



*Working in the
Corridors*

Working in the Corridors

Draft National Code of Practice

Seminars 12 – 20 February 2008





Outline of programme

- **Welcome and introductions**
- **Housekeeping**
- **The context of the draft Code**
- **Planning for works**
- **Carrying out works**
- **Question session**
- **Feedback**



Housekeeping

- **Emergency procedures**
- **Ground-rules for the day**
- **Cell phones**
- **Handouts**
 - **Seminar booklet**
 - **Separate forms**
 - **Draft Code**
- **Parking lot**



*Working in the
Corridors*

The context for the Code

Setting the scene

David Fraser, Chairman NZUAG

The legislative process

Mike Sim/Michelle Cave

Ministry of Economic Development





Objectives for the seminar

- **Introduce the draft Code to the whole sector**
- **Understand the context**
- **Understand the contents – what, why, where, how, who, when**
- **Recognise the evolution from Working in the Road – updates / changes**
- **Opportunity for input and feedback**
- **Commitment to the Code and its implementation**



Why the Code was developed

- **Government's economic strategy – constant concerns being raised**
- **Nationally consistent process**
- **Formalise current industry best practice**
- **Third party damage problems**
- **Need to update Working in the Road: stakeholders not getting enough out of it**
- **If we didn't, Government would!**



Who developed the Code?

By the stakeholders for the stakeholders

- Electricity, gas, telecommunications sectors
- Local authorities: Roads/ Waters/ Wastewaters
- Transit NZ
- ONTRACK
- Contracting sector

Other interested parties include:

- Government departments and agencies
- Agents of any of the above – consultants, contractors



How the code was developed

- **NZUAG/LGNZ seminar 19 February 2007**
- **Pan-sector meetings**
- **Statement of Intent**
- **Directors group**
- **Working groups**
- **Industry peer review process**
- **Independent technical edit**



The context

- **Utilities' right of access to the corridor**
- **Corridor managers' rights to set reasonable conditions**
- **Definition of roles and responsibilities of the parties**
- **Planning, liaison and coordination**
- **Maintaining the integrity of the corridor**
- **Safe work site minimising public inconvenience**
- **Collaboration in good faith**



Status of the Code

- **Authorised by the proposed Utilities Access Amendment Act (expected 2008)**
- **Consistent with legislation**
- **Replaces existing Codes/Handbooks**
- **Provides for regional/local requirements**
- **Must be read with any such regional/local requirements**
- **Living document**



Principles supporting the Code

- **Working together – regular liaison**
- **Consistency – process, reasonable conditions**
- **Technical excellence – best practice**
- **Equity and fairness - respect**
- **Quality – reducing costs, protecting all assets**
- **Health and safety – staff and the public**
- **Constructive resolution of differences**



What next?

- **Feedback on the draft document**
- **Analysis and summary of submissions**
- **Code approved for implementation**
- **Must be in effect by enactment date (likely March 2009)**



Utilities' access to the road, rail and motorway corridor

**Energy and Communications Branch
Ministry of Economic Development
(MED)**

Micky Cave or Mike Sim



Ministries' responsibilities for relevant legislation

- **MED – The Electricity Act 1992, The Gas Act 1992, and the Telecommunications Act 2001**
- **MOT (Ministry of Transport) – The Transit Act 1989, Railways Act 2005 and Land Transport Management Act 2003**
- **DIA (Department of Internal Affairs) – The Local Government Acts 1974 and 2002**



2004 – October 2006

- **In 2004 the MED undertook consultation on the access regime for electricity works above 110kV and 100MVA on roads and level crossings**
- **The Cabinet Policy Committee (POL) “directed officials to report to POL by 31 October 2005 on wider issues related to utility access to the road and rail corridor, including cost-sharing arrangements”**
- **Report back to POL was subsequently extended - occurred in October 2006**
- **Cabinet paper outlined the following objectives and put forward policies proposed to meet them.**



Policy objectives

- a. **To reduce the costs and inefficiencies arising from the current statutory framework, including avoidable damage to roads and utility networks, delays and disputes, inconsistencies between statutes, and poor coordination**
- b. **To provide for better management of the multi-use of road corridors in the public interest, including road safety, and balancing the provision of utility services with efficient transport and universal access to roads**
- c. **To provide the potential for increased utility access to rail and motorway corridors while recognising the transport and safety responsibilities of Transit NZ, and the transport, safety and business interests of ONTRACK.**



Key policy proposals

- 1. an explicit governance role for road controlling authorities and statutory responsibility for managing and co-ordinating sustainable multi-purpose use of roads**
- 2. establishment of nationally consistent and enforceable codes of practice (for managing access to transport corridors) and standards for cost allocation, technical issues and reasonable conditions**
- 3. a consistent mediation step for dispute resolution (generally about the setting of reasonable conditions) added to all legislation**
- 4. harmonisation of key definitions, processes and timeframes throughout utility and local government legislation**
- 5. a consistent regime for notification of affected parties for all utilities and locations (the road, rail and motorway corridors) and**
- 6. access rights of utilities to roads maintained and access by utilities to rail and motorway corridors enhanced.**



Cabinet “approval in principle”

The Cabinet Business Committee (CBC) “approved in principle, subject to further development and report back by 30th April 2007, the proposed policy framework for reducing the costs and inefficiencies of utility access to the road, motorway and rail corridors, and enhancing the sustainable management and multi-use of transport corridors”



February 2007

- **MED presented a further paper for discussion “Proposals for the Management of Utilities in Transportation Corridors” at a forum jointly hosted by New Zealand Utilities Advisory Group (NZUAG) and Local Government New Zealand (LGNZ)**
- **Following this further consultation, most of the policies proposed were revised.**



Key change

- **A key change was to not proceed with the explicit governance role and statutory responsibility for road controlling authorities - a majority of submissions showed this proposal was not supported**
- **Main reason - the proposal would have given one party scope to make decisions on another's assets, but utilities and local authorities have different drivers on how their assets are planned and managed**
- **Local authority powers would need to have been clearly defined and limited through legislation.**



New proposal from stakeholders

- **Stakeholders proposed the use of a national code of practice (CoP) as a better mechanism to deliver improvements in the management of competing demands on the transport corridor**
- **A Stakeholders group was formed from Auckland Territorial Authorities, Transit NZ, ONTRACK, Gas Association of NZ Inc, Electricity Networks Association, Electricity Engineers Association, Telecommunications Carriers Forum, LGNZ and NZUAG.**



Code of Practice had a tight timeframe for development

- **MED saw the benefits of this proposal.**
- **A Cabinet paper was prepared, with this mechanism as a recommendation, to meet a 30th April 2007 report back**
- **Representations requested that legislative recommendations made by the paper be held until the stakeholders group had further developed the code of practice, as additional detail in legislation could be required to support it**
- **The Cabinet report back date was extended to accommodate any further changes to legislation required**



Further key change

- **Additional guidance under ‘reasonable conditions’ – conditions that give effect to amenity outcomes must be consistent with places clearly defined in a council’s LTCCP and that the ‘additional’ amenity costs fall on the local authority**
- **Plus - if a utility installs infrastructure on a road that is identified in the LTCCP for future alteration or it is in an area that is to have road construction, then the costs of moving it for the future change will require utility contribution to local authorities**
- **The paper went to Cabinet Economic Development Committee (EDC) 12th December 2007.**
- **Recommendations were confirmed by Cabinet 17th December 2007**
- **You have the Cabinet paper in your pack...**



Minister of Economic Development to have power to approve, administer, amend, notify and revoke a Code of Practice

- **Mandatory consultation by Minister of Economic Development with the Ministers of Transport, Communications and Local Government**
- **CoP to have mandatory requirements for process and content: level of agreement; principles of co-ordination for works; reasonable conditions; dispute process**
- **CoP will be authorised and identified by each relevant Act. Hard copies of the Code will be made available (today!) for consultation before the authorisation is enacted.**



Minister of Economic Development also to have power to create a regulated CoP

- **Mandatory consultation with other Ministers as before**
- **Minister first has to decide that stakeholders cannot agree to establish a satisfactory mechanism on a voluntary basis**
- **Test would be that parties continue to raise issues that seemed unable to be reasonably agreed on, or that the parties were failing to produce a Code of Practice within a reasonable period of time, or any other circumstances under which the conclusion would be reached**
- **Minister can decide that a regulated code of practice should be created.**
- **The test would be that the development of a regulated code of practice would be the most appropriate way to improve the efficiency of utilities access while not compromising road safety, taking into account previous efforts by stakeholders to develop their own.**

Next steps

- **The Utilities Access Amendment Bill is on the legislative programme for 2008:**
 - **Bill is introduced to the House of Representatives with first reading no less than three days late. If 'voted' to go to second reading, the most important step is the select committee process**
 - **The select committee (SC):**
 - **hears public submissions,**
 - **recommends amendments, and**
 - **reports recommendations back to Parliament – up to 6 months**
 - **The second reading takes into account the SC report**
 - **Third reading (if 'voted' to go) then royal assent**
- **Aiming for an enactment date of March 2009 with the Code being legal from then**
- **Web address for NZ parliament select committees which details the time and place for hearing on bills**
- **www.parliament.nz/en-NZ/SC/**

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Morning Tea



Session 2: Planning for works

- **Overview of Code contents**
- **Roles and responsibilities**
- **Planning for access**
- **Sharing key information**
- **Cost sharing**
- **Dispute resolution**
- **Questions**



Overview of Code Contents

- **Introduction**
- **Principles supporting the Code**
- **Roles and Responsibilities**
- **Sharing Key Information**
- **Planning for Access to the Road Corridor**
- **Working in the Road Corridor**
- **Access to Motorways**



Code Contents Overview cont.

- **Access to Rail Corridors**
- **Applying for Corridor Access**
- **Reasonable Conditions**
- **Compliance**
- **Cost Sharing**
- **Dispute Resolution**
- **Continuous Improvement**



Code Contents Overview concl.

- **Schedules**
 - **Interpretation & Construction**
 - **Forms**
 - **Template for Reasonable Conditions**
 - **Process**
 - **Risk Management Process**
 - **Referenced documents**



Roles & Responsibilities

- **Set out roles of each stakeholder**
- **Set out responsibilities of each stakeholder**
- **Overriding responsibilities to work together**



Roles & Responsibilities

- **Corridor Manager**
 - Road
 - Rail
- **Utility Operator**



Role of the Corridor Manager

- **Set reasonable conditions**
- **Ensure and enforce compliance**
- **Communication with stakeholders**
- **Reasonable care not to damage other parties infrastructure or cause unnecessary disruption**
- **Co-ordinate where practicable work in the corridor (road)**
- **Receive and process notifications/ requests**
- **Organise meetings with utilities**



Role of the Utility Operator

- **Notify corridor manager of any impending work**
- **Comply with reasonable conditions**
- **Reasonable care not to damage other parties infrastructure or cause unnecessary disruption**
- **Advise location of assets in corridor**
- **Attend liaison meetings arranged by Corridor Manager/s**



Roles & Responsibilities

- **Liability for suppliers and agents. Stakeholders are responsible for their agents and contractors.**
- **Corridor Managers as Utility Operators – comply with roles and responsibilities of a Utility Operator.**
- **Conflicts of interest – set of best practice principles to deal with conflicts of interest between stakeholders.**



Planning for work: Access

- **Greater efficiency through coordinated strategic planning**
- **Promote greater cooperation and communication**



Intention

- **Share forward plans (eg LTCCP, District Plans)**
- **Work towards a balance of interest**
- **Maintain integrity of transport corridor/road/utility assets**
- **Safety and efficiency**
- **Eliminate, isolate or minimise road safety hazards**



Intention cont

- **Encourage sharing of trenches and poles**
- **Encourage trenchless construction**
- **Ensure utility equipment does not effect private property access/common law frontages.**



Interesting bits

- **Liaison meetings**
- **Allocation of space**
 - **Redundant/abandoned utilities**
 - **Unused ducts**
 - **Congested corridors**



General Principles for Placement of Utilities

Consider

- **Protect finite resource**
- **Statutory spacing**
- **Multiple ducting**
- **Trench sharing**
- **Innovative approaches encouraged**
- **Traversing of carriageway minimised**



Preferred Lay Positions

Seven key situations addressed:

- **Greenfields**
- **Developed urban areas**
- **Congested urban areas**
- **Rural lifestyle**
- **State highways**
- **Motorways**
- **Railways**



Safety Issues for Above-ground Structures

- **Risk assessment**
- **Bridges/structures/embankments**
- **Poles (Schedule E)**



Sharing key information

- **Why include this section in the Code?**
- **Challenges**
- **What information is needed?**
- **Future processes**



Why include this in the Code?

- **Current information**
- **Third party damage**
- **2006 Workshop outcome**
- **Responsibilities**



Challenges

- **Commercial confidentiality**
- **Behaviour/ cultural change**
- **Management systems**
- **Lack of framework**



What information is needed

- **Sharing forward plans**
- **Presence of assets**
- **Nature and location of assets**
- **Redundant assets**



Future process

- **Coordination of works**
- **Corridor manager can advise parties**
- **Affected parties advise locations**
- **Plan works and agree locations**
- **Locate services on site – discrepancies**
- **Maintain accurate records and make available as required**



Cost sharing: Legislation

- **No silver bullet**
- **Framework**
- **Changes to Telecommunications Act**
- **Causer pays**
- **All utilities are treated the same**



Principles

- **Equity**
- **Causer pays- with care**
- **Direct costs only**
- **Betterment**
- **Wrongly located services**
- **Administration costs**
- **Seek the optimum overall solution to all parties (early!)**



Dispute Resolution

- **Current process**
- **Shortcomings**
- **Proposed process**
- **Benefits**



Current Process

- **Only for reasonable conditions**
- **Only Court-based**
- **Lengthy and costly**
- **Risk of delays**



Shortcomings – why isn't it working?

- **No process except to Court: no incentive**
- **Some relationships work, but not encouraged**
- **Adversarial**
- **Current timeframes can preclude resolution**
- **If go to court, precedents are set**
- **Minor issues fester**



Proposed Process

- **Any matter**
- **Either party can initiate**
- **Step-by-step**
- **Conciliatory**
- **Four options**
- **Process is best practice**
- **Can pick and choose, but reduces options**



Benefits

- **Supports a relationship-based approach**
- **More open**
- **Flexible**
- **Encourages negotiation**
- **Can be quick and cost-effective**

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Lunch





Session 3: Carrying out works

- **Corridor access procedures**
- **Reasonable conditions**
- **Construction guidelines**
- **Compliance and quality**
- **Questions**



Corridor Access Procedures (CAR and WAN)

- **Current process**
- **Shortcomings of Current process**
- **Proposed process**
- **Benefits of proposed process**



Current Process

- **Utility notifies RCA prior to commencing works.**
- **RCA has 15 or 20 working days to impose any reasonable conditions.**
- **If not, the utility may commence work.**



Shortcomings of the Current Process

- **Forms/information vary between RCAs**
- **Non-standard conditions (although many are very similar).**
- **Notification period can be insufficient for major projects.**
- **Details of applications vary widely**



Proposed Process

- **Preliminary notice/dialogue for all significant planned works.**
- **Information requirements specified.**
- **Utility notifies Corridor Manager prior to commencing works.**
- **Template form is provided “Corridor Access Request” or “CAR”.**



Proposed Process cont.

- **CM has 15 working days to advise conditions.**
- **Template conditions ‘Works Approval Notice’ (WAN) will apply even if CM does not respond within 15 working days.**
- **Processes for development of “Special” or “Local Conditions”.**



Benefits of Proposed Process

- **Preliminary notification for significant planned works.**
- **Standardised processes and documents.**
- **Baseline “Works Approval Notice”.**
- **Increased certainty.**



Reasonable Conditions

- **Current Process**
- **Shortcomings**
- **Proposed Process**
- **What is a reasonable condition?**
- **What isn't a reasonable condition?**
- **Special Conditions**
- **Local Conditions**
- **Benefits**



Current Process

- **Right of access subject to reasonable conditions**
- **Time limit on response**
- **No response, no conditions**
- **Right of appeal to Court only**



Shortcomings of Current Process

- **Lack of definition**
- **Uncertainty**
- **Appeal process lengthy and costly**
- **Adversarial**



Proposed Process

- **Reasonable conditions defined**
- **If no response from Corridor Manager, base conditions apply**
- **Still a notice and Utility Operator can commence**
- **Three categories of conditions**
- **Template in Code**
- **Process for defining local and special conditions**



What is a Reasonable Condition?

- **Criteria in Telecommunications Act**
- **To be extended to Gas and Electricity Acts**
- **RCA's provided their standard conditions**
- **Good degree of uniformity**
- **Some covered by Code now**
- **Debated: outcome in Code template**
- **Amenity outcomes identified in, and consistent with, LTCCPs**



What isn't a Reasonable Condition?

- Preventing, frustrating or unreasonably delaying installation or maintenance
- Unreasonably avoiding future costs
- RMA issues
- Too unreasonable
- Appropriateness of the work
- Requiring amenity outcomes not specified in LTCCPs



Local Conditions

- **Related to condition or event or area, not work**
- **Not time dependent**
- **Issue to all relevant parties for comment**
- **Must attempt to resolve disagreement**
- **If cannot, may be imposed**
- **If imposed, can then go to dispute**



Special Conditions

- **Particular to the works**
- **Notify in draft and seek comments**
- **Must attempt to resolve disagreement**
- **If cannot, must be imposed**
- **Can then go to dispute**



Benefits

- **Templates give certainty**
- **Reduced timeframes, streamlined processes**
- **Encourages liaison**
- **Better resolution of disputes**



Working in the Roads (Construction Guidelines)

Purpose

To provide a set of best practice processes for installation, improvement, maintenance and removal of utilities to ensure consistency and protection of these assets.



Working in the Roads (Construction Guidelines)

Content – (Based on Working in the Roads Handbook)

- **Minimum cover**
- **Location of existing services**
- **Trenching**
- **Surface Layer**
- **Warranty/Post construction Maintenance**
- **Completion requirements**
- **Emergency response/remedial work**



Working in the Roads (Construction Guidelines)

- **Existing utilities, trees, reinstatement**
- **Traffic management**
- **Survey marks**
- **Hours of works**
- **Noise levels**
- **Communications/PR**
- **Warranty**
- **Site management**



Code Compliance

- **Utility operator responsible for its contractors' work**
- **Corridor manager wants confidence that standards will be met**
- **All principals are seeking the work to be carried out “right first time”, and for good behaviour to be developed and maintained by all parties, especially contractors**
- **Audits provide the proof that standards are being met**
- **Utility operator provides warranty for its work**
- **Non-compliance is addressed in the Code**
- **Quality plans are required for all work.**



Benefits of meeting Code requirements

- **Work is done “once only”**
- **Reduced re-work**
- **No repeat disruptions to the public**
- **Better relationships**
- **Reputation for all parties (customer complaints?)**
- **Fewer claims for losses**
- **Reduced need for corridor manager audits**
- **Pride in output for workers**
- **Lower costs**



Non-compliant Work

- **Corridor Manager may request details to demonstrate that work is to standard**
- **May seek independent opinion / tests**
- **Costs will lie with the offending party**
- **Notices of non-conforming work or Stop-Work orders can be issued**

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Afternoon tea





*Working in the
Corridors*

Session 4: Conclusion

- **Panel discussion and feedback from the floor**
- **Summary of the issues**
- **Making written submissions**
- **Evaluation forms**
- **Where to from here?**



Questions??

The panel will comprise the following:

Peter Berry	Electricity Engineer's Assoc
Phil Consedine	North Shore City Council
Ian Cox	Transit NZ
Phillip Eyles	Local Government NZ
Mark Larsen	Telecom



Giving written feedback

- **Standard format- see form, also on website www.nzuag.org.nz**
- **Due 25 March 2008**
- **Organisational approach**

**If identifying any problems
for your organisation
please suggest some solutions**



Summary of the issues

David Fraser, Chairman NZUAG

- **Background to the code**
- **Content of the Code**
- **Issues raised during the day**
- **Meeting our objectives**



Our objectives were:

- **Introduce the draft Code to the whole sector**
- **Understand the context**
- **Understand the contents – what, why, where, how, who, when**
- **Recognise the evolution from Working in the Road – updates / changes**
- **Opportunity for input and feedback**
- **Commitment to the Code and its implementation**



Additional Benefits

- **Opportunity to work together for best community outcomes**
- **An enhanced understanding of each other's positions**
- **Can build on the goodwill that has developed between the parties**



Implementation issues

- **Transition period till Code is mandated by law**
- **Organisational socialisation of the code – staff, consultants, contractors**
- **Ironing out any glitches**
- **Other support required?**
- **Measurement, monitoring, reporting**

Thanks

- **to the presenters**
- **suppliers of photos**
- **for your attendance**
- **for completing the Evaluation form**
- **for your commitment to show leadership on the Code**

Have a safe journey home