

SM012 State Highway Control Manual

Part 5 - Consolidated Bridges and Structures Sections

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Bridge Construction and Maintenance Standards

Introduction

Bridges impose inflexible and durable constraints on State highways. Each bridge is unique. A consequence of this uniqueness is that there are no NZTA standard specifications developed for bridge construction and maintenance.

Bridge construction

Construction of State highway bridges shall comply with the following specifications:

- A. Bridge Manual Edition 3.3 June 2018.
 - B. Standards New Zealand (SNZ) Specifications.
 - C. Manufacturers' specifications where no SNZ specification exists.
 - D. Site-specific Engineer's specification.
 - E. Guide to Bridge Technology Part 8: Hydraulic Design of Waterway Structures: Austroads 2012.
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Bridge maintenance

Bridge maintenance shall be in accordance with the following:

1. *S6 Bridge Inspection Policy*, NZTA.
 2. *Bridge Inspection and Maintenance*, NZTA.
 3. *Bridge Overweight Rating and Position Weight Limits Assessment*, NZTA.
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Responsibility

System Managers are responsible for inspection and maintenance of all bridges on State highways. This includes delegated State highways where maintenance and/or construction are carried out by a TLA.

KiwiRail will inspect combined road-rail bridges for railways purposes.

Painting of bridges

Bridges are only to be painted, surface coated, or texturised if:

- A. The coating is necessary for protection purposes; or
 - B. The coating has been approved as part of the design; or
 - C. The Lead Advisor Structures' approval has been obtained.
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Railway bridges

NZTA has a formal agreement with KiwiRail covering the use and maintenance requirements of railway bridges used as carriageway on State highways. Details of those requirements should be obtained from KiwiRail.

Highway Structures Inventory Management System (HSIM)

Introduction

An electronic inventory system containing descriptions of the functions, materials and operating characteristics is maintained for all bridging structures on State highways.

Structures included

The following structures shall be included:

- A. All structures having an opening of 3.4 m² or more that passes partly or completely under the road.
 - B. All structures passing over State highways carrying road, rail, pedestrians or services.
 - C. Other structures if appropriate.
-

Description of inventory

The current inventory system possesses the following features:

- A. The system is computer based and records names, dimensions and descriptions of each structure.
 - B. Each structure is uniquely identified by name of highway and route position, and the Bridge Structure Number (BSN).
 - C. Data for each structure is divided into 4 sections:
 - General
 - Structure and Materials
 - Geometrics and Safety
 - Live Load Capacity
 - D. The data can be integrated and reports in varying formats prepared.
 - E. Hard copy A4 printouts of each structure's data and descriptive codes are held by Managers, Operations and Network Consultants.
 - F. The descriptive inventory is not linked with the overweight permit system.
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Updating procedure

The following updating guidelines should be followed:

- A. System Managers will be responsible for ensuring the bridging inventory is updated.
 - B. Amendments or deletions are to be clearly marked on the relevant current printout for the bridge obtained from the BDI.
 - C. New bridge data is to be entered on a blank standard printout form included with the BDI Administration and User Guideline, which is available from the BDI System Administrator at national office.
 - D. Standard bridge inventory forms should be used. Refer to *Bridge Inspection and Maintenance Manual* Appendix 5.5.
 - E. Changes to the inventory shall be forwarded to the Principal Structures Engineer at Wellington office for inclusion in the computer-based inventory.
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Bridge Restrictions for Legal Loads and Overweight Permit Procedures

Overview

Bridges are a vital component of the State highway network. Unlike carriageways, bridges can be subject to sudden catastrophic failure if overloaded. This section deals with policy and procedures required to restrict loads on bridges not capable of safely carrying normal highway loadings.

In this section

In this section the following topics will be covered:

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HMV Regulation Restrictions	Page 6
Ongoing Requirements for Restrictions	Page 8
NZTA Bylaw Restrictions for Bridges	Page 9

Bridge Restrictions for Legal Loads and Overweight Policy

Purpose Restrictions must be applied where the legal maximum weight and/or speed limits allowed by the Heavy Motor Vehicle (HMV) Regulations 1974 would exceed the structural capacity of the bridge leading to premature structural deterioration or failure.

Methods for applying restrictions There are two methods of applying load restrictions:

- A. Restrictions applied under the HMV Regulations.
- B. Restrictions by NZTA Bylaw.

Responsibility System Managers are responsible for the rating and posting of restrictions for all State highway bridges (including railway overbridges) except combined road-rail bridges for which the responsibility is retained by KiwiRail.

KiwiRail controlled bridges The list of KiwiRail combined road-rail bridges is given in the table below:

State Highway	Route Position	Name
2	243/10.82	Pekatahi
6	282/13.80	Inangahua
6	463/0.00	Arahura

Overweight permits Special permits can be issued for specific loadings in excess of the HMV regulations and/or in excess of any legal bridge restriction. Such permits usually impose special conditions so as to limit stresses on critical bridge members.

Examples of possible conditions are:

- A. Limit vehicle speed to reduce impact stresses.
- B. Position the load on the bridge so as to minimise live load stresses.

The procedures to be followed for issuing overweight permits are specified in *Overweight Permit Manual*, NZTA.

Over-dimension load permits Permits for overdimension loads are issued by the Agency's Over-dimension Permit Issuing Agency (OPIA), who may be contacted at OPIA@nzta.govt.nz. Application for a permit can be made on the form that can be downloaded from <https://www.nzta.govt.nz/assets/Commercial-Driving/Application-for-an-overdimension-permit.pdf>.

HMV Regulation Restrictions

Introduction

The HMV Regulations 1974 specify a legal procedure to be followed to restrict a load on a bridge. This is the preferred method of restricting loads on bridges and the alternative method using NZTA Bylaw restrictions should only be used in exceptional cases (see page 10 *NZTA Bylaw Restrictions for Bridges*).

Engineer's Certification

Weight and speed limits applied under the provisions of the HMV Regulations require a certificate from an engineer (who is a Chartered Professional Engineer). The certificate shall state that, as a result of a detailed inspection and analysis of the bridge, the engineer is of the opinion that if either of the following conditions pertains, then the loads would so over-strain the bridge as to be likely to cause its ultimate failure.

- A. The use of the bridge by vehicles exceeding in weight the proposed weight limits; or
 - B. The use of the bridge by vehicles travelling at a speed exceeding the proposed speed limit.
-

Certificate advice to Chief Executive

The National Manager Programme and Standards has delegated authority to impose restrictions, but the General Manager and Chief Executive must be advised of the proposed restriction prior to the posting action being taken.

A copy of all weight and speed restriction certificates shall be forwarded to the Chief Executive for reporting to the Board. The certificate must state the actual limits that are posted.

A new certificate must be issued if the limits are changed.

A new certificate is not required if a restriction is imposed without change.

Legal requirements

For a bridge restriction applied under the HMV Regulations to become effective it must be:

- A. Published in a newspaper circulating in the district in which the bridge is situated; and
 - B. Indicated on signs erected and maintained near each end of the bridge.
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Newspaper publication

Newspaper publication must be in the format and using the headings given from Form D in the First Schedule of the Regulations. The weight restrictions must be in the same terms as required for the signs. Three newspaper columns should be requested for the notice. The notice shall be issued in the name of the National Manager Programme and Standards.

Bridge signs

Signs erected at the bridge shall be R5-9 signs as defined in the *Land Transport Rule Traffic Control Devices 2004*. Refer to Schedule 1 of the Traffic Control Devices Rule for sign sizes and the format to be used for the panels.

Posting advice

One full page of the newspaper showing the notification shall be forwarded to the Senior Manager Safer Commercial Transport within seven days of the publication together with advice that an Engineer's Certificate has been obtained.

One full page showing the notification shall also be forwarded to the Chief Executive NZTA by minute on a copy of the advice to the Police Commissioner.

Ongoing Requirements for Restrictions

Introduction

Existing bridge restrictions may need changing or removal as situations change. Bridge restrictions imposed under the HMV Regulations are only valid for a period of 12 months and must be reimposed annually if they are to serve for a longer period.

Changing or re-imposing a restriction

The procedure is exactly the same as for the original restriction.

Standardised removal date

NZTA requires that all State highway bridge restrictions be revised and renewed by 1 October each year. A schedule of renewed bridge restrictions shall be forwarded to the National Manager Programme and Standards by 30 June each year for reporting to the Chief Executive.

All bridge restrictions shall be reimposed by the beginning of October even though they may have been in operation for only a few months.

Removal of restrictions

Restrictions that are no longer required for whatever reason shall be removed by taking both of the following two actions:

- A. Publishing notification of the removal in some newspaper circulating in the district in which the bridge is situated.
- B. Removing the signs at the bridge.

Existing restrictions may be removed at any time. See the HMV Regulations s11(10) for explanation of the requirements.

One full page of the newspaper notice shall be forwarded to the Senior Manager Safer Commercial Transport and the National Manager Programme and Standards as required for the imposition of restrictions.

NZTA Bylaw Restrictions for Bridges

When to use

A bylaw under section 61(3) of the Government Rounding Powers Act 1989 (reference section 22AB sub-section (1)(zh) Land Transport Act 1998) can be used where the HMV Regulation procedure causes undue restriction to certain types of axle configurations.

Justification

Information as to the form of weight restrictions proposed and the benefit to be gained in comparison to the HMV Regulation procedure is to be supplied to the General Manager Transport Services to seek approval to proceed.

Bylaw procedures

The power to make such a bylaw has been delegated to the General Manager Transport Services.

The consultation processes set out in section 22AD of the Land Transport Act 1998 shall be followed in order for the bylaw to be made.

Once a bylaw is approved and gazetted, appropriate signs must be erected and maintained near each end of the bridge.

The bylaw shall be published in a newspaper circulating in the district in which the bridge is situated.

Expiry date

Bridge restrictions applied by means of a bylaw do not need to be reimposed each year. They must however be reassessed each year prior to 1 October and the assessment of ongoing need advised to the National Manager Programme and Standards.

Revocation of Bylaw

Any bylaw made for the purpose of applying weight restrictions that no longer apply must be formally revoked using the same process under which the bylaw was established. The bylaw will not be properly revoked until the revocation notice has been gazetted and the 28-day objection period has been completed.

Bridge and Culvert Design Details

Introduction

This section gives guidelines for the design of new or replacement bridges, and culverts.

New and replacement bridges

All bridges are to be designed in accordance with *Bridge Manual: Design and Evaluation*, Transit/NZTA, with reference to the Austroads *Guide to Bridge Technology*.

Repaired bridges

In general, capacity for Class I loadings should be provided. Proposals for other levels of structural capacity require the approval of the GMTS.

Culvert structural design

All culverts shall be designed for dead loads plus Class I live loads.

Building Act

Introduction

NZTA is required to comply with the provisions of the Building Act 2004 and the Building regulations 1992.

The Act controls the construction, alteration and demolition of 'buildings' and includes requirements for the management of some 'buildings' once constructed.

NZTA is an "owner" under the Act and a number of roading structures are defined as "buildings", e.g. bridges, tunnels, culverts, retaining walls greater than 1.5 m high or with a surcharge.

Application

The Act applies to demolition, alteration, design, construction, installation and for some buildings, to ongoing inspection and maintenance procedures. Where required, these procedures are specified in "compliance schedules" for the building concerned.

The Act does not affect:

- planning matters which are controlled by resource management legislation;
 - people's activities within buildings;
 - requirements that certain tasks may be undertaken by people who have certain qualifications.
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Exemptions

Exemptions from the Act include

- scaffolding and falsework in construction
 - dangerous goods containers and explosives magazines
 - standalone machinery systems, cableways
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Compliance with Building Code

All building work must comply with the Building Code. The Building Code is performance based. It lays down the functional requirements for a building and sets out the performance criteria with which buildings must comply.

Territorial local authorities have power to waive or modify most provisions of the Building Code. Territorial authorities' decisions under the Act can be referred to the BIA for determination. Every waiver or modification of the Building Code needs to be notified to the BIA.

Building consent means consent to carry out building work. It is granted by a territorial local authority.

NZTA Bridge Manual

The NZTA Bridge Manual is not an approved document in terms of the Building Code. The manual was given technical approval by the BIA, but agreement could not be reached on use of the disclaimer.

Bailey Bridging

Introduction

NZTA’s Bailey bridge stocks are administered by the Transport Services Group. Those stocks are available on a hire basis for the use of road controlling authorities including government agencies and private sector users.

Responsibility

Within Transport Services, the Principal Structures Engineer manages the stocks and is the person to whom inquiries should be addressed concerning potential hires. In the absence of the Principal Structures Engineer, inquiries should be referred to the Lead Advisor Structures at the NZTA Auckland Office, or Opus International Consultants in Christchurch.

Bailey Bridge Service Provided

NZTA’s Bailey bridges are provided through two contractors, one in each of the North and South Islands. Those contractors provide a full Bailey bridge service which includes transportation to and from the site, superstructure design and erection, in-service inspection and maintenance, and dismantling when the hire terminates. The contracts do not include the determination of the bridge location, alignment, span arrangements or the design and construction of foundations, substructures or road approaches. Those matters are the responsibility of hirers.

In emergency situations after hours only, inquiries can be directed to the following:

- **In the first instance – call the Bailey Bridge Project Manager on 021 243 0192.**

Then:

- **in the North Island — contact John Patten of Downer EDI Works Ltd Hastings, A/H (06) 835-5789 or 027-447-0221, and**
- **in the South Island — contact Downer EDI Works Ltd Christchurch, A/H (03) 359-0710 or 027-273-6870.**

Costs

The costs of the service provided in 2.6.3 are in three components as follows:

- the hire of components which will be on a tonnage basis for the period that the Bailey bridge is available for traffic. Included in the hire charge are on-site inspections and routine maintenance of the structure. Hirers will be billed three monthly in advance unless otherwise agreed;
- transportation of components to site, design and erection. These costs will be separately invoiced when the bridge is erected and in service; and
- dismantling and return transportation of components. These costs will be separately invoiced at the end of the hire.

The Principal Structures Engineer will provide the hire charges to prospective hirers on request and an assessment given of the erection and dismantling costs. The Bailey bridge services contractor will provide a detailed estimate of the erection and dismantling costs when the hire proceeds.

Agreement

Hirers will be required to sign a standard *Bailey Bridge Hire Agreement* with NZTA with the exception of hires for works on State highways where hirers

are expected to adhere to the general intent of that standard hire agreement.
That standard agreement is shown on pages 14 to 26 below.

Standard Bailey Bridge Hire Agreement

In this Section

This section contains the standard agreement for Bailey Bridge Hire.

[*Date*]

Parties

NEW ZEALAND TRANSPORT AGENCY (NZTA)

[*Insert full legal name of Hirer] (Hirer)

Bailey Bridge Hire Agreement



PARTIES	_____	1
BACKGROUND	_____	1
1	INTERPRETATION _____	1
2	HIRE _____	2
3	TERM OF HIRE _____	2
4	PAYMENTS _____	2
5	CONSTRUCTION OF THE BRIDGE _____	2
6	TITLE _____	3
7	INDEMNITY _____	3
8	MAINTENANCE _____	3
9	ACCESS BY NZTA _____	3
10	DAMAGE OR DESTRUCTION TO BRIDGE _____	4
11	EARLY TERMINATION OF HIRE IN EMERGENCY _____	4
12	HIRER'S OBLIGATIONS _____	4
13	HIRER'S ADDITIONAL OBLIGATIONS _____	5
14	EXTENSION OF TERM TIME _____	5
15	TERMINATION OF HIRE _____	5
16	DISMANTLING AND REMOVAL _____	5
17	INTEREST ON OVERDUE MONIES _____	6
18	DEFAULT BY HIRER _____	6
19	EXCLUSION OF WARRANTIES AND LIABILITIES _____	7
20	DISPUTE RESOLUTION _____	7
21	FORCE MAJEURE _____	7
22	HIRER ACKNOWLEDGEMENTS _____	7
23	PERFORMANCE BY NZTA _____	8
24	MISCELLANEOUS _____	8

Date:

Parties

- C. NEW ZEALAND TRANSPORT AGENCY (as Bailey Bridge owner) together with its assigns and successors (NZTA)
- D. [* Insert full legal name of Hirer and the city/town of its principal place of business] together with its permitted assigns and successors (Hirer)

Background

- A. The NZTA, in its role as the owner of Bailey bridges and the provider of services relating to the provision of Bailey bridges for hire, has agreed to hire the Bridge to the Hirer on the terms contained in this Hire Agreement.
- B. The NZTA administers its Bailey bridge programme through [Insert name of service contractor].

1 Interpretation

1.1 Defined Terms

In this Hire Agreement, unless the content otherwise requires:

“**Bridge**” means the Bailey bridge superstructure and bearings the NZTA agrees to hire to the Hirer under this Hire Agreement, the specifications for which are set out in item 1 of the Schedule, or such other specifications as the parties agree in writing;

“**Bridge Hire**” means the hire of the Bridge from the NZTA to the Hirer under this Hire Agreement;

“**Default Rate**” means the rate per annum that is 1.5 times the prevailing 90-day rate referred to as BKBM on the due date for payment of the outstanding amount;

“**Early Termination Hire Fee**” means the Hire Fee applicable if the NZTA can terminate the Bridge Hire under clause 11.2, prior to the Termination Date as set out in item 3 of the Schedule;

“**Hire Fee**” means the Hire Fee set out in item 2 of the Schedule;

“**Hirer’s Contractor**” means each consultant, agent or contractor who is, or will be, working on or in the vicinity of the Bridge and who was engaged by:

- (a) the Hirer;
- (b) any consultant, agent or contractor engaged by the Hirer;
- (c) any consultant, agent or contractor engaged by any of the persons described in paragraph (b) of this definition;

“**Government Entity**” means an entity that is a regional council or district council (each as defined in the Local Government Act 1974), or a Crown entity or department (as defined in the Public Finance Act 1989), except where the NZTA has specified in writing to the entity concerned that the entity is not a Government Entity for the purposes of this Hire Agreement;

“**Termination Date**” means the termination date specified in the Schedule or any other date agreed by the parties.

1.2 Construction

In the construction of this Hire Agreement, unless the context requires otherwise:

Business Days: anything required by this Hire Agreement to be done on a day which is not a Business Day may be done on the next Business Day. Saturdays, Sundays, and public holidays are not Business Days;

Documents: a reference to any document (including this Hire Agreement) and any statute includes a reference to that document or statute as amended or replaced from time to time;

Fees: all fees described in or calculated under this Hire Agreement include goods and services tax;

Parties: a reference to a party to this Hire Agreement or any other document includes that party's successors and permitted assigns. Where the context allows, a reference to the NZTA includes the NZTA's authorised agents.

2 Hire

The NZTA agrees to hire and the Hirer agrees to take on hire from the NZTA the Bridge during the Term upon and subject to the terms contained in this Hire Agreement.

3 Term of Hire

This Hire Agreement becomes effective upon its execution and the Term is for the period commencing on the date the NZTA notifies the Hirer that the Bridge is on site and available for use by the Hirer and ending on the Termination Date, or such other period as the parties agree.

4 Payments

4.1 Construction Fee

Subject to clause 5.7, the Hirer must pay the Construction Fee no later than the 20th of the month following the date of the NZTA's invoice for the Construction Fee.

4.2 Hire Fee

The Hire Fee is payable as follows:

4.2.1 The Hire Fee is payable for each day of the Term excluding the Termination Date and any day when the Bridge is unavailable for use by reason of any defect in or unavailability of the Bridge for which the NZTA is responsible;

4.2.2 The NZTA may invoice the Hirer for the payment of up to three months' Hire Fee in advance; and

4.2.3 The Hirer must pay to the NZTA the Hire Fee invoiced by the NZTA no later than the 20th of the month following the date of the NZTA's invoice.

4.3 Dismantling Fee

The Hirer must pay the Dismantling Fee by the 20th of the month following the date of the NZTA's invoice for the Dismantling Fee.

5 Construction of the Bridge

5.1 Obligations of Hirer

The Hirer must, to the satisfaction of the NZTA in the NZTA's discretion:

5.1.1 Determine the alignment, level and span arrangements for the Bridge;

5.1.2 Design and construct the sub-structure support system for the Bridge;

5.1.3 Obtain and comply with all required Resource Consents for the Bridge;

5.1.4 Obtain and comply with all required Building Consents for construction of the Bridge;

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- 5.1.5 Provide bridge end protection and delineation for the Bridge;
- 5.1.6 Provide such signs on the bridge or on the approaches to the Bridge, including speed and maximum load signs, as the NZTA, in its discretion requires; and
- 5.1.7 Comply with its obligations under clause 5.7 (if applicable).
- 5.2 Services of the NZTA
- The NZTA will provide the following services for construction of the Bridge;
- 5.2.1 Design of the superstructure and bearings for the Bridge;
- 5.2.2 Transport each component of the Bridge to the site where the Bridge is to be constructed;
- 5.2.3 Construct the Bridge superstructure and bearings and, if agreed by the NZTA in writing, a pedestrian footway and/or running planks for the Bridge in accordance with the NZTA's design for the Bridge and the NZTA's Bailey Bridge Manual; and
- 5.2.4 Provision to the Hirer of a Producer Statement - Design, a Producer Statement - Construction and a Producer Statement - Construction Review for the Bridge superstructure and bearings.
- 5.3 Deck Surface Treatment
- The Hirer may add running planks or lay chipseal on the deck of the Bridge to the NZTA's specifications (if any).
- 5.4 Cost of Construction
- The Hirer is liable for the cost of the NZTA providing the services set out in clause 5.2 and any materials used by the NZTA in providing those services (the Construction Fee). The NZTA will render an invoice to the Hirer for the Construction Fee following completion of the Bridge. In the absence of manifest error, such invoice is conclusive evidence of the Construction Fee and the other matters contained in the invoice. The Hirer may request a written estimate of the Construction Fee before the NZTA provides any of its services under clause 5.2.
- 5.5 Timing of Delivery and Construction
- The NZTA and the Hirer will use reasonable endeavours to agree on a timetable for construction of the Bridge and related matters. The NZTA will use reasonable endeavours to ensure that the components of the Bridge are delivered to the site where the Bridge is to be constructed at the agreed time and date and that the Bridge is constructed within the agreed time frame.
- 5.6 Delay in Construction
- The NZTA may delay or stop providing its services under clause 5.2 until it is satisfied, in its discretion, that the Hirer has complied with its obligations under clause 5.1. The Hirer must pay any costs incurred by the NZTA arising from the delay or stop in construction. The NZTA may include those costs in its invoice for the Construction Fee or render a separate invoice.
- 5.7 Additional Requirements where Hirer is not a Government Entity
- If the Hirer is not a Government Entity:
- 5.7.1 The NZTA will provide a written estimate of the Construction Fee and the Dismantling Fee to the Hirer before the NZTA provides any of its services under clause 5.2;
- 5.7.2 The Hirer must pay to the NZTA the estimated Construction Fee in advance;
- 5.7.3 The Hirer must deliver to the NZTA a bond acceptable to the NZTA for an amount equal to the estimated Dismantling Fee;

- 5.7.4 If the Construction Fee is less than the Hirer paid to the NZTA for the estimated Construction Fee, the NZTA must either refund the balance to the Hirer or credit the balance as payment of the Hire Fee in advance, at the NZTA's option. If the Construction Fee is more than the estimated Construction Fee, the Hirer must pay the balance of the Construction Fee no later than the 20th of the month following the date of the NZTA's invoice for the Construction Fee.

6 Title

Title to the Bridge and ownership of all its component parts remain with the NZTA at all times.

7 Indemnity

The Hirer indemnifies the NZTA against any loss, claim, damage, expense, liability or proceeding suffered or incurred at any time by the NZTA as a direct or indirect result of any breach of any of the Hirer's obligations, undertakings or warranties contained or implied in this Hire Agreement or the conduct of the Hirer or the Hirer's Contractor.

8 Maintenance

The NZTA must maintain the Bridge in accordance with the NZTA's Bailey Bridge Manual. The NZTA will consult with the Hirer before carrying out any non-urgent maintenance or repairs and will carry out non-urgent maintenance and repairs as agreed with the Hirer or otherwise at reasonable times. The NZTA may stop vehicle and/or foot use to the Bridge while it is carrying out maintenance on the Bridge. No Hire Fee is payable for any day during which the NZTA has stopped vehicle use of the Bridge for more than 4 hours in total.

9 Access by the NZTA

- 9.1 The Hirer must, both during and after the Term, allow the NZTA reasonable access to any property or premises upon which the Bridge is situated and to any documents relating to the Bridge, its use, and any activities of the Hirer or the Hirer's Contractor on or in the vicinity of the Bridge.
- 9.2 The Hirer will reasonably co-operate with the NZTA in connection with such activities and provide the NZTA with the opportunity to meet with relevant personnel from the Hirer or the Hirer's Contractors to discuss the Bridge and any related documents.

10 Damage or Destruction to Bridge

- 10.1 If the Bridge or any part of the Bridge is lost, stolen, destroyed, damaged, or has deteriorated in any way, or is otherwise rendered unsafe or potentially unsafe, the NZTA will at its discretion, and within a reasonable time of it becoming aware of the matter, repair and/or replace the Bridge or any part of the Bridge to the extent the NZTA considers this necessary to ensure that the Bridge conforms to the requirements of the NZTA's Bailey Bridge Manual. Where appropriate, the NZTA may defer any action under this clause 10.1 until the Hirer has complied with clause 5.1.
- 10.2 If the Bridge or any part of the Bridge is lost, stolen, destroyed, damaged or is otherwise rendered unsafe or potentially unsafe (including, without limitation, as a result of an act of god) and the matter was not caused solely by the NZTA's act or omission, the Hirer is liable for, and must pay no later than the 20th of the month following the date of the NZTA's invoice for:
- 10.2.1 costs incurred by the NZTA in complying with its obligations under clause 10.1;
- 10.2.2 the amount the NZTA certifies as being the cost of replacing the lost or stolen parts of the Bridge or the destroyed or damaged parts of the Bridge where the NZTA determines the repair of the destroyed or damaged parts is impractical or uneconomic; and
- 10.2.3 the costs of the removal, retrieval or dismantling of the Bridge or any part of the Bridge.
- 10.3 If the Bridge causes damage to any property of, or otherwise causes loss to, the NZTA or a third party, the Hirer will be liable to pay such damage or loss.

11 Early Termination of Hire in Emergency

- 11.1 Election of Early Termination Hire Fee

If the Hirer is not a Government Entity, the Hirer may elect the Early Termination Hire Fee is to apply to the Bridge Hire.

11.2 Early Termination in an Emergency

If the Hirer has elected the Early Termination Hire Fee, the NZTA may terminate the Bridge Hire by giving one week's prior written notice to the Hirer if the NZTA determines that the Bridge is required for emergency use or as back-up stock where the NZTA's Bailey bridge stocks are low as a result of an emergency or emergencies. Following termination of the Bridge Hire, the NZTA will refund any excess Hire Fee paid by the Hirer. The Hirer must pay the Dismantling Fee for the NZTA dismantling and removing the Bridge.

11.3 Reinstatement of Bridge

If the NZTA has terminated the Bridge Hire under clause 11.2 and the Hirer requires reinstatement of the Bridge when practicable then no Construction Fee or Dismantling Fee is payable by the Hirer in respect of the subsequent supply of the Bridge.

12 Hirer's Obligations

The Hirer must:

- 12.1 Not, except as permitted or required by this Hire Agreement, in any way add to, interfere with or modify the Bridge or any sign affixed to the Bridge by or at the discretion of the NZTA or do anything which would interfere with the proper and safe working of the Bridge without the prior written consent of the NZTA;
- 12.2 Notify the NZTA immediately if the Bridge or any part of the Bridge is lost, stolen, destroyed, damaged, or has deteriorated in any way, or is otherwise rendered unsafe or potentially unsafe;
- 12.3 Restrict or close access to the Bridge immediately it becomes aware that the Bridge has become unsafe;
- 12.4 Not sell, sublet, hire, encumber, charge or part with possession of or otherwise deal with the Bridge without the NZTA's prior written consent;
- 12.5 Comply with all relevant statutes, regulations, bylaws, resource and building consents and local authority requirements;
- 12.6 Maintain signage on the Bridge or on the approaches to the Bridge as required by the NZTA and any relevant statute, regulation, or bylaw;
- 12.7 Notify the NZTA as soon as it becomes aware that the Hirer will lose the ability to exercise control over any land on which the Bridge is located;
- 12.8 Not by signage or conduct, represent that it has any interest in the Bridge;
- 12.9 Ensure it has in place public liability insurance of at least \$2,000,000 for any one claim or series of claims arising out of the same occurrence in respect of the Hirer's use and operation of the Bridge including its use and operation by any of the Hirer's Contractors; and
- 12.10 If it is not a Government Entity, at all times during the period commencing on the first day of the Term and ending on the day the NZTA notifies the Hirer that it has dismantled and removed the Bridge:
 - 12.10.1 Insure and keep insured, for the full replacement value, the Bridge on terms, and with an insurer, acceptable to the NZTA;
 - 12.10.2 Insure and keep insured, the Hirer against all its potential liabilities under clause 10 on terms, and with an insurer, acceptable to the NZTA;
 - 12.10.3 Pay all insurance premiums when due, and if required by the NZTA, deliver to the NZTA receipts for the premiums;
 - 12.10.4 Ensure that the interest of the NZTA as co-insured and as owner of the Bridge is noted on each insurance policy; and

- 12.10.5 Ensure that no termination of, cancellation of, change to or reduction in any insurance cover occurs or is effected without the prior written consent of the NZTA.

13 Hirer's Additional Obligations

The Hirer warrants and undertakes that:

- 13.1 It will ensure that each Hirer's Contractor complies with each obligation on the Hirer under this Hire Agreement (except for payment obligations and any other obligation the NZTA agrees is, or will be, the sole responsibility of the Hirer); and
- 13.2 If the Hirer has notified the NZTA that the NZTA may correspond directly with the Hirer's Contractor, any notice or other communication under this Hire Agreement may be validly made to either the Hirer's Contractor or the Hirer, at the NZTA's discretion.

14 Extension of Term Hire

- 14.1 The Hirer may, in writing and at least 6 months before the end of the Term, request that the NZTA extend the Term by a further period of not more than 2 years. The NZTA may extend the term, but is not obliged to do so. The NZTA must notify the Hirer within 1 month of the Hirer's request:
- 14.1.1 Whether the NZTA agrees to extend the Term;
- 14.1.2 The period for which the NZTA agrees to extend the Term; and
- 14.1.3 The Hire Fee for the extended Term. Any increase in the Hire Fee must not exceed the increase in the Construction Price Index since the date of this Hire Agreement.
- 14.2 If the Hirer agrees to the extended Term and the Hire Fee notified by the NZTA, it must notify the NZTA of its agreement within 1 month of the NZTA's notice under clause 14.1. The Term and Hire Fee will be adjusted accordingly, with effect from the date upon which the Term would have expired but for the extension under this *clause 14*.

15 Termination of Hire

- 15.1 The Hirer must, not less than 2 weeks before the Termination Date, give written notice to the NZTA requesting the NZTA to dismantle and remove the Bridge.
- 15.2 If the Hirer wishes to terminate the Bridge Hire before the Termination Date, it must give the NZTA at least 2 weeks written notice. No such notice may be given within 3 months of the commencement of the Term or less than 3 weeks before the end of the Term.

16 Dismantling and Removal

- 16.1 Dismantling and removal

If requested by the Hirer, the NZTA and the Hirer will use reasonable endeavours to agree on a timetable for dismantling and removal of the Bridge by the NZTA. Until the NZTA has notified the Hirer that it has dismantled and removed the Bridge, the Hirer will leave the approaches to the Bridge in place and will allow the NZTA reasonable access to the site on which the Bridge is constructed. The NZTA will dismantle and remove the Bridge in accordance with the Bailey Bridge Manual and all applicable laws and regulations. The NZTA will use reasonable endeavours to ensure that the components of the Bridge are removed to the agreed timeframe (if there is one).

- 16.2 Cost of dismantling and removal

The Hirer will be liable for the cost of the NZTA dismantling and removing the Bridge in accordance with this Hire Agreement (the Dismantling Fee). The NZTA will render an invoice to the Hirer for the Dismantling Fee following dismantling and removal of the Bridge. In the absence of manifest error, such invoice will be conclusive evidence of the Dismantling Fee and the other matters contained in the invoice. The Hirer may request a written estimate of the Dismantling Fee before the NZTA commences dismantling the Bridge.

16.3 Delay in Removal

The NZTA may delay the start of dismantling or stop the dismantling and removal of the Bridge if the NZTA determines, in its discretion, that this is necessary or desirable as a result of any act or omission of the Hirer or the Hirer's Contractor. The Hirer will pay the costs incurred by the NZTA from the delay or stop in the dismantling and removal of the Bridge. The NZTA may include those costs in its invoice for the Dismantling Fee or render a separate invoice.

17 Interest on Overdue Monies

If the Hirer fails to make any payments due under this Hire Agreement on the due date for payment, the Hirer is, upon demand by the NZTA, to pay to the NZTA interest on the due amount from the due date until the date of payment of that amount to the NZTA at the Default Rate.

18 Default by Hirer

18.1 Default by Hirer

Without limiting any other rights of the NZTA, if Hirer is in breach of any of its obligations under this Hire Agreement then the NZTA will be entitled to take all steps it considers necessary to remedy the breach and to protect its interest in the Bridge. All costs, expenses or other moneys incurred by the NZTA or which the NZTA is liable to pay (including the NZTA's internal time costs) in remedying any breach must be paid by the Hirer to the NZTA on demand. If the Hirer does not pay on demand then interest at the Default Rate is payable by the Hirer on the outstanding amount until the date of full repayment by the Hirer.

18.2 Other Defaults and Consequences

If the Hirer:

- 18.2.1 Fails to pay any amount due under this Hire Agreement within 14 days of it being due;
- 18.2.2 Becomes insolvent, or a liquidator is appointed in respect of the Hirer or any receiver, manager, receiver and manager, trustee or administrator is appointed in respect of any of the Hirer's assets, and such person fails, within 10 Business Day's to make arrangements satisfactory to the NZTA in respect of the Hirer's obligations under this Hire Agreement;
- 18.2.3 Ceases to carry on all or substantially all of its business or operations;
- 18.2.4 Fails to strictly observe or perform any term of this Hire Agreement which it is required to perform or observe whether or not the relevant failure is capable of remedy;
- 18.2.5 Abandons or is otherwise no longer able to exercise control over any land on which the Bridge is located or is in breach or in default under any lease or licence relating to any land on which the Bridge is located;
- 18.2.6 Does or causes or permits to be done any other act or thing which may prejudice the NZTA's rights and title to the Bridge; or
- 18.2.7 Is not a Government Entity and there is any change in the effective control of the Hirer without the prior written consent of the NZTA;

then the NZTA may by written notice to the Hirer terminate all of the Hirer's rights under this Hire Agreement and:

- 18.2.8 All amounts payable by Hirer under this Hire Agreement will immediately become due and payable (whether or not at that time due for payment) together with either:
 - (i) all costs and expenses reasonably required to restore the Bridge to a state of good and proper working order and condition; or
 - (ii) the Dismantling Fee and all costs and expenses incurred in repossessing or attempting to repossess the Bridge; and
- 18.2.9 The NZTA may immediately take possession of the Bridge and any documents related to the Bridge.

19 Exclusion of Warranties and Liabilities

19.1 Except as set out in clause 19.2, the NZTA is under no liability to the Hirer for:

19.1.1 Any interruption or loss of service or use of the Bridge caused by any reason other than negligence of the NZTA.

19.1.2 The Bridge being inadequate for any purpose not notified in writing to the NZTA before this Hire Agreement is executed.

19.1.3 Any liability, claim, loss, damage or expense of any kind caused directly or indirectly by the Bridge or any part of it.

19.2 The NZTA is liable to the Hirer for direct physical damage caused by the NZTA, the Bridge or any part of the Bridge to property of the Hirer to the extent that the NZTA's negligence caused the damage but is not liable to the Hirer for any consequential loss; nor is the NZTA liable under this Hire Agreement to any other person.

20 Dispute Resolution

If any dispute arises between the parties in connection with this Hire Agreement, either party may by written notice to the other party require that an attempt be made to resolve the dispute by agreement between the parties using informal dispute resolution techniques such as negotiation, mediation, independent expert appraisal or any other such alternative dispute resolution technique. If the parties do not resolve the dispute by agreement within 14 days of the written notice (or any further period as the parties may agree in writing) then either party may by written notice to the other party require that the dispute be referred to arbitration under the Arbitration Act 1996.

21 Force Majeure

21.1 Non-performance by either of the parties of any of its obligations (other than to pay money) under this Hire Agreement is excused, without liability for non-performance, during the time and to the extent that such performance is prevented, wholly or substantially, by Force Majeure.

21.2 The party claiming the benefit of this clause must promptly give written notice to the other party specifying the cause and extent of its inability to perform any of its obligations under this Hire Agreement and the likely duration of such non-performance. In the meantime such party must take all reasonable steps to remedy or abate the Force Majeure.

21.3 No party is by virtue of this clause, required against its will to settle any strike, lockout or other industrial disturbances.

21.4 Performance of any obligation affected by Force Majeure must be resumed as soon as reasonably possible after the termination or abatement of the Force Majeure.

21.5 An obligation arising during any period of suspension of rights and obligations under this clause must be performed as soon as practicable after the suspension ends.

21.6 "Force Majeure" means any:

21.6.1 act of God, fire, earthquake, volcanic eruption, storm, flood, or landslide;

21.6.2 strike, lockout, work stoppage or other labour hindrance;

21.6.3 explosion, spillage or public mains electrical supply failure;

21.6.4 sabotage, riot, civil disturbance, insurrection, national emergency (whether in fact or law) or act of war (whether declared or not);

21.6.5 other similar cause beyond the reasonable control of the party claiming the benefit of the Force Majeure clause in this Agreement and which that party is unable to overcome by the exercise of reasonable diligence and at a reasonable cost;

but does not include:

- 21.6.6 any event which the party affected could have prevented or overcome by exercising a standard of reasonable care; or
- 21.6.7 a lack of funds for any reason.

22 Hirer Acknowledgements

The Hirer acknowledges that:

- 22.1 It has entered into this Hire Agreement on the basis of its own judgment and evaluation and not on the basis of any representation or warranty by or on behalf of the NZTA unless that representation or warranty is stated in this Hire Agreement;
- 22.2 it may not bring any claim or action alleging misrepresentation or breach of warranty unless the representation or warranty on which the claim or action is based is stated in this Hire Agreement;
- 22.3 it has taken such advice as it considers relevant from advisors independent of the NZTA and is not relying on any statement outside this Agreement from or on behalf of the NZTA (whether written or otherwise) in entering into this Hire Agreement.

23 Performance by the NZTA

The NZTA is to perform its obligations and exercise its rights under this Agreement either personally or through the service contractor named in Background B or any other contractor or agent, but without affecting the liability of the NZTA to the Hirer under this Hire Agreement.

24 Miscellaneous

24.1 Survival

The obligations and liabilities of the Hirer under this Hire Agreement in respect of any matter arising during the term of this Hire Agreement, (and the dismantling and removal of the Bridge on the termination or expiry of this Hire Agreement) survive the termination or expiry of this Hire Agreement

24.2 Notices

Any notice required pursuant to this Hire Agreement must be in writing and is regarded as having been given and received if:

- 24.2.1 personally delivered to the party for whom it is intended or to that party's address described in item 4 of the Schedule or otherwise notified to the other party for the purpose of notices under this Hire Agreement;
- 24.2.2 mailed by prepaid registered mail, to the last known business address in New Zealand of the party for whom it is intended. In this case receipt is to be regarded as occurring on the second business day after the day of posting; or
- 24.2.3 sent by facsimile, to the facsimile number of the party for whom it is intended, and a confirmation of proper receipt is held by the sending party. In this case receipt is to be regarded as occurring at the date and time of receipt, or if that is after 4.30pm or on a day other than a Business day, then receipt is to be regarded as occurring on the next Business day.

24.3 Amendments

No amendment to this Hire Agreement will be effective unless it is in writing signed by all the parties.

24.4 Counterparts

This Hire Agreement may be executed by the parties in separate counterparts, including by way of facsimile. Each counterpart when so executed and delivered will be an original for all purposes. All such counterparts will together constitute one and the same instrument.

24.5 Severability

Where:

24.5.1 any provision of this Hire Agreement is held to be invalid; or

24.5.2 either party is unable to perform any of its obligations by reason of a change in the law;

24.5.3 the parties will negotiate in good faith to achieve a similar economic and practical effect for both parties;

24.5.4 any provision of this Hire Agreement is held to be invalid the other provisions are not affected but may be subject to negotiation under *clause 24.5.2*.

24.6 Waivers

A waiver by either party of any of its rights or any obligation of the other party is effective only if in writing and expressly stated to be a waiver for the purposes of this Hire Agreement.

24.7 Complete Agreement

This Hire Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Hire Agreement. This Hire Agreement supersedes any prior agreements with respect to its subject matter.

24.8 Further Assurances

Each party agrees that, from time to time, it will do and perform in a timely manner any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the other party for the purpose of carrying out the intention of this Hire Agreement.

Signed by **NEW ZEALAND TRANSPORT AGENCY** by:

Name

Position

Signed by [***Insert full legal name of Hirer in bold capitals**] by:

Name

Position

SCHEDULE

1 Specifications of Bailey Bridge superstructure and bearings:

[insert specifications required by Hirer]*

2 Monthly Hire Fee: \$[insert agreed monthly hire fee]

3 Early Termination Hire Fee (clause 11.1): [state either “elected to apply” or “not applicable”]

Initial addresses of the parties: **NZTA:**

Address: 5th Floor, Majestic Centre, 100 Willis Street, Wellington

Private Bag: 6995, Wellington 6141

Facsimile Number: 894 6146

Contact Person: Neil Beckett

Address:

PO Box:

Facsimile Number:

Contact Person:

Charges and Financial Cost Sharing for Services

Authorisation for Charges

The GRP Act authorises NZTA to make or pay charges either in accordance with the Act or by agreement.

Service charges on bridges

Applicants shall be charged for attaching services to a bridge. In the absence of costing records, the charge shall be assessed using the following formula.

$$\text{Charge} = \text{Bridge Construction Cost} \times \frac{\text{Weight of Services with Content}}{\text{Overall Weight of Bridge Superstructure}}$$

plus the cost involved in assessing the practicality of and design required for any attachment.

System Managers have discretion in respect of the application of this charge. Should the costs of applying the charge particularly the professional services costs of calculating the charge, in the opinion of the System Manager, be greater than the likely cost recovery, then the charge may be waived.

Charges for relocation of services

The following charges shall apply:

Initiator of Relocation	Type of Service	NZTA Application Charges	NZTA Share of Relocation Cost
Utility Operator	Utility, TLA or private.	As for new services.	Nil.
NZTA	Telecommunications, power or gas.	Nil.	<u>On non-motorway State highways</u> - costs excluding all fittings other than those used only during construction. <u>On motorways</u> – in accordance with conditions previously agreed or in the absence of such agreement, 50% excluding betterment.
NZTA	Other utility or TLA.	Nil.	50 % excluding betterment.
NZTA	Private.	Nil.	Nil.

Reserving of additional ducting in bridges

Additional empty ducts in bridges shall not be placed or reserved for future use by a Utility Operator unless the bridge charge has been paid and the Utility Operator has stated a definite intention to install the service within a reasonable timeframe.

Swing Fences Attached to State Highway Bridges

Introduction

Attaching swing fences to a bridge creates the potential for the bridge to sustain damage in a flood or storm.

A swing fence may be attached to a State highway bridge only if NZTA has given approval.

NZTA's powers

Section 51(2) of the GRP Act empowers NZTA to require the removal of a swing fence which has been attached to a State highway bridge without approval.

Section 51(5) of the GRP Act empowers NZTA to give approval subject to condition.

Obtaining approval

Any person wishing to attach a swing fence to a State highway bridge should make application to the appropriate NZTA regional office.

The applicant must produce written evidence - from a suitably qualified engineer - that neither the fence nor the method of attachment is likely to increase the risk of the bridge or any of its component parts being damaged by flood or storm.

Unauthorised swing fences

The owner of any swing fence which has not been approved by NZTA is required to apply for approval or to remove the fence.

Removal of swing fences

The procedure to be followed when removing or requiring the removal of a swing fence is:

1. The land owner is advised - either verbally or in writing - that the fence poses a risk to the bridge.
 2. Where appropriate, the land owner is advised of the right to make application for approval of the fence.
 3. If approval is unlikely to be granted or is not sought, the land owner is given a date - one month from the date of written advice - by which the fence is to be removed.
 4. The land owner is informed that s353 of the LGA and s5(1) of the Animal Law Reform Act 1989 require that land owners fence their land and that they are liable if they negligently allow stock to wander on to a road.
 5. The land owner is to be informed that failure to comply with the removal order may result in NZTA laying a complaint or information under s51(4) of the GRP Act and the fence may be removed at the land user's expense.
-

Formal notification

The suggested format for formal notification requiring removal of a swing fence is given on page 28 below.

Notification on Requiring Removal of a Swing Fence Attached to a State Highway Bridge

In this Section

This section contains the suggested format and wording for the letter to be sent to a landowner required to remove a swing fence from a State highway bridge.

Notification of the Requirement to Remove a Swing Fence Attached to a State Highway Bridge

Name of Land Owner

Address of Land Owner

Dear *Mr/ Mrs/ Ms/ Miss*

State Highway No Number : Swing Fence Attached to *Name of Bridge*

A swing fence has been attached to Bridge on State Highway No at *Route Position or location*. The fence appears to be an extension of your boundary fence and therefore your responsibility. If this is not the case please contact me *contact details*.

The swing fence has been erected without the approval of the road controlling authority, the New Zealand Transport Agency (NZTA), thereby contravening Section 51 (2) of the Government Roading Powers Act (GRP Act) 1989.

In a storm or flood the swing fence will drag water and trap debris, thereby creating the potential for damage to the bridge. You are, therefore, required to remove the swing fence from the bridge by *one month from the date of the letter to be specified*. Failure to comply with this requirement may result in:

NZTA laying an information or complaint against you under Section 54 (4) of the GRP Act - This could result in the Courts imposing a fine on you, as well as a financial penalty for each day you continue to offend - and;

NZTA removing the fence and claiming the cost of doing so from you under Section 51 (3) of the GRP Act.

Insert where appropriate:

Should you wish to apply for approval to retain the swing fence; you will be required to provide a written report from a suitably qualified engineer stating that the neither the fence nor its method of attachment is likely to increase the risk of the bridge or any of its components being damaged in a storm or flood.

If you wish to apply for approval to retain the fence please contact me immediately to discuss the procedure.

Under Section 353 of the Local Government Act 1974, landowners who graze stock are required to fence their land to prevent the stock from wandering on to a road. Further, Section 5 (1) of the Animal Law Reform Act 1989 requires that land containing stock be fenced and holds the land owner liable if the stock wanders on to a road due to negligence of the land owner. These provisions also apply to State highways.

Your co-operation in either removing the swing fence, or having its retention approved before (*date specified for removal*) is sought.

If you have any enquiries, please contact me.

Yours sincerely

(If not written by NZTA; specify authority e.g. Network Consultant, Wairarapa)

Stock Underpass Construction Agreement

BETWEEN NEW ZEALAND TRANSPORT AGENCY ("NZTA")

AND
("the GRANTEE")

STOCK UNDERPASS CONSTRUCTION AGREEMENT

Dated

20

Stock Underpass Construction Agreement

This agreement is made on the day of 20.....

BETWEEN

E. **New Zealand Transport Agency**, a statutory authority established by the Land Transport Management Amendment Act 2008 (herein after referred to as the "NZTA")

AND

..... of
..... (herein after referred to as "the Grantee")

BACKGROUND

- A. The NZTA having the statutory responsibility and control of all matters in relation to the State highway network has authority to agree to the construction of a stock underpass.
- B. Ownership of the stock underpass will be vested in the NZTA.
- C. The NZTA and the Grantee have agreed to the construction of a stock underpass on State Highway at or near Route Position/..... and as shown on Plan No.
- D. The parties agree that the stock underpass shall meet the requirements of relevant NZTA policies, design criteria and construction specifications.
- E. Cost Sharing - the parties agree, as applicable and as set out herein, to cost sharing in relation to the construction of the stock underpass and the NZTA undertakes to make a maximum payment of
..... \$
(words) (figures)
to the Grantee on meeting the conditions of this agreement herein.
- F. The parties have agreed to enter into a separate agreement in conjunction with this agreement, for the stock underpass use, to formalise the rights of the parties concerning the ongoing use of the stock underpass.

Now therefore in consideration of the above the parties wish to record the terms and conditions relating to the agreement as follows:

1.0 Defined Terms

1.1 In this agreement, unless the context requires otherwise:

Stock underpass means a stock access structure together with associated fencing, drainage and safety facilities, over or under a State highway, connecting two parts of a property or properties.

Grantee means the property owner, whose property or properties is/are bisected by the State highway, or whose property is afforded access across the State highway, at the position where the stock underpass is proposed or is constructed, who is party to this agreement or any other document.

Parties means New Zealand Transport Agency and the Grantee, their personal representatives/successors and permitted assigns.

Cost Sharing means that, subject to the terms of this agreement, the NZTA will share with the Grantee the cost of construction of the stock underpass by making a financial contribution to the

Grantee in accordance with the provisions of the current NZTA Planning, Programme and Funding Manual.

AADT means the current annual average daily traffic passing the stock underpass site as ascertained by the NZTA.

Words of the singular are deemed to include the plural.

2.0 Title

2.0 Ownership of the stock underpass shall be vested in the NZTA.

3.0 The parties mutually

3.1 Confirm the contents of BACKGROUND.

3.2 Agree that they shall each carry out and fulfil all their respective obligations set out in this document.

4.0 Terms of Agreement

The parties agree and confirm that:

4.1 The Grantee shall engage appropriate engineering consultants acceptable to the NZTA for the necessary design, estimating, tender documentation and evaluation, contract administration and construction supervision. Where the NZTA agrees to cost sharing, the requirements of the NZTA Competitive Pricing Procedures and Contract Procedures Manuals (or their replacement publications) shall be observed, and all tender documentation and specifications shall conform to NZTA requirements.

4.2 The NZTA will consult with the Grantee but reserves the right to determine the location of the stock underpass, the consultants and contractors engaged, and the suitability of design and construction standards. Where the NZTA agrees to cost sharing, the NZTA reserves the right to confirm final acceptance of any tender without obligation to approve the lowest or any particular tender.

4.3 Where there is no cost sharing, the Grantee shall pay the NZTA actual and reasonable processing and supervision costs (a minimum \$100 plus GST) associated with the construction of the stock underpass.

4.4 Where cost sharing applies, following the NZTA's approval of the tender, the Grantee may accept the same.

4.5 The NZTA financial contribution, as determined under "Cost Sharing", shall be payable to the Grantee upon the NZTA's receipt of the Building Code Compliance Certificate and appropriate invoice together with certified copies of all payments.

4.6 In the event of any subsequent variation to the tendered sum and/or the associated engineering fees, the Grantee shall be responsible for the cost of such variations.

4.7 In particular in the construction of the stock underpass the Grantee shall satisfy the NZTA of the following:

4.7.1 liaison with service authorities to determine services location and relocation.

4.7.2 compliance with the Building Act 2004 and the Building regulations 1992.

- 4.7.3 Site Safety Plan, including the provisions of the Health and Safety in Employment Act 1993 and temporary traffic control, to be approved by the NZTA.
 - 4.7.4 provision of State highway detours shall require local authority consent together with appropriate public notification noting that temporary closure of the State highway can only be authorised by the NZTA Manager System Management.
 - 4.7.5 compliance with the NZTA's construction standards.
 - 4.7.6 The NZTA's Special Conditions - Requirements for Trenching Across State Highways.
 - 4.7.7 public liability insurance with a limit of indemnity to \$2,000,000.00, or such lesser sum as the NZTA may approve, for the period of construction. The NZTA shall approve both the insurer and the terms and conditions of the policy.
 - 4.7.8 a six month Period of Defects Liability commencing from the date of Practical Completion of the Contract Works.
- 4.8 The Grantee shall rearrange the farm layout and farm management to eliminate any existing stock crossing immediately on practical completion of the stock underpass.
- 4.9 The Grantee shall, if required by the NZTA, provide a bond, with sureties acceptable to the NZTA that will become null and void on fulfilment of all obligations under this agreement, satisfactory and timely completion of the stock underpass construction and, rectification of any defects within the Period of Defects Liability. The form and amount of bond shall be as determined by the NZTA.

5.0 Documentation

- 5.1 Copies of documentation including all notices, plans, specifications, building and resource consents, payment certificates, inspection reports and compliance certificates shall be sent to the NZTA as they become available.

6.0 Design and Installation Certification

- 6.1 The design and construction of the stock underpass shall be executed in accordance with all relevant building codes, resource consents and the NZTA's standards. The NZTA shall receive a copy of an Engineer's certifying statement and a copy of the Building Code Compliance Certificate to this effect on completion.

7.0 Agreement Conditional

- 7.1 This agreement is conditional upon the parties entering into an agreement for the Stock Underpass Use.

SIGNED for and on behalf of the
New Zealand Transport Agency by

.....
.....

System Manager



}.....

(acting pursuant to delegated authority)}.....

In the presence of:

Witness' Signature

Name

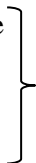
Occupation

Address

.....

.....

SIGNED by the Grantee



..... (name)

..... (signature)

In the presence of:

Witness' Signature

Name

Occupation

Address

.....

.....

The Common seal of

was hereto affixed in the presence of: (name)

..... (signature)

Stock Underpass Use Agreement

BETWEEN NEW ZEALAND TRANSPORT AGENCY ("NZTA")

AND
("the GRANTEE")

STOCK UNDERPASS USE AGREEMENT

Dated

20

Stock Underpass Use Agreement

This agreement is made on the _____ day of _____ 20____

BETWEEN

F. **New Zealand Transport Agency**, a statutory authority established by the Land Transport Management Amendment Act 2008 (herein after referred to as the "NZTA").

AND

_____ of

(herein after referred to as "the Grantee").

BACKGROUND

- A. The NZTA having the statutory responsibility and control of all matters in relation to the State highway network has authority to agree to the stock underpass use.
- B. Ownership of the stock underpass will be vested in the NZTA.
- C. The NZTA and the Grantee have agreed to the use of a stock underpass on State Highway _____ at or near Route Position _____ / _____ and as shown on Plan No. _____.
- D. The parties have agreed to enter a separate agreement in conjunction with this agreement for the stock underpass construction and cost sharing (if any) in relation to the construction, to formalise the rights of the parties concerning the stock underpass construction.

Now therefore in consideration of the above the parties wish to record the terms and conditions relating to the agreement as follows:

1.0 Defined Terms

1.1 In this agreement, unless the context requires otherwise:

Stock underpass means a stock access structure together with associated fencing, drainage and safety facilities, over or under a State highway, connecting two parts of a property or properties.

Grantee means the property owner, whose property or properties is/are bisected by the State highway, or whose property is afforded access across the State highway, at the position where the stock underpass is proposed or is constructed, who is party to this agreement or any other document.

Parties means New Zealand Transport Agency and the Grantee, their personal representatives/ successors and permitted assigns.

Words in the singular are deemed to include the plural.

2.0 Title

2.1 Ownership of the stock underpass shall be vested in the NZTA.

3.0 The parties mutually

3.1 Confirm the contents of BACKGROUND.

3.2 Agree that they shall each carry out and fulfil all their respective obligations set out in this document.

4.0 The Grantee

4.1 The Grantee agrees and confirms that:

- 4.1.1 the Grantee shall have the right to use the stock underpass in consideration of the payment to the NZTA of an annual fee of one dollar (\$1.00) if demanded.
- 4.1.2 the Grantee shall not do anything or allow anything to be done that will affect the structural integrity of the stock underpass.
- 4.1.3 the Grantee shall maintain, at the Grantee's cost, the stock underpass, including associated fencing, drainage and safety facilities, in good order and condition at all times, and immediately make safe and repair damage to the stock underpass caused through direct or indirect use or activity, and in any event shall carry out such maintenance or repair as may be reasonably be required, in writing, by the NZTA.
- 4.1.4 the Grantee shall advise the NZTA when any maintenance or repair, other than that of a routine nature, is required. The Grantee shall effect such maintenance or repair in accordance with the instructions of and to the satisfaction of the NZTA.
- 4.1.5 the Grantee shall be responsible for the cost of maintenance of the access through or over the structure.
- 4.1.6 the Grantee shall obtain the consent of the NZTA before entering onto the State highway to effect maintenance or repairs to the stock underpass.
- 4.1.7 the Grantee shall immediately make good any damage caused by the Grantee, his servants, agents or visitors, to the State highway or legal road reserve.

4.2 On receipt of advice under Clause 4.1.4, or as determined through its own inspection, the NZTA may elect to carry out all or part of any maintenance or repairs at the Grantee's cost or otherwise. The NZTA will, in such case, notify the Grantee accordingly within 14 days of receipt of advice or inspection.

4.3 The Grantee shall indemnify the NZTA against all costs, actions, demands, suits, damages and proceedings of any kind for any loss or damage that might result to any property of any person or any agency of the Crown directly or indirectly by reason of the exercise of the rights under this agreement.

5.0 The NZTA

5.1 Notwithstanding the provisions of Clause 4.0, the NZTA shall meet the cost of repairs of any structural defect in the stock underpass where the NZTA is satisfied such defect is not directly or indirectly attributable to the use of the stock underpass by the Grantee.

6.0 Removal of Stock Underpass

6.1 The Grantee shall have the right to have the stock underpass removed at any time subject to the following conditions:

- 6.1.1 Two months written notice to the NZTA of the Grantee's exercise of right.
- 6.1.2 The NZTA shall undertake removal of the stock underpass and reinstate the State highway to its satisfaction. The NZTA will ensure that its consultants and contractors take all reasonable care in removal of the stock underpass but the NZTA will not be responsible for any damage that may occur to the stock underpass as a result of its removal.

- 6.1.3 The Grantee shall reimburse the NZTA for the costs of such removal and reinstatement. Upon receipt of notice under Clause 6.1.1, the NZTA will provide the Grantee with an estimate of cost of such removal. The estimated amount shall be paid to the NZTA, pending completion of the removal and reinstatement, and then applied to the cost of removal and reinstatement.
- 6.1.4 Ownership of the stock underpass structure shall pass to the Grantee upon removal and reinstatement.
- 6.1.5 Consent may not be given to the grantee, upon removal of the stock underpass, to allow access to and stock to traverse the State highway at or near the stock underpass location.

7.0 Termination

- 7.1 The NZTA may terminate this agreement and may remove the stock underpass:
 - 7.1.1 at the expiration of three months written notice of intention to terminate if the land under which the stock underpass is constructed ceases to form part of the State highway network or is otherwise removed from NZTA control; or
 - 7.1.2 without notice if the Grantee fails, within twenty-eight (28) days of receiving notice requiring the Grantee to remedy any default on the Grantee's part under this agreement; or
 - 7.1.3 immediately without notice if any default on the Grantee's part under the terms of this agreement in the opinion of the NZTA interferes or may interfere with the safe and/or efficient operation of the State highway.
- 7.2 The Grantee shall not be liable for any compensation on termination of this agreement.

8.0 Assignment

- 8.1 The rights of the Grantee shall not be assigned under this agreement without prior written consent of the NZTA, which shall not unreasonably be withheld.

9.0 Notices

- 9.1 All notices under this agreement shall be sent to the following addresses by hand, post or facsimile or to such other addresses as are from time to time nominated in writing by the parties:-

NZTA:- The State Highway Manager
 New Zealand Transport Agency

 Facsimile:
 Phone:

Grantee:

.....
.....

Facsimile:

Phone:

9.2 It will be sufficient in cases where notice is to be given by the NZTA that some person acting under the NZTA's express or implied authority signs such notice.

SIGNED for and on behalf of the
New Zealand Transport Agency by
.....
.....

System Manager }

(acting pursuant to delegated authority) }

In the presence of:

Witness' Signature

Name

Occupation

Address

.....

.....

SIGNED by the Grantee } (name)

..... (signature)

In the presence of:

Witness' Signature

Name

Occupation

Address

.....

.....

The Common seal of

was hereto affixed in the presence of: (name)

..... (signature)