting landowner fails to meet the requirements of a repair notice then Council's approval will be rescinded and the cattle grid and all ancillary infrastructure will be removed.

Where maintenance standards are in dispute and the benefiting landowner of any cattle grid has failed to demonstrate to Council's satisfaction that a cattle grid has been maintained to the standards of this policy and any agreement, Council may at its discretion remove the subject cattle grid and reinstate the road at the benefiting landowner's expense after giving reasonable notice.

All costs associated with the removal of the cattle grid will be recovered from the benefiting landowner. All materials salvaged shall remain the property of Council but may be returned to the benefiting landowner at the time of removal at its discretion.

5.5 Inspection

5.5.1 Proactive Inspections

The benefiting landowner is responsible for undertaking regular inspections to ensure that the facilities comply with the specified standards. Council staff will inspect the cattle grids as part of scheduled road network inspections. Any identified condition defects will be advised to the benefiting landowner for attention.

5.5.2 Reactive Inspections

Council staff will respond to concerns in connection with a cattle grid raised by any person. Any defects observed during the course of such inspections will be advised to the benefiting landowner for attention. Rectification of any defects reported to the benefiting landowner by Council shall be addressed in accordance with the standards of the Road Management Plan.

5.5.3 Compliance Review

Compliance of the cattle grid and associated facilities with the construction and maintenance standards will be reviewed on a regular basis. Council may advise the benefiting landowner when the review is due in writing. The benefiting landowner is required to carry out a condition inspection of the structure and submit a Certificate of Currency of Public Liability Insurance with a combined single limit of \$10 million for the structure within 14 days of being notified.

Council will conduct a quality audit check of the information submitted and random inspections of structures to verify 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 may revoke its approval.

Council reserves the right to terminate its approval for a cattle grid when changes occur to the classification or alignment of the road on which it is situated or if there is a demonstrated change in road usage patterns which Council considers warrants the removal of the cattle grid.

5.6 Alternatives to Cattle Grids

Where an application for a cattle grid does not comply with the standards of this policy and is unable to be approved the applicant will need to consider one of the following options:

- Abandon the application for a cattle grid; or
- Make an application for an alternative control measure which may be, but not limited to the following:
 - A stock crossing established in accordance with Council's applicable local laws;
 - A roadside grazing permit issued in accordance with Council's local laws;
 - A stock underpass constructed to comply with Council's policy; or
 - Other agreed measures which satisfy all statutory requirements.

6 TERMINATION OF USE

A cattle grid shall be removed if any of the following apply:

- If the cattle grid has no longer being used for its intended purpose;
- If the benefiting landowner transfers ownership of all the land or part of the land so that the they no longer own land on both sides of the road if the cattle grid(s) are being used as a controlled crossing;
- If the benefiting landowner has no further rights to run cattle on both sides of the road so that the cattle grids are unable to be used for running stock; or
- The benefiting landowner no longer holds a valid local law permit if one is required for movement of stock on a road.

Where any of the above criteria are true, the user of the cattle grid(s) shall fully remove them and all associated works, including all signage, bypass gates, and wing fence associated with the cattle grids and reinstate the road at their own cost and to the satisfaction of Council. Removal and reinstatement shall be completed within a time frame specified by the Council.

Should the cattle grids and associated works not be removed within this time frame, Council may remove them and seek reimbursement of the costs from the benefiting landowner.

7 REINSTATEMENT WORKS

The user of the cattle grid(s) shall be responsible for the maintenance of any road reinstatement works at their own cost for a period of twelve (12) months from final completion. A bond, at a value to be determined by Council, will be lodged with Council to cover all road reinstatement works. In the event that the reinstatement works are not adequately maintained by the user of the cattle grids(s) during the twelve (12) month maintenance period, Council will undertake any required works should it be considered necessary. The cost of these works shall be estreated from the bond. The bond, or the balance thereof, shall be refunded to the user of the cattle grid(s) at the end of the twelve (12) month maintenance period.

8 RELATED LEGISLATION

Local Government Act (1989)

Road Management Act (2004)

Road Safety Act (1986)

Occupational Health & Safety Act (2004)

Road Management (Works and Infrastructure) Regulations 2005

Road Management (General) Regulations 2005

Road Management Code of Practice – Management of Infrastructure in Road Reserves

9 RELATED POLICIES/PROCEDURES/GUIDELINES

Cattle Grid Installation Procedure
A Guide to Working in the Road Reserve
Road Management Plan
Municipal Road Register
Cattle Grid Register

10 QUALITY RECORDS

<i>Record</i>	<i>Retention/Disposal Responsibility</i>	<i>Retention Period</i>	<i>Location</i>
Application Form (including construction and layout plans)	Infrastructure & Services Department (I&SD)		
Planning Permit	Sustainable Planning & Development Department (SP&DD)		
Approval Letter(s)	I&SD		
Section 121 Agreement	I&SD		
Annual Compliance Inspection Report	I&SD		

11 POLICY IMPLEMENTATION

The General Manager Infrastructure & Services is responsible for ensuring that all existing and new cattle grids comply with this policy.

12 ATTACHMENTS

Cattle Grid Installation Procedure
Standard Cattle Grid Layout Plan
Annual Compliance Inspection Report

ADOPTED/AMENDMENT OF POLICY

Policy Review Date	Reason for Amendment
26 May 2009	Adopted by Council
23 October 2013	Review

COLAC OTWAY SHIRE COUNCIL PROCEDURE

Procedure Title:	Cattle Grid Installation Procedure
Related Policy Title:	Installation and Usage of Cattle Grids
Related Policy No:	13.10
Date Procedure Approved by Executive:	
Responsible Officer:	Manager Sustainable Assets

PROCEDURE OBJECTIVES

This procedure provides a systematic approach to the evaluation, approval, and construction of all cattle grids to ensure that the adjoining landowner who is deriving benefit from their use and Council's exposure to risk is managed adequately.

PROCEDURE

The following procedure provides a guide to the documents and information to be tracked and recorded in relation to the issuing of approval for cattle grids on local roads. This procedure should be read in conjunction with Council Policy No. 13.10 - Installation and Usage of Cattle Grids.

1. Upon Application

- a. Lodgement of application form ensuring that all information is completed as required
- b. Lodgement of associated design details, construction and site plans as required by the application form.
- c. Payment of fees

2. Initial Assessment of Application

- a. Preliminary assessment of application to ensure consistency with approval criteria.
- b. The location of the proposed cattle grid is inspected by Council Officer.
- c. The officer prepares a report which may include photos or sketches made during the inspection and supporting information in relation to site suitability (e.g. site distance measurements, road width, location of existing features, etc)
- d. If application is assessed as being unsuitable, a letter is sent to the applicant advising of their unsuccessful application.

3. Community Consultation

- a. Direct consultation with other landowners along the road which it is proposed to install the cattle grid via written notification.
- b. Any submissions may be received by Council in response to the proposal within 28 days.
- c. Council officer to provide a written or verbal response to any submissions as appropriate.
- d. Council officer to review submission and determine application. Written notification is to be provided to applicant if proposal is deemed inappropriate after community consultation process.

4. Approval of Cattle Grid

- a. Written notification provided to applicant detailing any special requirements.
- b. Section 121 Agreement prepared for signing and forwarded to the proponent.
- c. Section 121 Agreement signed by the proponent and returned to Council for signing and sealing.

5. Construction Approval

- a. Works on Roads Application Form to be completed by applicant.
- b. Documentation to be submitted with Works on Roads Application must include:
 - i. Design and layout of proposed cattle grid;
 - ii. Works Manager or Contractors insurance details;
 - iii. Traffic Management Plan; and
 - iv. Certificate of Currency for Public Liability Insurance for the proposed cattle grid with a minimum cover of \$10 million
- c. Provided all the submitted documentation is satisfactory and the Section 121 Agreement has been finalised, Council provides the applicant with consent to works and acknowledgement of receipt of insurance details.

6. Construction Inspection(s)

- a. Once the cattle grid has been constructed, the applicant advises Council and a Council Officer inspects site.
- b. If construction is found to be below standards or not to specification, the Council officer is to liaise with the applicant and provides:
 - i. Detailed list of defects identified during inspection;
 - ii. Written or verbal advice to the applicant or Works Manager/construction contractor; and
 - iii. Follow up inspection details

7. Final Approval

- a. Written advice provided to applicant upon satisfactory completion of works.
- b. Council Cattle Grid Register to be updated with the following minimum information:
 - i. Cattle Grid ID Number
 - ii. Applicants name
 - iii. Date of application
 - iv. Date of community consultation
 - v. Date of determination
 - vi. Special construction requirements
 - vii. Location of cattle grid
 - Road name and chainage from start datum or nearest cross road
 - Description of properties adjoining cattle grid
 - viii. Description of responsible land parcel(s)

ATTACHMENTS

Cattle Grid Installation Process Map
Cattle Grid Application Form
Cattle Grids – Standard Agreement

Reference Number –
(Council Use Only)

Cattle Grid Installation Application Form



Have you spoken previously to a Council Officer regarding the proposed installation of a cattle grid? Yes No

If Yes, with whom? _____

Property Information

Property Address _____

Property Description _____

(i.e. the title description of the title(s) the cattle grid will be adjacent to)

Property Owner Information

Property Owner Name(s) _____

Property Owner Postal Address _____
Post Code _____

Proposal

Road Name (where cattle grid is proposed) _____ Locality _____

What type of cattle grid is proposed?
Construction drawings and computations to be submitted

Reason for installing cattle grid(s)?
Have other options been considered (e.g. stock underpass, supervised crossing, etc)

Frequency of stock movements? Daily Weekly Monthly

Have you discussed the proposal with the owners of all properties with access to the road? Yes No

Is a Planning Permit required for the proposed works?
Contact Council's Planning Department on 5232 9412 Yes No

If Yes, has a planning permit been obtained?
Please attach a copy of the planning permit to this application. Yes No

What is the Conservation Status of the road reserve in the vicinity of the works? (e.g. High, Medium or Low)
Contact Council's Environmental Department on 5232 9400

Please complete and attach a LAYOUT PLAN. (Additional locality information is available from Council upon request e.g. aerial photography). *Layout Plans need to show details of the following;*

- Cattle grid position in the road reserve
- Distance (m) to the nearest intersection
- Existing roadside vegetation and any roadside vegetation proposed to be removed
- All services including Telstra, Power, Gas and Water where appropriate
- Existing road width and road reserve width
- Existing property entrances

Reference Number –
(Council Use Only)

Cattle Grid Installation Application Form (continued)



Contractor/Works Manager Name _____

Company _____

Postal Address _____ Post Code _____

Proposed construction period ____ / ____ / ____ to ____ / ____ / ____

Contractor/Works Manager

Applicant Contact Information

Name _____

Organisation _____

Postal Address _____ Post Code _____

Contact Phone _____

Mobile Phone _____

Fax Number _____

Signed _____ **Date** ____ / ____ / ____

Note – The applicant is encouraged to contact Dial Before You Dig on 1100 for service locations.

DECLARATION:

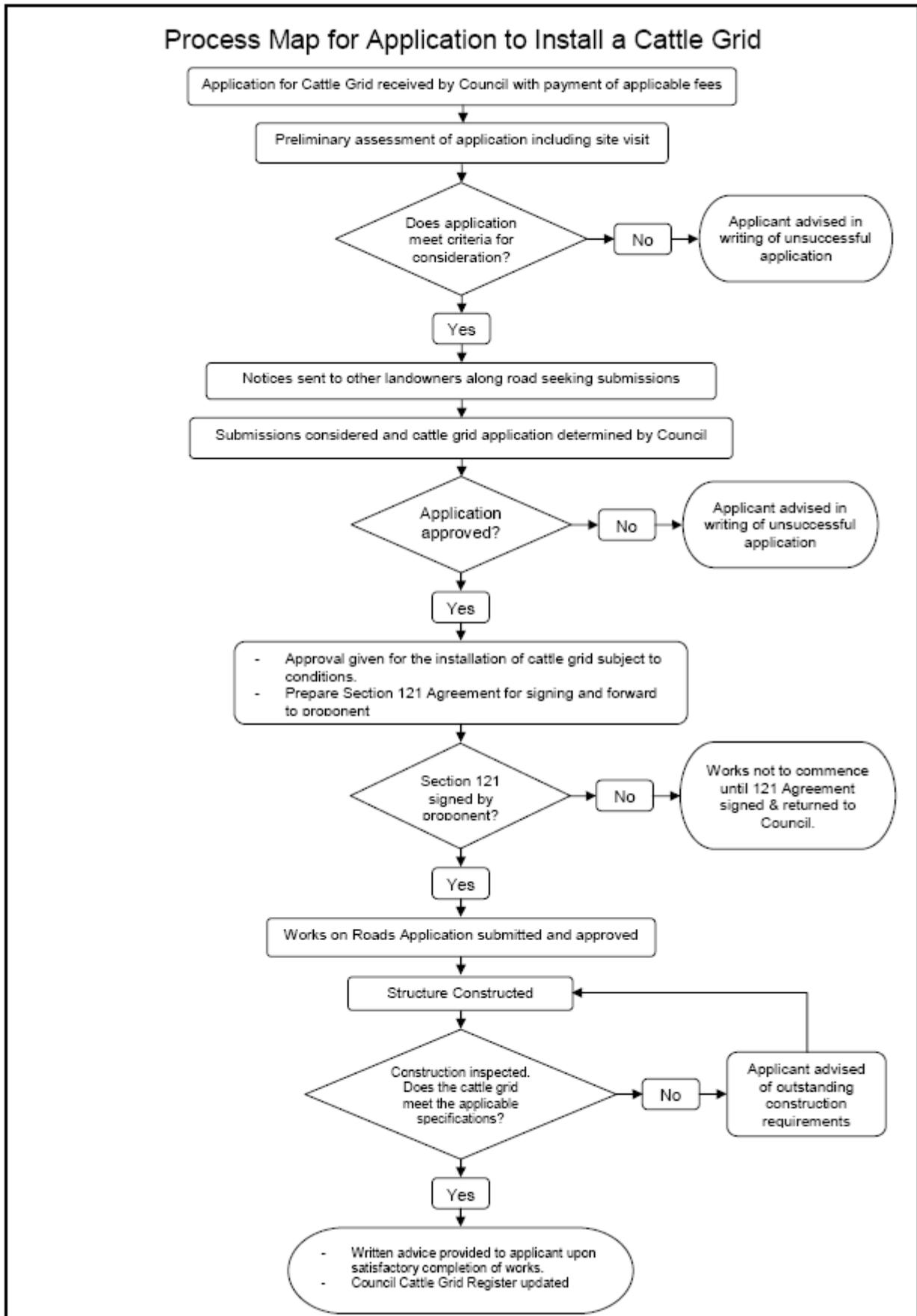
The Colac Otway Shire Council collects personal information to levy rates, issue permits and licences and provide a variety of community services. The information collected in this form is used only for the purposes contemplated by the form (primary purpose) and is not passed onto third parties. In some instances however, disclosure is required by law or is necessary for the protection of persons or property. Where this occurs, Council will take every reasonable step to ensure your privacy is protected in accordance with the Information Privacy Act 2000 (Vic). Should you need to change or access your personal details or require further information about Council's Privacy Policy contact our Privacy Officer on 5232 9400.

Office Use Only

Approval Given Yes No Date _____

Council Officer _____ Signature _____

Comments _____



File – Roads File

Reference Number –
(Council Use Only)

Cattle Grid Inspection Report



Inspected by: _____ Inspection Date: ___/___/___

Public Gate Permit No: _____ Road Name: _____

Distance From: _____ is _____ km

Area: _____ Location: _____

GRID FIELD INSPECTION

Grid Description: (materials used, rail spacing etc) _____

Grid Condition:
Is grid level with road surface? YES / NO
Are any rails missing? YES / NO
Is there excessive build up under grid? YES / NO
(List repairs required) _____

Guard Rails and Signage:
Are signs on approach in place? YES / NO
Is guard rail construction adequate? YES / NO
(List repairs required) _____

Gate/By-pass Condition:
Is gate construction adequate? YES / NO
Are "Public Gate" signs on gate? YES / NO
Is by-pass trafficable? YES / NO
(List repairs required) _____

Road Approach Condition:
**Owner is to maintain any damage caused to the road as a result of the crossing of stock*
(List repairs required) _____

Inspectors Comments: _____

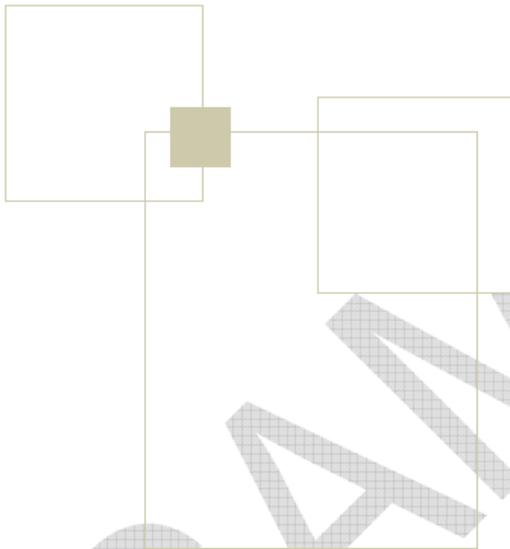
Signed _____ Date ___/___/___



COLAC-OTWAY SHIRE COUNCIL

and

<User>



AGREEMENT MADE PURSUANT TO
SECTION 121 OF THE ROAD
MANAGEMENT ACT 2004

Property: <Property Description>

Level 12
469 La Trobe Street
Melbourne Victoria 3000 Australia

PO Box 5146AA
Melbourne Victoria 3001
DX 494 Melbourne

Tel 61 3 9609 1555
Fax 61 3 9609 1600

www.rk.com.au

AFFILIATED FIRMS PRACTISING SEPARATELY IN
SYDNEY · BRISBANE · ADELAIDE · PERTH

Ref ADC 301114

PARTIES

- 1 **COLAC-OTWAY SHIRE COUNCIL**
of 2-6 Rae Street, Colac in the State of Victoria
("Council")
- 2 **USER (as defined in item 1 of the Schedule)**

RECITALS

- A The Council is the coordinating and responsible road authority for the Road under the Act.
- B The User is registered or is entitled to be registered as proprietor of the Land.
- C The User desires to use the Cattle Grids, including the Associated Works, to enable the User's cattle to cross the Road to access the Land.
- D Council consents to the use and ongoing maintenance of the Cattle Grid and the Associated Works, subject to this Agreement.
- E This Agreement is made by the Council as the municipal council responsible for the management of the Road under the *Local Government Act 1989* and as the coordinating road authority and pursuant to section 121 of the Act. The Agreement sets out the arrangements for the use and ongoing maintenance and risk allocation of the Cattle Grids and Associated Works on the Road.

THE PARTIES AGREE THAT:

1 DEFINITIONS

In this Agreement:

- 1.1 "**Act**" means the *Road Management Act 2004*.
- 1.2 "**Agreement**" means this Agreement, including the recitals, Schedule and any annexures to this Agreement.
- 1.3 "**Associated Works**" means those works as detailed in item 2 of the Schedule.
- 1.4 "**Cattle Grids**" means the cattle grids as detailed in item 3 of the Schedule.
- 1.5 "**Commencement Date**" means the date the Agreement is to begin as set out item 4 of the Schedule.
- 1.6 "**Inspections**" means the inspections required pursuant to clause 6.1.1 of this Agreement in the time frame as set out in item 5 of the Schedule.
- 1.7 "**Land**" means the land owned by the User as detailed in item 6 of the Schedule.
- 1.8 "**Plans**" means the plans attached to this Agreement as "Annexure A".
- 1.9 "**Repair Notice**" means a notice served under clause 5.6.1 of this Agreement.
- 1.10 "**Road**" means the road as described in item 7 of the Schedule.

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- 1.11 **“Road Management Plan”** means Council’s Road Management Plan as developed, published and in force in accordance with the Act.
- 1.12 **“Schedule”** means the schedule attached to this Agreement.
- 1.13 **“Term”** means the initial term of the Agreement as set out in item 8 of the Schedule and the further term (if any in accordance with clause 13).

2 COMMENCEMENT

This Agreement comes into force on the Commencement Date and is for the Term.

3 RISK

- 3.1 The User acknowledges that the Cattle Grids and Associated Works have already been constructed on the Road as the date of this Agreement but will be subject to ongoing works for maintenance, repair and possible upgrade works at the User’s expense, and that all these works on the Road are for the benefit of the User.
- 3.2 The User accepts all risks in connection with the ongoing use and maintenance of the Cattle Grids and Associated Works, whether or not the risk was reasonably foreseeable by the User at the date of entering into this Agreement or at any other time.
- 3.3 The User acknowledges Council’s ongoing rights to ensure that the Cattle Grids and the Associated Works must comply with any Council policies relating to cattle grids.

4 USE OF CATTLE GRIDS

The User agrees that:

- 4.1 the Cattle Grids and Associated Works will only be used by the User and by persons authorised by the User to assist with the passage of stock to and from the Land;
- 4.2 the Cattle Grids and Associated Works will not be used for the housing of animals, vehicles or farm machinery, or for the storage of produce or material at any time;
- 4.3 that the continued permission to use the Cattle Grids and Associated Works is subject at all times to compliance by the User with the terms of this Agreement and all relevant Council local laws and any current Council policies relating to cattle grids.

5 MAINTENANCE

5.1 Maintenance works by User

For the duration of the Term, the User agrees to:

- 5.1.1 maintain the Cattle Grids and Associated Works in accordance with the Plans;
- 5.1.2 maintain the Cattle Grids and Associated Works in a condition that:
 - (a) is consistent with the use and function of the Road; and
 - (b) provides sufficient structural capacity to cater for HS20-44 loading;

5.1.3 maintain or repair any damage caused to the Road as directed in writing by Council where the Council is of the reasonable opinion that the maintenance is required because of the use of the Road for the crossing of stock;

5.1.4 undertake all maintenance works in accordance with all reasonable requirements of the Council and in accordance with relevant occupational health and safety requirements, the Act, the *Road Safety Act 1986* (Vic), and applicable Australian laws, regulations and standards,

all to the satisfaction of Council and all at the User's own expense.

5.2 Notwithstanding the above, the User also agrees to undertake maintenance on the Cattle Grids and Associated Works from time to time as reasonably directed by Council in accordance with clause 5.6 of this Agreement.

5.3 Pursuant to Part 2 Section 16 of Act, Council grants consent to the User to carry out works on the Cattle Grids or Associated Works subject to the User complying with the standard conditions of consent to conduct works in road reserves as set out in Annexure B.

5.4 The User agrees not to carry out maintenance works on the Road unless such maintenance works have been approved in writing by Council.

5.5 The parties agree that the consent of the Council to the ongoing maintenance works referred to in this clause 5, is associated with the use of Road for the Cattle Grids and Associated Works and not for other works associated with the Road.

5.6 Maintenance by Council

5.6.1 If Council is of the opinion that the Cattle Grids or Associated Works are in need of cleaning or repair by either its own inspection or as a result of being informed by a third party, a notice may be served on the User directing that such cleaning and/or repairs as are specified in the notice must be carried out by the User within a period of 28 days after service of the notice ("**Repair Notice**").

5.6.2 Council may carry out the cleaning and/or repairs referred to in clause 5.6.1 and charge the cost thereof to the User where:

- (a) the User is in default of the Repair Notice; or
- (b) in the opinion of Council the cleaning and/or repairs required to the Cattle Grids or Associated Works is urgently required.

5.6.3 The User shall reimburse to Council within one month of receiving a demand for payment any reasonable costs and expenses incurred by Council in carrying out the works referred to in clauses 5.6.1 and 5.6.2.

5.6.4 The User acknowledges that Council may carry out maintenance of the Road as referred to in clause 5.1.3 at the User's expense if such works are a result of the use of the Road for the purposes of crossing of stock.

- 5.6.5 Council will accept liability for the cost of any repairs to the Road, Cattle Grids and Associated Works attributable to a specially authorised vehicle(s) (e.g. a b-double, an over dimensional vehicle, or vehicle operating at higher mass limits), or any other vehicle(s) involved in any extraordinary activity of which Council has prior knowledge of travelling over the Cattle Grids, notification of which will be given by Council to the User.
- 5.6.6 The User must notify Council of any damage caused to the Cattle Grid and Associated Works as a result of an authorised vehicle using the Road in accordance with clause 5.6.5 as soon as practicable after the use has occurred.

6 INSPECTIONS

6.1 Proactive inspections

- 6.1.1 The User must carry out the Inspections of the Cattle Grids and Associated Works to ensure compliance with this Agreement in accordance with Council's relevant cattle grid policies.
- 6.1.2 The User must keep records of all Inspections and provide them to Council upon request.
- 6.1.3 If the User is aware of any damage to the grids which may present a hazard to other road users, the User must notify Council as soon as is practicable.
- 6.1.4 Council staff will inspect the Cattle Grids and Associated Works as part of its scheduled road network inspections and must advise the User in writing of any defects identified, such defects to be dealt with in accordance with this Agreement.

6.2 Reactive inspections

- 6.2.1 Council will respond to concerns in connection with the Cattle Grids and Associated Works raised by any person by inspecting the Cattle Grids and Associated Works as necessary.
- 6.2.2 The Council will advise the User in writing of any defects observed during the course of its inspection in accordance with this Agreement.
- 6.2.3 The User must rectify any defects reported to the User by Council to the Council's satisfaction in accordance with this Agreement.

7 REPLACEMENT

- 7.1 The User agrees to remove the Cattle Grids and/or Associated Works when they have been assessed by Council that they have reached the end of their serviceable life and are no longer able to be maintained to provide sufficient structural capacity to cater for HS20-T44 loading.
- 7.2 Subject to clause 7.3, if the User still requires Cattle Grids, following assessment by Council that the Cattle Grids and/or Associated Works be removed pursuant to clause 7.1 the parties agree that replacement Cattle Grids and associated works ("**New Works**") can be installed on the Road to the satisfaction of Council either:
- (a) in accordance with the Plans; or
 - (b) be designed by a suitably experienced and qualified building practitioner and certified by a qualified structural engineer and approved by Council.
- 7.3 The User must ensure that the New Works are:
- 7.3.1 designed and installed in accordance with the Act and all other relevant laws, regulations and standards; and
 - 7.3.2 provide for sufficient structural capacity to cater for HS20-T44 loading; and
 - 7.3.3 provide for adequate drainage of the Cattle Grids, the Road in the immediate vicinity of the cattle grids, and other adjacent areas.
- 7.4 The parties agree that unless a new arrangement has been entered into by the parties for the New Works, then the New Works will be subject to this Agreement.

8 ROAD WIDENING AND RELOCATION OF CATTLE GRIDS AND ASSOCIATED WORKS

If the Road is widened and/or realigned in the future, Council will bear the reasonable cost of any necessary extension or relocation of the Cattle Grids and Associated Works.

9 INSURANCE

The User must:

- 9.1 maintain in full force and effect during the Term, public liability insurance against claims for bodily injury, death or property damage and loss of earnings occurring as a result of or in connection with the maintenance works or use of the Cattle Grids and the Associated Works, with a combined single limit of A\$10 million; and
- 9.2 ensure, where possible, that Council is noted as an interested party on the insurance policy referred to in clause 9.1; and
- 9.3 provide a copy of the insurance policy to Council, together with annual certificates of currency following each insurance renewal period.

10 INDEMNITY

The User covenants and agrees:

- 10.1 to indemnify and keep the Council, its officers, employees, agents, workmen and contractors indemnified from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought by any person arising directly or indirectly from the existence and use of the Cattle Grids and Associated Works undertaken by the User or its agent or contractors or employees on the Road.
- 10.2 The User agrees to be responsible for the costs of repair to the Cattle Grids and Associated Works where:
- 10.2.1 a third party has caused intentional or unintentional damage to the Cattle Grids as a result of an activity, whether negligent or not; and
 - 10.2.2 damage to the Cattle Grids or Associated Works has occurred as a result of an unknown cause.
- 10.3 The indemnity referred to in clause 10.1 cannot be revoked by the User.
- 10.4 The indemnity referred to in clause 10.1 is binding and enforceable against the User notwithstanding any neglect, delay or forbearance on the part of Council to exercise its right of indemnity.
- 10.5 Nothing in this clause 10 will prevent the User from seeking to recover damages or costs from a third party (other than Council) associated with damage caused to the Cattle Grids or Associated Works by that third party.

11 CONSEQUENCES OF BREACH

- 11.1 If the User is in breach of any term of this Agreement, Council may call upon the User by notice in writing to remedy such a breach within the time specified in the notice or show cause why the Agreement should not be terminated. If the User fails to either remedy the breach to the satisfaction of Council or show cause within the time stated then Council may without further notice to the User terminate this Agreement and the User shall be liable to pay to Council the reasonable costs of making good any repairs and/or reinstatement reasonably required to ensure the safety of the Cattle Grids and the Road.
- 11.2 If the User fails to comply with Clause 11.1 of this Agreement and Council is required to reinstate and make good the Cattle Grids, Associated Works or the Road, then the reasonable cost thereby incurred shall be a debt due from the User to Council.

12 TERMINATION

- 12.1 This Agreement will terminate if the User:
- 12.1.1 transfers ownership of all the Land or part of the Land so that the User no longer owns land on both sides of the Road; or
 - 12.1.2 has no further rights to run cattle on both sides of the Road so that the Cattle Grids cannot be used for running cattle; or
 - 12.1.3 the User no longer holds a valid local law permit if one is required for movement of stock on the Road; or

- 12.1.4 the User informs Council that the User is insolvent or financially unable to continue with this Agreement; or
- 12.1.5 being a individual person or a partnership becomes bankrupt, enters into a scheme of arrangement; or
- 12.1.6 being a corporation, enters into a deed of arrangement or company administration or a winding up order is applied for or made against it, or a mortgagee takes possession of its property or it is wound up.

12.2 In the event of termination of this Agreement by clause 11.1, 12 or otherwise, the User shall fully remove or reinstate the Cattle Grids and Associated Works and reinstate the Road at its own cost to the satisfaction of Council within a time frame specified by the Council. Should the Cattle Grids and Associated Works not be removed within this time frame, Council may remove them and seek reimbursement of the costs from the User.

12.3 No compensation shall be claimed from or be payable by Council upon termination of the usage of the Cattle Grids in accordance with the terms of this Agreement or by the mutual consent of Council and the User.

13 FURTHER TERM

Provided the User is not in breach of this Agreement, the User may elect by notice in writing to be delivered to Council no less than three months prior to the expiration of the initial term of the Agreement extend the period of this Agreement for up to a further (20) twenty years.

14 NOTICES

14.1 Service of notice

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

- 14.1.1 personally on the person;
- 14.1.2 by leaving it at the person's address set out in this Agreement;
- 14.1.3 by posting it by prepaid post addressed to that person at the person's current address for service; or

14.2 Time of service

A notice or other communication is deemed served:

- 14.2.1 if served personally or left at the person's address, upon service;
- 14.2.2 if posted within Australia to an Australian address, two business days after posting; and
- 14.2.3 if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next business day.

15 FUTURE PURCHASERS

- 15.1 The User shall advise any future purchaser or occupier of the Land or any part thereof in writing of the existence and contents of this Agreement.
- 15.2 The User shall advise Council in writing of any change of occupier of the Land or of any agreement to purchase the Land or any part thereof within 28 days of such change or agreement.
- 15.3 Subject to the User complying with the terms of this Agreement, Council shall agree to the transfer of rights under this Agreement conditional upon the incoming party and the User entering into with Council a novation of this Agreement or a new agreement on the same terms and conditions as this Agreement.
- 15.4 Should the new purchaser of the Land not agree to enter into this Agreement or a similar arrangement, the User must remove the Cattle Grids and Associated Works and clause 12.2 of this Agreement applies to this clause.

16 APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Victoria and the parties hereby agree to submit to the jurisdiction of the Courts in the State of Victoria in relation to any question or dispute that may arise hereunder.

17 ENTIRE AGREEMENT

This document constitutes the sole and entire agreement between the parties and supersedes any and all prior arrangements, agreements or undertakings and shall be binding notwithstanding any prior arrangements, agreements or undertakings made which may conflict with or be at variance with this Agreement or any correspondence or document relating to the subject matter of this Agreement which may have passed between the parties hereto.

18 SEVERABILITY

If any provision of this Agreement shall be invalid and not enforceable in accordance with its terms, all other provisions which are self sustaining and capable of separate enforcement without regard to the invalid provisions shall be and continue to be valid and enforceable in accordance with those terms.

EXECUTED as a deed.

THE COMMON SEAL of the)
COLAC-OTWAY SHIRE COUNCIL was)
affixed hereto on)
in accordance with Local Law No. 4:)

Councillor

Councillor

Chief Executive Officer

Note: In the absence of the Chief Executive Officer, affixing of seal can be witnessed by two Councillors and any other member of staff authorised by the Chief Executive Officer.

SIGNED SEALED AND DELIVERED)
by <USER> in the presence of:)
_____)

Witness

SIGNED SEALED AND DELIVERED)
by <USER> in the presence of:)
_____)

Witness

SCHEDULE

1	USER:	<USER>
2	ASSOCIATED WORKS	All signage, bypass gates, wing fences and cattle lanes associated with the Cattle Grids.
3	CATTLE GRIDS	<CATTLE GRID DESCRIPTION>
4	COMMENCEMENT DATE	
5	INSPECTIONS	Time frame: <TIME FRAME>
6	LAND	<LAND DESCRIPTION>
7	ROAD	<ROAD DESCRIPTION>
8	TERM	Initial Term: <TERM>

SAMPLE

ANNEXURE A
(Plans)

SAMPLE

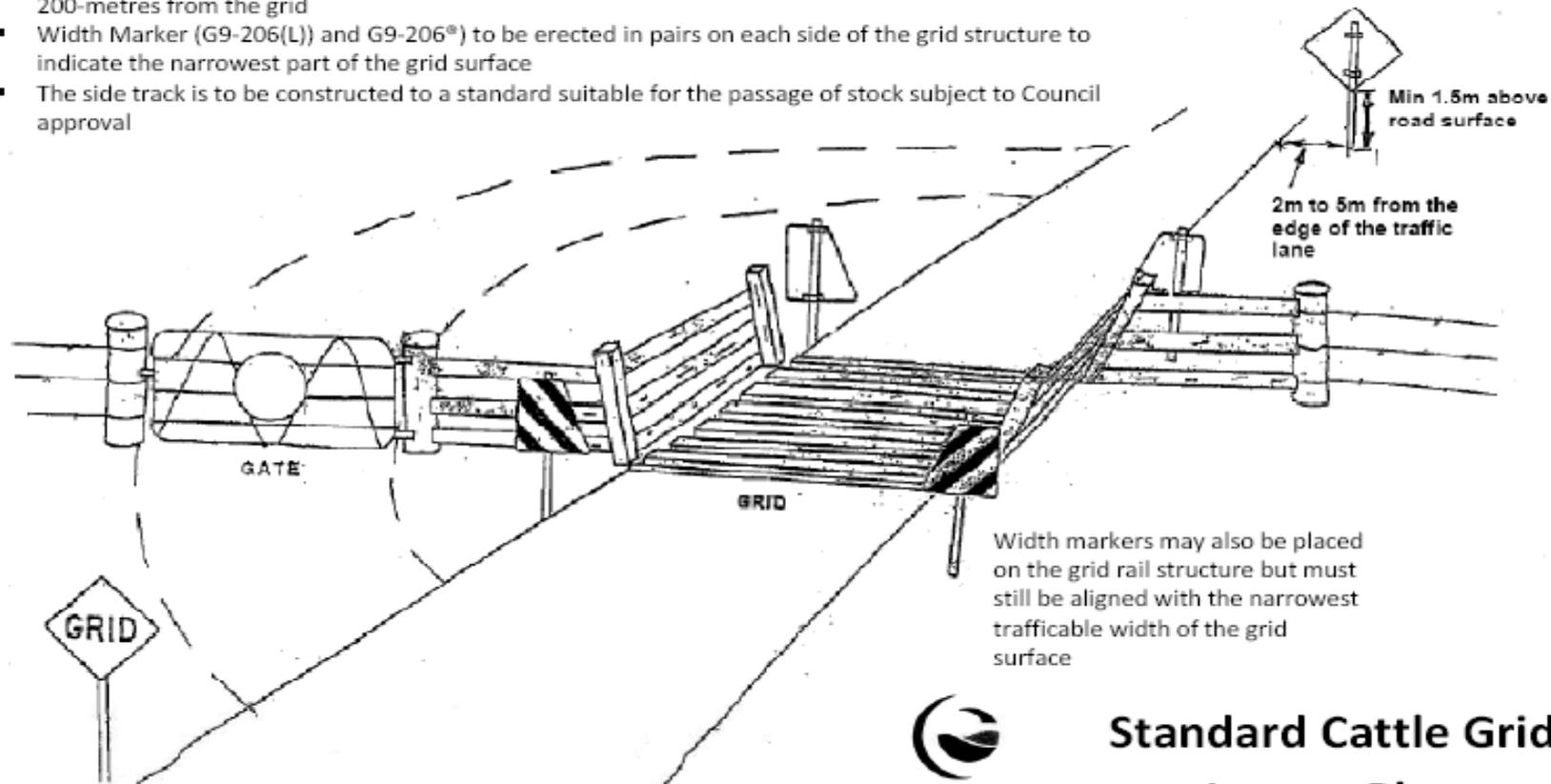
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ANNEXURE B
(Standard Conditions of Consent to Conduct Works)

SAMPLE

Notes:

- Grid surface to be at a width specified by Council and a minimum of 2.1-metres 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
- 'GRID' (W5-16) 750mm x 750mm signs to be erected on both approaches to the grid 50-metres to 200-metres 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 constructed to a standard suitable for the passage of stock subject to Council approval



Standard Cattle Grid Layout Plan

Colac Otway Shire
Infrastructure and Services

Not to Scale
Size A4