

# SM012 State Highway Control Manual

## Part 3 - Consolidated Asset Management Sections

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# Management of the State Highway Network

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**NZTA administrative service**

NZTA is responsible for the provision of administrative services for the management of the State highway network.

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**NZTA service**

NZTA itself will provide technical, administration, planning, and legal servicing as required to protect and manage the State highway asset. This service will be in accordance with the GRP Act, *State Highway Control Manual*, NZTA, and the *PIKB*, and is generally of an administrative nature.

NZTA will arrange for other professional services used to assist in statutory control or for the investigation, design and supervision of physical work on State highways.

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**Provision of professional services**

The provision of professional services to assist in statutory control or for preparing or carrying out of State highway maintenance, works and property management shall be obtained by an approved tendered competitive pricing procedure developed in accordance with the Land Transport Management Act s27.

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**Provision of physical works**

The provision of all physical works on State highways and ancillary property shall be obtained by an approved tendered competitive pricing procedure developed in accordance with the GRP Act s90.

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**Delegation of NZTA powers to Territorial Local Authorities (TLA)**

The GRP Act s62 provides that all or any of the functions, duties and powers of construction, maintenance and control conferred on the Board with respect to any State highway or portion of State highway may be delegated by the Board to the TLA in whose district the State highway is situated.

Such delegation can only be by mutual consent and the full power and control over State highway policy remains with the Board, and every delegated TLA shall comply with such policy.

Guidelines on delegation of State highway functions to TLAs are given in Part 11, pages 22 to 24 *Guidelines for Delegation of Functions to Territorial Local Authorities*.

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## Other Statutory Controls

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### **Purpose**

Situations often arise where action is required to meet an immediate situation. Provision is made in various regulations for prompt action to be initiated without the need for a bylaw or more formal control measures.

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### **Temporary traffic control**

The requirements for temporary traffic control and temporary speed limits are contained in the NZTA manual “Code of Practice for Temporary Traffic Management”.

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### **Emergency prohibition of heavy motor vehicles (HMV)**

The National Manager Maintenance is authorised to prohibit heavy motor vehicles from using State highways in terms of regulation 10(4) of the HMV Regulation 1974.

This power must be used sparingly and only to prevent extraordinary damage to the highway, as a result of an emergency resulting from climatic conditions or other unusual circumstances, as referred to in regulation 10(5) of the HMV Regulations 1974.

All cases where this regulation is invoked are to be reported to the Board for information.

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### **Road construction zones**

System Managers, Regional Managers, the Portfolio Manager – Portfolio E (Special Projects) and Alliance Manager (WTA) are authorised to declare Road Construction Zones on State highways in accordance with regulation 12 of the HMV Regulations 1974.

The zone can be applied to construction or maintenance works. The purpose of such a notice is to be able to run special or non-standard vehicles on the whole or part of a section of the highway being reconstructed. It is not intended that it should allow overloading of vehicles beyond the manufacturers’ recommended limits as this may be detrimental to vehicle safety. The specific types and particular limits of these vehicles must be stated on the notice.

The boundaries of any road construction zone shall not extend beyond the specific section of road under construction but may be of lesser length. The length of the zone should only be that part of the site for which any resultant damage from these vehicles will not be critical in the future management of the highway. The limitations on access within the zone for all or any particular type(s) of vehicles must be stated on the notice.

The construction zone will also need to apply when the particular vehicles are being used on any haul road within the road reserve, even if the carriageway itself is not utilised.

The Regulations require that a copy of the notice (and any amendment to it) is lodged with the Agency. This requirement is to advise a change in allowed vehicle standards on a road and therefore a copy of any State highway notice must be sent to the appropriate Manager, Road Compliance, Transport Access Delivery Group within the Agency.

NZ Police (CVIU) is also to be advised of all construction zones and be sent a signed copy of the notice. The CVIU may also be consulted if there are concerns about the vehicles requested to be included in the notice.

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### **Control of damage and nuisance**

System Managers are authorised under s51 of the GRP Act to grant permission and set conditions for activities which would otherwise be unlawful and seek Court action in respect of offences.

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**Drainage works**

Regional Managers, System Managers, the Portfolio Manager – Portfolio E (Special Projects) and Network Managers, at all levels from Network Managers up and various officers of the Wellington Alliance (refer delegations), are authorised under the GRP Act sections 61(4)(j) and (m) to construct or maintain drainage facilities necessary for the safe operation of State highways. However, where this affects private land, the entry is only at the discretion of the Regional Managers, System Managers or the Portfolio Manager and all procedures in sections 61(6) through (10) must be observed as required. Should the landowner make any application to the Courts, the Regional Manager and the Legal Team must be notified immediately information is received.

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**Limited Access Roads Purpose**

NZTA policies on access management are contained in the *Planning Policy Manual (PPM)*. The declaration of State highways as Limited Access Roads is an access management tool available for contributing to the control of the interface between the road and adjacent land in a way that protects the utility and amenity of both. By reducing or controlling access to arterial roads and influencing development along the road margins, the detrimental effects on the efficiency and safety of the road for road users will be minimised and will increase safety for the landowners.

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**LAR Statutory Authority**

The statutory authority for the creation and revocation of LARs is contained in the GRP Act s88 to s98.

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**LAR Responsibility**

System Managers and Alliance Managers (WTA) are responsible for initiating declaration proposals, provided the lengths proposed are in accordance with the following:

- the State Highway Asset Management Plan; and
  - the annual national priority listing of State highway lengths for declaration as established by the process outlined in the *Planning Practice Guidelines Manual (SM085)*.
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**LAR Procedure to be followed**

The procedures to be followed are as follows:

- for prioritisation of lengths for declaration refer to the *Planning Practice Guidelines Manual*
  - for initiating declarations, management and revocation of LARs prepare an appropriate Business Plan for approval. The quality of documentation for the process should be set out in the approved Project Quality Plan. **The criteria for legal descriptions for New Zealand Gazette notices are given in *Legal Descriptions for Gazette Notices* in Section 11 on page 63.**
  - each region is required to include its priority listing of length for declaration in the annual plan and business plan as appropriate.
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# Removal of Abandoned Vehicles

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## Overview

The Local Government Act 1974 s356 deals with procedures for dealing with abandoned vehicles. This is distinct from vehicles unnecessarily blocking roads or impeding traffic flows and is dealt with by Police in terms of the Traffic Regulations.

Under the Act, NZTA is deemed to be a local authority in respect of State highways under its control. System Managers and Alliance Manager (WTA) may exercise this authority.

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## What is an abandoned vehicle?

The law does not spell out just when a vehicle has become abandoned. System Managers and Alliance Manager must use their judgement in this matter.

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## Classes of abandoned vehicles

There are three categories of abandoned vehicle:

Category	Description
A	Those with neither number plate nor licence label.
B	Those with either a number plate or a current licence label, but not both.
C	Those with a number plate and either <ul style="list-style-type: none"><li>a current licence label, or</li><li>a label that has been expired for not more than 6 months.</li></ul>

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## Notify the Police

The NZ Police must be advised of all vehicles deemed abandoned and NZTA's intention to remove them.

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## Storage requirements

The following storage requirements apply:

Category	Storage Requirements
A & B	Store until reasonable efforts to identify and locate the owner have been completed.
C	One-month storage while reasonable efforts are made to identify and locate the owner.

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## Identify and locate the owner

The following minimum procedures shall apply:

Category	Minimum Reasonable Efforts
A, B, & C	Use the chassis and other vehicle identification numbers to identify and locate the owner.
B & C	Contact the Transport Registry Centre of NZTA, who maintain

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the motor vehicle register, on 0800 108 809.

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**Registered security interest**

If a search within the Transport Registry Centre shows the vehicle is subject to a registered security interest, then the holder of the interest must be notified of the intention to sell or dispose of the vehicle.

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**Newspaper notice**

A notice of intention to dispose of or sell the vehicle, if unclaimed after 10 days, must be given. The notice must be published in two issues of a daily newspaper circulating in the district in which the road from where the vehicle had been abandoned is situated.

The notice may be dispensed with if the vehicle is of little or no value.

The notice must include:

1. Vehicle description, make, model, colour.
  2. Chassis number and any other identifying numbers (if known).
  3. Location from which the vehicle was removed.
  4. For category C vehicles, the name of the current registered owner and their last known address.
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**Disposal of the vehicle**

If the vehicle owner does not reclaim the vehicle the vehicle may be sold or otherwise disposed of.

A set of photographs of the vehicle may be useful particularly if the owner does not respond or cannot be located.

The proceeds of the sale may be used to pay for the removal and storage of the vehicle, the newspaper notice and costs of selling the vehicle.

Money left over must be paid to the owner (if known).

If the former owner is not known the money may be retained.

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**Owner reclaims vehicle**

The owner must pay all removal and storage expenses before the vehicle is returned.

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# Highway Distance Marking, Inventories, Data Recording, Traffic Characteristics and Culvert Marking

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## Introduction

This section specifies the procedures to be followed to record the location, type and condition of each separately identifiable portion of the State highway asset.

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## Responsibility

System Managers and Alliance Manager (WTA) are responsible for ensuring all State highway distance marking, inventories and data recordings are maintained.

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## Distance measurement

All State highways shall be marked out in accordance with *Location Referencing Management System Manual*, NZTA.

This manual states requirements for all business processes associated with managing network changes.

The distance measuring system shall be used to reference all features and ongoing activities occurring on the State highway network.

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## Maintenance of distance marking system

Distance marking signs and roadmarkings shall be maintained to the standard specified in *Location Referencing Management System Manual*, NZTA.

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## Highway information and route data sheets

Highway information sheets give a pictorial and tabular description of the highway features.

Route data sheets give a tabular distance listing of significant features on or abutting the highway.

Both systems provide a quick, user friendly reference for frequently used highway data.

Highway information sheets shall be compiled in accordance with the *Guideline for Preparation and Validation of Highway Information Sheets* (HIS) - Connell Wagner 1994.

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## Maintenance of highway information and route data sheets

These sheets are generated directly from RAMM asset data, so it is important that the asset data is completely updated as at the 30 June each year. Copies of the sheets can be accessed directly on-line.

Network Managers are responsible for ensuring that the asset data in RAMM is sufficiently complete so that the data presented on these sheets represents a meaningful picture of each road section.

Refer to LRMS Manual for other business processes associated with updating highways/roads.

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**Inventory information**

In addition to the pictorial information provided by the highway information sheets, System Managers shall also ensure other inventory data are maintained as follows:

1. Aerial photographs of the State highways.
2. Traffic volumes and vehicle classifications (using the TMS system).
3. RAMM Inventory, Condition Rating, Maintenance Cost and Traffic Information.
4. State highway lighting installations maintained by NZTA.
5. State highway traffic signals installations maintained by NZTA.
6. State highway railway level and grade-separated crossings.
7. State highway roadside landscaping areas maintained by NZTA.
8. Major retaining or drainage structures.
9. State highway stopping places.
10. State highway weigh stations, weighpits and WIM sites.

All data shall conform, where applicable, to the *State Highway Database Operations Manual* (SM050).

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**Traffic characteristics**

System Managers shall, in liaison with the Data Management Team, Technology Engineering, maintain a network of sites and equipment for monitoring directional traffic characteristics e.g. hourly volumes, urban 15-minute peak volumes, speed, composition, axle loading and seasonal variations.

System Managers shall ensure all data is entered into the TMS system continuously throughout the year. This data is summarised in the Traffic Management System on-line. All Offices are responsible for ensuring the correct transfer of traffic data into RAMM.

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# Road Construction and Maintenance Standards

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## Introduction

NZTA has approved national standard documents specifications with notes to cover a range of construction and maintenance activities on State highways.

Current national standard Services (TS) contract documents are:

- State Highway Professional Services Contract Proforma Manual SM030
- State Highway Construction Contract Proforma Manual SM031
- State Highway Maintenance Contract Proforma Manual SM032
- Network Outcomes Contract Management Manual SM034.

A schedule of all current specifications can be obtained from the Manager, Procurement Strategy and Methods, Wellington.

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## Application of Standard Contract Documents

The following guidelines shall apply to the use of standard contract documents:

1. Standard contract documents shall be used for all appropriate contracts unless written dispensation has been received from the Manager, Procurement Strategy and Methods.
  2. The standard contract documents shall be maintained by the Manager, Procurement Strategy and Methods, and all requests for documents and recommendations for change shall be forwarded to that officer. Requests for assistance and/or change can be sent to the e-mail address [procurement@nzta.govt.nz](mailto:procurement@nzta.govt.nz).
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## Application of Standard Specifications

The following guidelines shall apply to the use of standard specifications:

1. All construction and maintenance on State highways shall be in accordance with NZTA standard specifications where these exist.
  2. Project specifications shall list only those standard specifications relevant to the project.
  3. Specification notes shall not be included in contract documents.
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## Road and ancillary services maintenance

Guidance on the required level of service is given in *SM031* and the *State Highway Asset Management Plan*.

Specifications detailing the contractual requirements are contained in the *NZTA Standard Specifications* and the Manuals *Traffic Control Devices* and *"Code of Practice for Temporary Traffic Management"*. Some specifications have accompanying notes documents to provide additional guidance on best practice.

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## Responsibility

System Managers and Alliance Manager (WTA) are responsible for the inspections and maintenance of all sections of State highway including those sections delegated to TLAs.

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# Bridge Maintenance Standards

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## 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.

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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 is carried out by a TLA.

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

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## Painting of bridges

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

1. The coating is necessary for protection purposes; or
  2. The coating has been approved as part of the design; or
  3. The Lead Advisor Structures' approval has been obtained.
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## Railway bridges

The NZTA has a formal agreement with KiwiRail covering the use and maintenance requirements of railway bridges used as carriageway on State highways. For contract purposes initial details can be obtained from the Structural Performance Team, Programme and Standards. Otherwise, specific details of those requirements should be obtained from KiwiRail.

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# Road Asset and Maintenance Management Systems

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## Overview

The NZTA uses a number of systems for asset and maintenance management. Key systems in use are RAMM (core asset database), TMS (core traffic data) and dTIMS (asset management planning tool). The use of these systems is mandatory for all State highways.

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## Key purpose of systems

The systems are used in order to assist with asset management. In this regard, they must be up to date so that:

Management decisions are made based on an objective and auditable approach. Management reports can be produced for a wide variety of stakeholders (particularly Ministry of Transport and members of public). Data for such decisions and reports will be required from time to time by regional offices, consultants and the Wellington Office and it is therefore important that a regular update and audit cycle is achieved.

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## Information on use of systems

Information on use of the systems is described in more detail in the following publications:

- State Highway Database Operations Manual (SM050) - this describes the key responsibilities for maintenance of the RAMM database and includes the Asset Information Annual Planner for deliverable dates (see below)
  - Traffic Monitoring Manual (SM052) - describes the methodology for traffic counting
  - Annual Plan Instructions (SM018) - describes the requirements for delivery of the 10-year forward works programme
  - Location Referencing Management System Manual (SM051) - describes the process for maintaining the road location referencing and network model (including information processes when the network is updated) dTIMS Setup Release Instructions - these are issued annually around the time of the annual plan instructions giving more details on the use of dTIMS for the year.
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## Timeframe for deliverables

The Asset Information Annual Planner (AIAP) is updated annually and released in January as an update to the SHDOM. It shows the key dates for ensuring that the flow of information from consultants and contractors, through NZTA Offices, to Wellington Office is achieved.

Given the number of parties involved in the process, it is impractical to quote single dates for deliverables. Instead, a timeframe for each deliverable milestone is shown (typically one to two weeks). Contract Managers and consultants should aim to deliver outputs by the earliest date shown (and no later than the latest date) and Wellington Office will turn around outputs in the order received, to ensure Wellington Office delivers back to the other offices within the designated timeframes. NZTA Contract Managers should inform Wellington Office of their expected deliverable dates in advance so that Wellington Office can anticipate and efficiently manage the database updates.

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**Key System Management team responsibilities**

The key responsibilities of the System Management teams (and their supporting network operations contractors) are as follows, with the relevant system shown in brackets:

- Delivery of the annual condition rating survey - this supports the high-speed data in describing the condition of the network (RAMM)
  - Delivery of maintenance cost data - this enables better understanding of where maintenance effort should be focused in future (RAMM)
  - Delivery of inventory updates - to ensure the database is comprehensive (RAMM)
  - Delivery of traffic data - to identify network use (RAMM and TMS)
  - Delivery of the 10-year forward works programme - to demonstrate an objective and auditable approach is being taken to network management (RAMM and dTIMS)
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**Key Wellington office responsibilities**

Key Wellington office responsibilities are:

- Delivery of high-speed road condition data (roughness, texture, skid resistance, rut depth and various geometry data)
  - Update of the road centreline/network model (supported by information from NZTA offices)
  - Various national reports and publications throughout the year, using data from the systems
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**Releasing data**

When RAMM data – or any similar database information - is released to persons other than NZTA’s consultants, the following procedures shall be undertaken:

1. All RAMM data shall be produced by direct printout from the RAMM database.
  2. An appropriate NZTA staff member, working independently of the person producing the data, shall check the data.
  3. In addition, SCRIM data shall be released only with the “Basis for Release of Data” on pages 13 and 14 attached under cover of a letter bearing the NZTA letterhead and signed by an appropriate NZTA staff member.
  4. No data may be released without an appropriate disclaimer attached to the data.
  5. The required documents must be attached to all data released to a person other than NZTA staff or consultants working for NZTA who have a contractual obligation to comply with NZTA’s policies.
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# Attachment to SCRIM Data Releases

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## In this Section

This section contains the basis upon which information supplied by NZTA or its consultants is released and notes to assist with the interpretation of Skid Resistance Data.

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## Basis for Release of Data

Information supplied by NZTA or its consultants is released on the following basis:

5. A SCRIM machine is used for the State Highway Skid Resistance summary.

Older data is recorded as Mean Summer SCRIM coefficient (MSSC). Recently data has also been corrected for between year variations. This data is recorded as Equilibrium SCRIM Coefficient (ESC). This data is prepared for the routine network wide monitoring of the skid resistance of surface aggregate. It provides comparative information. While it gives an indication of areas where surface repairs may be required it is only one of the indicators used for that purpose. Caution must be exercised if attempting to draw other conclusions from the data or using it for other purposes.

2. While every care has been taken in the measurement, recording and retrieval of the information no guarantee can be given as to the accuracy of any of the data.
3. Interpretation of the data requires expert judgement. Persons with appropriate expertise should be engaged to assist with interpretation.

### Notes to assist with the interpretation of MSSC data

The Vision Zero Strategy has set targets to reduce fatalities and serious injuries from road crashes. An action taken to assist in realising these targets is the provision and maintenance of reasonable levels of skid resistance on the road surface. As a consequence, NZTA endeavours to undertake a skid resistance survey of the State highway network on an annual basis during the summer period (November to March) when skid resistance levels are generally at their lowest. The following is a general outline of the methodology.

- This survey generally involves measurement of wet skid resistance in both wheelpaths, for both directions of travel. On multilane roads at least the left-hand lane, (which usually is the location of the lowest skid resistance as it is generally used by heavy vehicles) is surveyed. The data acquired is used to assist with decision making associated with road maintenance management and to evaluate achievement against road condition targets.
- Measurement of the wet skid resistance and other road condition factors of the highway network is made with SCRIM+. SCRIM+ is basically a 10-tonne water tanker carrying sufficient water for about 60 km non-stop self-wetting skid testing and fitted with two skid test wheels, one for each wheelpath plus other equipment to record road shape. The test wheel is a treadless (blank), pneumatic tyre with its own load and suspension system that is angled at 20 to the direction of travel. A controlled jet of water wets the road surface immediately in front of the test wheel, which is free to rotate in its own plane. Therefore, as the vehicle moves forward, the test wheel scuffs in the sideways direction. The ratio of the force developed perpendicular to the plane of rotation (the side force or cornering force) to the load on the test wheel, is measured continuously along a road and stored as a mean value over lengths of 10m. This ratio is known as the sideway-force coefficient (SFC). Road shape features are also measured and stored.
- The conditions of measurement and tyres used do not represent any particular car or truck. However, the SFC data is representative of the wet skid resistance performance of road surfaces and is utilised by NZTA to monitor the skid resistance performance of pavements.
- SFC values of road surfaces change significantly as a result of short-term and long-term variations in weather conditions, temperature measurement speed etc. Correction factors are therefore applied to bring the SFC data to a common basis for comparison purposes. SFC data standardised in this way is termed the (MSSC). MSSC represents the average value of skid resistance (SCRIM) expected during the summer. It is also close to the minimum skid resistance during the year. MSSC data that has been corrected for between year variations is called ESC. ESC data

is used by NZTA as input to its *in-house* analysis routines, which have been developed to aid in the identification of sites that could potentially benefit from increased levels of wet skid resistance and assist with programming of future maintenance work. SCRIM data held in the RAMM database by NZTA is released to third parties in MSSC or ESC form only.

- Although MSSC represents a very important factor in determining the level of wet road safety, it is by no means the only one. Other factors considered in making road maintenance management decisions include crash histories, possible temporary pavement contamination, texture depth, rutting and roughness, traffic characteristics, road geometry, and driving difficulty. The safety of a road section is the result of the interaction of many factors. Therefore, NZTA and its network management consultants consider all factors when determining whether or not a road section needs treatment.
- Road surface skid resistance is highly time and season-specific. Caution must be exercised when using ESC data to assess whether or not the road surface might have been a causal factor in a crash as it is unlikely that the time of the survey will coincide with that of the crash. Furthermore, although MSSC values are similar to *locked wheel* coefficient of braking friction values obtained by NZ Police, they are not directly related. As a consequence, processing of MSSC data for use in crash reconstructions or comparisons with Police investigations should only be attempted by experienced personnel who are fully aware of the limitations of measurement methods and conversion procedures.

# Safety during Work

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## Overview

The provisions of the Health and Safety at Work Act 2016 apply to all NZTA activities on or off the highway. Under this Act NZTA, its Consultants and Contractors have a legal responsibility to ensure that employees and members of the public are protected from risk of injury or illness in the workplace. The Government Roadway Powers Act s61 requires the Board to take all steps necessary to ensure a safe environment under the provisions of the LG Act s353, 1974.

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## General thrust of the Act

The Act generally seeks compliance through the formulation and use of a common safety policy by employers and employees. The safety policy should embody elements such as those that follow:

Employers will ensure:

1. Safe working practices and first aid skills are taught.
2. Safety and health risks are minimised or eliminated.
3. All necessary safety and protective equipment is provided.
4. Employees and members of the public are protected from risk of injury or illness in the workplace.
5. Safety rules and regulations are understood and strictly observed.
6. Safety and health performance targets are set and monitored.
7. Periodic audits of safety and health systems and procedures are carried out.
8. Feedback from employees through Health and Safety Representatives and Safety Committees is encouraged.

Employees will:

1. Act safely at all times.
  2. Take all reasonable precautions to prevent the risk of injury to themselves or others.
  3. Use safety and protective equipment provided.
  4. Not interfere with any safety device or protective equipment.
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## Roadwork sites

System Managers are responsible under s353 of the LG Act 1974 to ensure that proper actions are taken for safety of the public and workmen by the erection of barriers, signs, lights, road closure signs, etc. as appropriate during the execution of any work on State highways. This includes work carried out by utility authorities or any other authorised person working on or near the highway.

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## Standards and procedures for temporary traffic control

The standards for traffic control at any work site on the State highway are set out in NZTA's Manual "Code of Practice for Temporary Traffic Management".

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# Recovery of the Cost of Damage to Road Furniture and Equipment

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## Legal Basis

A review of the law and the policy has been undertaken. The review has concluded that the law and the policy (in relation to damage, etc.) as based on the law of negligence are legally uncontroversial. If a person acts negligently and causes damage, that is reasonably foreseeable as resulting from the negligent act, to property, then generally that person is liable to the owner of the property for repairs or replacement. If there are also consequential losses such as traffic management, site clearing etc., which are reasonably foreseeable as arising from the damage caused, then to the extent they are reasonable, they can be recovered.

The issue of whether a person is liable for losses in the absence of physical damage can be less clear, so no claims should be made in this situation without seeking legal advice to review an analysis of the facts and law relating to particular incidents.

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## Responsibilities of NZTA offices

Where damage has occurred to highway assets, infrastructure has been compromised and/or a significant disruption has eventuated through 3rd party negligence; then as a prudent asset owner, NZTA should seek reparation for costs incurred. Discretion should be exercised in every case, including when lesser amounts are involved (for example, less than \$1,000).

The NZTA Contract Manager should be advised promptly by the Network Operations Contractor of the verification of the party alleged to be liable and the repair costs (and/or traffic management costs as appropriate) of any damage done to road furniture or equipment. The process flowchart is included on page 20 below.

When the party alleged to be liable is able to be identified (generally the appropriate driver) and it is deemed appropriate to make a claim, the NZTA Office should send out the first letter advising of a potential claim. When satisfied as to the legitimacy of the claim and in receipt of the cost details, the NZTA Office should send the second letter itemising the claim and make all reasonable efforts to recover these costs appropriately, promptly and efficiently.

Note that both full cover and third-party insurances should cover these costs and should be able to be claimed against. Unless the asset that was damaged was already in an upcoming maintenance programme to be replaced as a maintenance renewal, there is precedence in case law that the recoverable cost is full replacement value without depreciation.

Principal and Senior Network Managers are empowered to manage the process in the usual course of business. If there are concerns about any specific case or the need to take legal proceedings, the System Manager should be consulted and the final decision on whether to recover costs rests with the System Manager. The System Manager has full discretion to pursue or waive the recovery of costs including the seeking of redress through the Disputes Tribunal or District Court.

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## Summary of Principles

To prove liability in negligence the NZTA must be able to show that it is more likely than not that:

- the person claimed against owed a duty of care to the NZTA (i.e. a duty not to drive below the standard of a reasonable and prudent driver so as to cause loss to the NZTA);
- the person claimed against breached that duty of care (i.e. drove negligently);
- the breach of the duty of care caused loss that was reasonably foreseeable as arising



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from the breach;

- it is reasonable and fair between the parties for compensation to be paid;
- there are no countervailing considerations in either policy or the public interest that outweigh *prima facie* liability; and
- the amount claimed is reasonable.

Where the loss is economic and not the result of physical damage to property (for example, traffic management costs only) no claim should be made without first obtaining legal advice.

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**Guidance in respect of fatal crashes**

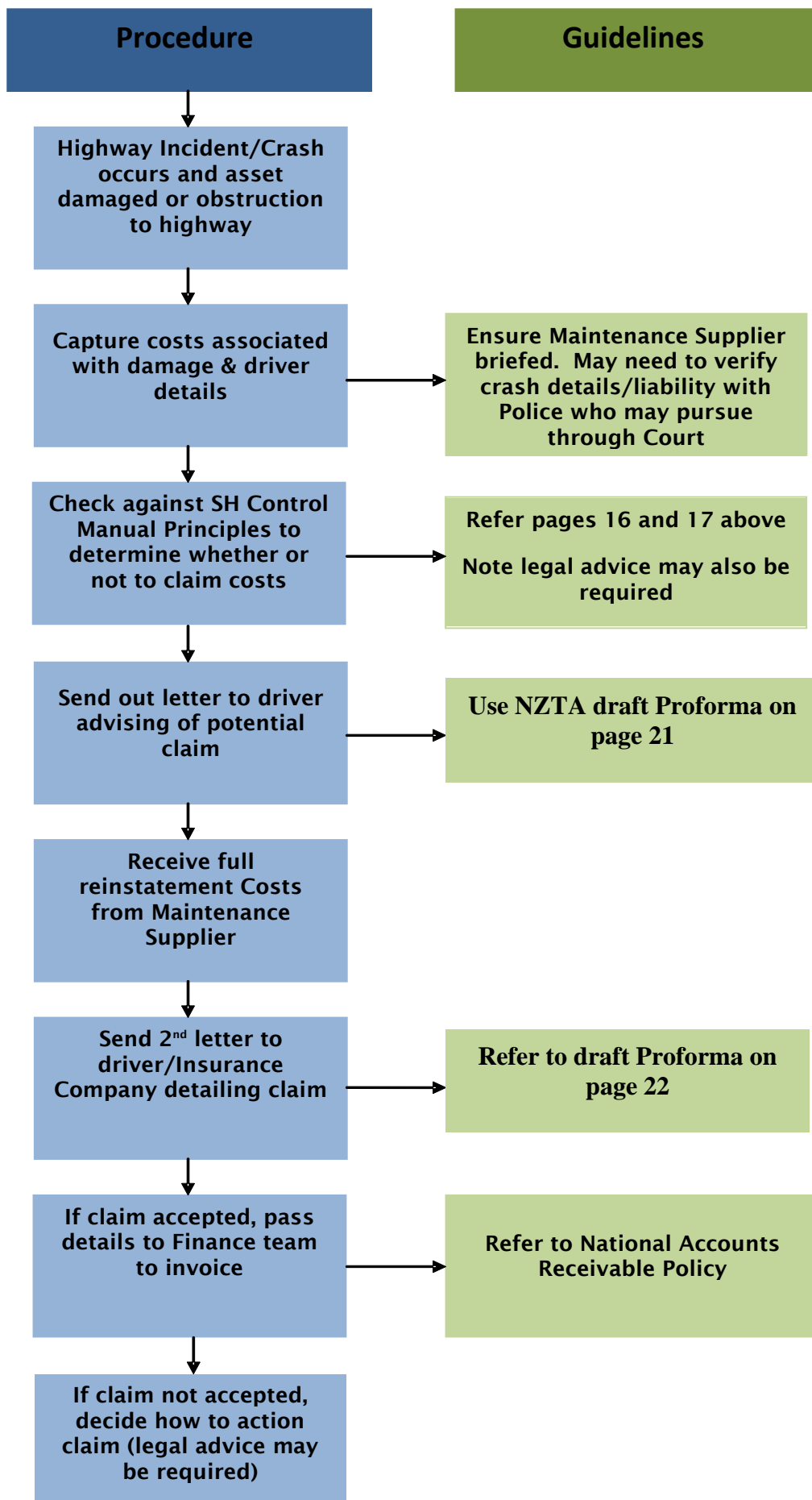
If it can be proven that a deceased driver caused loss through negligence, then it is legally possible to pursue compensation from the deceased's estate. This is a matter of extreme sensitivity and must be approached with caution. While matters such as empathy/sensitivity do not necessarily displace the legal liability, such would be relevant to reasonableness, fairness, and the reputation of the NZTA.

For a fatal crash, or a critical injury crash that might potentially become a fatal crash, it behoves the NZTA to ensure that the family of the person who caused the damage and is either deceased or is critically injured is not put under further stress by us. Where the claim is against the estate of this person and therefore directly impacts on the family, no claim should be made.

However, if the matter is being dealt with by an insurance company, and the issue is divorced from the family and is a standard business transaction, then so long as the risk is properly managed the cost recovery could proceed. It would be a decision for the System Manager to make to consider whether to continue the action should the circumstances change. It must always be kept in mind that this is a very sensitive issue requiring ongoing management.

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# Crash Damage Cost Recovery Process



# Crash Damage Cost Recovery Letters

## Letter 1: Immediate response

Wednesday, 10 April 2013

<Customer Name>

<Address 1>

<Address 2>

<Address 3>

<Regarding: State Highway Damage>

Dear <customer name>,

### **Potential damages claim – vehicle ABC123 – accident State Highway 99**

I am writing to you about the incident involving the above vehicle on [24 January 2013], as our information identifies that you were involved in the incident at the time.

The purpose of this letter is to inform you that the NZ Transport Agency is reviewing the circumstances of the crash you were involved in but has a view that you may have some responsibility for it, and may seek to make a claim against you for the costs to the NZ Transport Agency arising from this event and the damage caused.

We are mindful that this may not be something that you had considered following this event. It is NZ Transport Agency policy about prudent use of essential funding that consideration is given to claiming such costs where a person is legally liable in the law of negligence to pay compensation.

In this instance the NZ Transport Agency has incurred costs relating to damage of highways' assets and/or the costs of road management, for example closure and clean-up.

I realise that this may be the first time that you have been contacted by a road controlling authority over such a matter and that as a result you may have further queries. If you wish to discuss any aspect of this matter further, or provide any information to the NZ Transport Agency, please do not hesitate to contact me at the email address or telephone number below.

Finally, you may wish to obtain independent legal advice about this matter. If you do not have access to a lawyer, you may wish to contact your local community law centre.

We will write again when we have completed our review of the circumstances of the crash and your involvement in it.

Yours sincerely

for System Manager

Letter 2: Follow-up letter

Friday, 10 May 2013

<Customer Name>

<Address 1>

<Address 2>

<Address 3>

<Regarding: State Highway Damage>

Dear <customer name>,

**Damages Claim – vehicle ABC123 – accident State Highway 99**

Further to the previous letter of [10 April 2013] I am writing to you about the incident involving the above vehicle on [24 January 2013], as the information we have identifies that you were involved at the time. I hope that you have fully recovered from any immediate impact of this event.

The purpose of this letter is to inform you that, having reviewed the circumstances of this crash, the NZ Transport Agency considers that the cause of the damage (and necessary remedial works) was as a result of negligence on your part. The NZ Transport Agency intends now to claim the costs it has incurred as a result of this event.

In this instance the NZ Transport Agency has incurred costs of \$XXXXXXX relating to damage of highways' assets and/or the costs of road management, for example closure and clean-up. You will find these costs itemised in the attached schedule.

Please contact me at the email address or telephone number below to let me know whether you accept liability for these costs.

If you accept liability, we understand that the full cost may be difficult to find all at once and would be happy to discuss the possibility of accepting payments over time.

In many cases road users have insurance that covers the cost of such claims by third parties for such incidents. If this is true in your case, and you wish for us to deal directly with your insurance provider, please advise us as soon as possible and we will ensure that all future correspondence will go through them.

If you deny liability, please contact me to inform me why you consider you are not liable.

If we are not able to come to an agreement with you about this matter, we may pursue a claim in either the Disputes Tribunal or District Court. You may wish to obtain independent legal advice about this matter. If you do not have access to a lawyer, you may wish to contact your local community law centre.

If you wish to discuss any aspect of this matter further, please do not hesitate to contact me at the email address or telephone number above.

Yours sincerely

for System Manager

# Stock and Fencing on State Highways

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## Purpose

This section outlines:

- NZTA's requirements for fencing adjacent to State highways; and,
  - the conditions under which NZTA will allow utilisation of the roadside reserve for:
  - stock grazing;
  - cropping; and
  - stock races.
- 

## Boundary fencing

NZTA will erect boundary fences at its cost where highway improvement or maintenance activities either disturb existing fences and/or necessitate the erection of new fences.

Maintenance of existing fences is generally a landowner responsibility, except where damage to a fence has been incurred by a road vehicle, in which case the landowner is entitled to recover the repair cost from the driver of the vehicle.

Where activities on land adjoining a highway impact on, or have the potential to impact on road safety or management, then NZTA may require the landowner to adequately fence the land adjacent to the highway in accordance with s61(2) of the Government Roadway Powers Act. The System Manager shall take the following issues into account when determining whether land is adequately fenced:

1. the stock related accident rate in the area;
2. report and complaints of wandering stock in the area;
3. rural fencing standards as defined in the Fencing Act 1978; and,
4. the common practice in the area in relation to fencing.

NZTA will fund fencing changes where there are demonstrable road safety or road management benefits of erecting fences to a standard different to that required by the landowner. In these situations, it is generally expected that the fencing details will be agreed with the adjoining landowner before the fence is erected.

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## Fences on Motorway

NZTA requires the owner or occupier of any land not separated from an existing live motorway carriageway by a sufficient fence to enclose the land with fencing appropriate for the land use and to the satisfaction of the System Manager.

Exceptions to this requirement are:

- where a rural area adjacent to an existing motorway is rezoned as urban and existing open-strand fencing needs to be replaced with urban standard fencing appropriate for the land use, or
- where NZTA had a prior Resource Consent requirement to provide a noise fence and the noise fence needs to be maintained in terms of such consent.

NZTA shall ensure, by arrangement with authorities responsible for adjacent areas, that continuous fencing to an appropriate standard will prevent public or animal access to existing motorway carriageways or by providing required fencing where NZTA has an obligation to do so and where the absence of fencing would place the public at risk.

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## Unfenced sections of State

If the common practice in the area is not to fence, then the System Manager, shall establish the extent of any stock grazing in the area and the likelihood of such stock

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<b>highway as common practice</b>	wandering onto the State highway. The System Manager shall ensure that appropriate measures are taken to warn road users of the likely presence of stock on the State highway including the use of permanent signs as specified in NZTA's <i>Manual of Traffic Signs and Markings</i>
<b>Stock grazing, cropping and stock races within the road reserve</b>	The System Manager may permit grazing, cropping or the establishment of stock races in suitable areas of road reserve on low volume State highways, by means of the erection of encroachment fencing within the road reserve, subject to conditions set out in the next two clauses, depending on whether it is a permanent or temporary measure.
<b>Permanent stock grazing, cropping and stock races within the road reserve</b>	<p>Approval for the permanent use of the road reserve for stock grazing, cropping or a stock race shall be subject to:</p> <ol style="list-style-type: none"> <li>1. the fencing being of an appropriate standard for rural fencing as defined in the Fencing Act 1978;</li> <li>2. the fencing being positioned so as to not compromise road safety and road maintenance operations; and,</li> <li>3. the completion of a <i>Licence to Occupy Road</i> (letter form).</li> </ol>
<b>Temporary stock grazing, cropping and stock races within the road reserve</b>	<p>A temporary fence for stock grazing, cropping or a stock race shall be subject to:</p> <ol style="list-style-type: none"> <li>1. the fencing being positioned so as to not compromise road safety and road maintenance operations;</li> <li>2. any stock held within temporary fences being removed at night; and,</li> <li>3. the completion of a <i>Licence to Occupy Road</i> (letter form).</li> </ol> <p>The use of electric fences is permitted.</p>
<b>Stock races</b>	<p>Additional conditions to be satisfied before the System Manager, allows stock races within the road reserve are:</p> <ul style="list-style-type: none"> <li>• there is adequate room and visibility to avoid any safety risks or damage to the State highway;</li> <li>• any stock race is limited to the frontage of property owned by the applicant, unless the owner gets written permission from the owner of the land adjacent to the road reserve over which the applicant wishes to have a stock race;</li> <li>• the boundary fence is retained; and,</li> <li>• any gate constructed is only for right angle crossing of the State highway.</li> </ul>

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**Form of agreement**

The System Manager shall approve and be party to an agreement before any fence is created in the road reserve. The following table details the three components of an agreement:

N°	Item	Description
1	Licence Form	Standard <i>Licence to Occupy Road</i> (letter form) on pages 36 to 43 below.
2	Plan	A4 size and to scale. Details required are: <ul style="list-style-type: none"><li>• location of road centreline and seal edges;</li><li>• location of proposed fence line (in red); and,</li><li>• route positions.</li></ul>
3	Cross Section	To scale. Dimensions are required for: <ul style="list-style-type: none"><li>• road centreline;</li><li>• lane lines;</li><li>• seal edge;</li><li>• water channel and invert;</li><li>• any service pole line;</li><li>• proposed fence line; and,</li><li>• existing boundary fence.</li></ul>

**Guidelines for consideration**

The following points should be considered and defined in relation to fences encroaching on the road reserve:

1. the type of fence is to be specified in the licence;
2. fences should not obstruct or restrict the width needed to form and maintain adequate surface water channels;
3. where possible fences should be located on the highway side of any service pole;
4. a 5 m clearance from seal edge of road is desirable;
5. abrupt irregularities in the fence are to be avoided; and,
6. strainer posts that may be traffic hazards are not permitted within safety clear zones, as defined in the Geometric Design Manual.

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**No rental charge**

Whether the fencing is temporary or permanent, NZTA will not charge a rental or seek to recover administration costs for the occupation of land within the road reserve of a formed road for grazing, cropping or use as a race.

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**Existing gateways**

Fences at existing gateways with vehicle crossings are to be returned to the existing boundary fence. No additional gateways will be permitted on the crossing.

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**Additional gateways**

Additional gateways must be sited on the existing boundary and fences returned as for

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	existing gateways.
<b>Limited access roads</b>	No additional gateways are permitted.
<b>Utility Authorities</b>	Applications are to be referred to affected utility authorities for any additional requirements.
<b>Number of forms required</b>	Two copies of the proposed form of agreement (including the <i>Licence to Occupy Road</i> , plan and cross section) are required. Copies of the completed forms of agreement will be forwarded to: <ol style="list-style-type: none"><li>1. The local NZTA office; and</li><li>2. The Grantee.</li></ol>

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# Licence to Occupy Road

Dated 2023

## Parties

- 1 **New Zealand Transport Agency**, a Crown Entity established under section 93 of the Land Transport Management Act 2003 ('**Transport Agency**')
- 2 [*Insert name of Licensee*], [*If company, insert company number here*] ('**Licensee**')

## Background

- A The Transport Agency has the sole powers of control for all purposes of State highways and motorways under sections 61 and 80 of the Government Roading Powers Act 1989. The Transport Agency is the controlling authority of the area of [*State highway/motorway*] at [*insert description of area*].
- B The Transport Agency has agreed to grant the Licensee a Licence to occupy the Land on the terms and conditions of this Licence, and the Licensee has agreed to accept that grant.

## Execution

**Signed** by the **Transport Agency** by its authorised signatory acting pursuant to delegated authority:

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Signature

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Full name (please print)

**Signed** for the **Licensee** by its authorised signatory in the presence of:

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Signature

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Full name (please print)

## Schedule 1      Details and Definitions

In this Licence, the following terms have the following meanings:

<b>Licensee</b>	<i>[Insert name of Licensee. If a company, include the company number.]</i>
<b>Land</b>	That area of State Highway [x] in the position shown marked on the Plan (over the page) and in accordance to the specification approved by the Transport Agency.
<b>Licence Fee</b>	\$( <i>Insert</i> ) plus GST (if any) per annum
<b>Permitted Use</b>	<p><i>[Insert description of permitted use, e.g.</i></p> <ul style="list-style-type: none"> <li>• <i>To place a fence on the Land.</i></li> <li>• <i>To place a Norski toilet adjacent to State Highway 1 at route position 635/0.368 TLS and 635/6.806 TLS.</i></li> <li>• <i>To install and maintain a water pipe.]</i></li> </ul>
<b>Commencement Date</b>	<i>[Insert date]</i>
<b>Licence</b>	This licence, together with its schedules.
<b>Working Day</b>	<p>Working Day means:</p> <p>(a) in relation to any time period specified under the Property Law Act 2007, has the meaning given in that Act; and</p> <p>(b) in all other cases, any day that is not a Saturday, Sunday, day between 24 December in one year to 10 January in the next year (both days inclusive), or statutory holiday in the area where the Land is located.</p>

## Plan

*[Insert plan of Land]*

## Schedule 2      Operative Provisions

### 1      Grant

1.1      The Transport Agency grants to the Licensee a non-exclusive licence to occupy the Land on the terms and conditions set out in this Licence, from the Commencement Date until the date that the Licence is terminated under clause 3.

### 2      Licence Fee

2.1      The Licensee will pay the Transport Agency the Licence Fee (if demanded) on each anniversary of the Commencement Date.

### 3      Termination

3.1      Either party may terminate this Licence at any time by giving the other party at least [3] months' written notice (*Termination Notice*). [*The default notice period is 3 months, but this can be extended if required.*]

3.2      From the expiry of the period specified in the Termination Notice, every estate and interest of the Licensee in the Land and in this Licence will determine and cease absolutely, but without prejudice to the rights of either party in relation to any prior breach.

3.3      The Licensee will not be entitled to any form of compensation, damages or claim of whatever kind for any early termination by the Licensor pursuant to clause 3.1, on account of any inconvenience or loss suffered by the Licensee, or for any other reason, as a consequence of such termination.

### 4      Licensee's obligations on termination

4.1      The Licensee must, no later than 14 days after the termination of this Licence:

- a      remove all structures and improvements permitted under this Licence, making good any damage caused (unless requested otherwise by the Transport Agency); and
- b      otherwise leave the Land in the same condition it was in at the Commencement Date.

If the Licensee fails to restore the Land to its original condition by the due date, then the Transport Agency may at its option commence its own works to restore the Land and recover all costs from the Licensee. This clause is without prejudice to the Transport Agency's other rights and remedies.

### 5      Maintenance

5.1      The Licensee will keep and maintain the Land, and take all reasonable steps to protect the Land, including buildings, fixtures or fittings, installations, fences, hedges, trees (including shelter belts), gates and any sealed areas or other property of the Transport Agency, free from any damage by the Licensee and the Licensee's employees, agents or invitees.

5.2      The Licensee will not bring about the cause of any waste of the Land or any contamination to the Land, and will not disturb the surface of the Land, apart from such disturbance as is necessary for the construction and maintenance of any improvements or structures permitted under this Licence.

5.3      If the Licensee defaults in any of its obligations to maintain or repair under this Licence, the Transport Agency may arrange for such repair or maintenance to be undertaken at the cost of the Licensee, but without prejudice to the Transport Agency's other rights and remedies under this Licence. The Licensee must immediately reimburse the Transport Agency for such expense.

## **6 Permitted Use**

- 6.1 The Licensee will not use the Land for any purpose other than the Permitted Use.
- 6.2 If the Permitted Use is permissible only with the consent, permit or permission of any authority, or under or in pursuant to any statute, Regional and District Plans, regulation, other enactment or order of Court, the Licensee must obtain:
- a such consent, permit, permission or order at the sole cost and expense of the Licensee including, but not limited to, any costs or financial contributions involved in complying with any conditions of such consent, permit, permission or order obtained; and
  - b the approval of the Transport Agency to the conditions of that consent, permit, permission or order.

## **7 Damage**

- 7.1 The Licensee must, at its cost, promptly repair any damage to the Land or any of the Transport Agency's improvements or property on the Land caused by the Licensee or any person using the Land under this Licence.

## **8 No access**

- 8.1 The Licensee shall not be entitled to any form of compensation, damages, or claim of whatever kind in the event that there is an emergency and the Licensee is unable to gain access to the Land.

## **9 No interference with public use**

- 9.1 The Licensee shall ensure that no interference is caused to the use of the State highway by the public when carrying out any works to repair, maintain, remove, or replace any improvement, utility, fence or other structure on the Land.

## **10 Compliance**

- 10.1 The Licensee must comply with all relevant legislation, regulations and bylaws affecting the Land and the Licensee's use of the Land, and must not cause or allow any act on the Land that would cause nuisance or annoyance to any neighbouring property.

## **11 Transport Agency approvals**

- 11.1 The Licensee must obtain all necessary approvals from the Transport Agency for works in the road corridor, including approval under section 51 of the Government Roding Powers Act 1989. The granting of this Licence does not constitute the granting of such approval and does not guarantee that any such approval will be granted.

## **12 Health and Safety**

- 12.1 Without limiting the Licensee's obligations under clause 10, the Licensee must do all things necessary as the occupier of the Land to comply with the Health and Safety at Work Act 2015 ('**HSWA**'). The Licensee:
- a acknowledges that the Land forms part of the Transport Agency's State highway network, and that there are hazards associated with working in, on, and around the State highway (including without limitation hazards posed by fast-moving vehicles);
  - b will ensure the health and safety of its workers and all other persons affected by work carried out by or for the Licensee in connection with the Permitted Use;
  - c will, prior to the commencement of any works permitted by this Licence, provide a site management plan for the intended works to the Transport Agency for its approval (not to be unreasonably withheld);

- d will consult, cooperate, and coordinate its work on the Land with the Transport Agency and any persons conducting a business or undertaking (as defined in section 17 of the HSWA) who is accessing the Land;
- e will promptly notify the Transport Agency of any accident, injury, illness, near miss, or exposure that the Licensee becomes aware of in the course of, or arising from, its work on the Land (an ‘**incident**’), and provide the Transport Agency with such assistance and information as the Transport Agency considers necessary to conduct an investigation into any such incident;
- f if requested by the Transport Agency, will promptly give the Transport Agency copies of any documents related to or created in respect of any investigation by the Licensee into any such incident; and
- g will promptly give the Transport Agency copies of any notices and correspondence the Licensee receives from WorkSafe New Zealand or any other authority (including the Licensee’s responses to any such notices or correspondence) concerning the Licensee’s compliance with the HSWA or any other health and safety legislation or regulations.

### **13 Transport Agency access**

- 13.1 The Transport Agency and its agents, contractors and employees will have access to the Land at all times and for all purposes.

### **14 Transport Agency works**

- 14.1 The Transport Agency may carry out any works on land adjacent to or near the Land. The Transport Agency will take all reasonable steps to ensure that the works are carried out in a way that causes minimal inconvenience to the Licensee.

### **15 No assignment**

- 15.1 This Licence is personal to the Licensee, and the Licensee may not assign, transfer, sub-licence or otherwise share the Licensee’s rights under this Licence to or with any other person.
- 15.2 Where the Licensee is an unlisted company, then any change in the legal or beneficial ownership of any of its shares, or any issue of new capital without the prior consent of the Licensor, will be a breach of this Licence.

### **16 Indemnity**

- 16.1 To the fullest extent permitted by law, the Licensee:
  - a indemnifies the Transport Agency from and against all costs, actions, demands, suits, damages and proceedings of any kind and in respect of any loss or damage that may directly or indirectly result to or be suffered by any person or property by reason of this Licence or the exercise of the rights under this Licence; and
  - b releases the Transport Agency from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Transport Agency’s part, may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land.

### **17 No warranty**

- 17.1 The Transport Agency makes no warranty or representation that the Land is fit for any particular use. The Licensee acknowledges that it has entered into this Licence completely in reliance upon the Licensee’s own skill and judgment. The Licensee agrees to occupy and use the Land at the Licensee’s own risk.

### **18 No Lease**

18.1 This Licence does not create any lease, tenancy, or interest in the Land.

## 19 Notices

19.1 Any notice or document required or authorised to be given or served under this Licence must be in writing and delivered or served by personal delivery, post, or email to the address or fax number specified for the relevant party below:

Licensee	Transport Agency
Name: [Insert]	Name: [Insert]
Address: [Insert]	Address: [Insert]
Email: [Insert]	Email: [Insert]

19.2 Any notice or other document is deemed to have been served:

- a in the case of personal delivery, when received by the addressee;
- b in the case of post, 3 Working Days following the date of posting to the addressee's last known address in New Zealand; and
- c in the case of email, when acknowledged by the addressee orally, by return email, or otherwise in writing. Return emails generated automatically shall not constitute an acknowledgement.

## 20 Transport Agency's Statutory Role

20.1 Nothing in this Licence will override the Transport Agency's statutory and regulatory role under the Government Rooding Powers Act 1989, the Land Transport Management Act 2003 or any other Act, regulation or by-law, and the performance by the Transport Agency of that role and as a Crown entity (the **Transport Agency's Role**).

20.2 Nothing in this Licence is to be taken to imply any approval under the Transport Agency's Role, other than an approval expressly recorded in this Licence.

20.3 If there is a conflict between the provisions of this Licence and the Transport Agency's Role, then the Transport Agency's Role will prevail.

## 21 Waiver

21.1 No waiver or failure to act by the Licensor in respect of any breach by the Licensee will operate as a waiver of another breach.

## 22 Dispute resolution

22.1 The parties acknowledge that they wish to avoid or minimise any differences or disputes arising out of and from the terms of this Licence. The parties therefore agree that if any difference or dispute arises between them they will actively, openly and in good faith negotiate that difference or dispute with a view to achieving a quick resolution.



## Schedule 3 Special Conditions

[Delete the provisions which do not apply.]

### FENCING

- 1 **Fence:** The Licensee will erect a fence on the Land, in the position shown on the Plan and to the satisfaction of the Transport Agency. The Licensee shall maintain the fence in good order and repair, and remove the fence immediately on termination of the Licence.
- 2 **No disturbance:** The Licensee will not disturb the surface of the Land beyond a depth of 200mm, or do anything to cause change in the surface of the Land.
- 3 **Occupier:** The Licensee is deemed to be the occupier of the Land for the purposes of the Local Government (Rating) Act 2002 and the Biosecurity Act 1993, including for animal and vegetation pest control measures.

### STRUCTURES [Use if a structure will be placed aboveground, e.g. Portacom, Norski toilet.]

- 1 **Maintenance:** The Licensee will maintain all structures upon the Land in good order and condition, and otherwise to the satisfaction of the Transport Agency, and subject to any directions and conditions stipulated by the Transport Agency.

### PRIVATE UTILITIES [Use if a private utility will be laid underground.]

- 1 **Works:** The Licensee will install and maintain the [utility] (**Utility**) to the satisfaction of the Transport Agency, and subject to any directions and conditions stipulated by the Transport Agency. The Transport Agency may require the whole or part of any such works to be carried out by or under the supervision of a person authorised by the Transport Agency, at the Licensee's cost. The Licensee will pay such cost to the Transport Agency upon receipt of an invoice from the Transport Agency.
- 2 **Maintenance:** The Licensee will maintain the Utility in good order and condition, with as little interference as possible to the surface of the State highway above the Utility. The Licensee will make good any damage caused to the State highway within the boundaries of the legal road reserve during any works.
- 3 **Minimum Covering:** The Licensee will place the Utility at a depth to ensure a cover of at least [insert] millimetres (**Minimum Covering**) below the road surface and below the level of surface water channels. The placement must cause minimal disturbance to the State highway and be to the satisfaction of the Transport Agency. The Licensee must maintain the Minimum Covering throughout the term of the Licence, subject to Special Condition 4 below.
- 4 **New minimum covering:** The Transport Agency may give the Licensee 24 hours' notice requiring the Licensee to lower and cover the Utility to a depth specified in the notice, at the Licensee's cost. Special Condition 3 will apply from the notice date as if the specified depth were the Minimum Covering.
- 5 **Breakage/Leakage:** The Licensee is liable to the Transport Agency for the cost of repairing any damage which may occur to the State highway from any breakage or leakage in the Utility.
- 6 **Realignment:** In the event that the State highway is realigned, the Licensee will reinstall the Utility under the new realignment, at the Licensee's cost and as directed by the Transport Agency.
- 7 **Inspection and modification of works:** Any works in relation to the Utility will at all times be open to inspection by a person authorised by the Transport Agency. The authorised person may request that the works be modified or improved or carried out with different materials, provided that such request is for the purpose of preserving and safeguarding the State highway. Upon receiving the request, the Licensee shall carry out the works subject to such modification or improvement, at the Licensee's cost.

- 8 **Indemnity:** Where the Licensee engages a contractor to carry out any works to the Utility, the Licensee shall procure an indemnity from the contractor in favour of the Transport Agency. The indemnity must apply to any loss, claim, damage, expense, liability, costs or proceeding suffered or incurred at any time by the Transport Agency in relation to the works, to the fullest extent permitted by law. The existence of such indemnity shall not relieve the Licensee of any liability to the Transport Agency.

## **Licence to Occupy Road (Letter Form)**

[Date]

[Name]

[Address]

Dear [Name],

### **LICENCE TO OCCUPY ROAD – [INSERT DESCRIPTION OF AREA, INCLUDING RELEVANT STATE HIGHWAY AND TOWN/CITY]**

The NZ Transport Agency (*Transport Agency*) has the sole powers of control for all purposes of State highways and motorways under sections 61 and 80 of the Government Roading Powers Act 1989. The Transport Agency is the controlling authority of the area of [*State highway/motorway*] at [*insert description of area*].

The Transport Agency is willing to grant you a licence to occupy the Land. This letter, together with the Standard Terms and Special Conditions, forms the terms and conditions of the licence (*Licence*).

If you wish to accept the terms of this Licence, please sign this letter below where indicated and return a copy to [*insert contact details*].

Yours sincerely

[*Insert name of signatory*]

[*Insert role*]

NZ Transport Agency

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I/We have read the terms and conditions of this Licence, and agree and accept those terms and conditions.

[*Use if Licensee is an individual*]

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Name: [*Insert name*]

---

Name: [*Insert name*]

[*Use if Licensee is a company*]

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Name: [*Insert name*]

For and on behalf of [*Name of company in full*]

**SCHEDULE 1 STANDARD TERMS**

4 **Definitions:** In this Licence, the following terms have the following meanings:

<b>Licensee</b>	<i>[Insert name of Licensee. If a company, include the company number.]</i>
<b>Land</b>	That area of State Highway [x] in the position shown marked on the Plan and in accordance to the specification approved by the Transport Agency.
<b>Plan</b>	The plan attached as Schedule 3 of this letter.
<b>Licence Fee</b>	\$1.00 plus GST (if any) per annum
<b>Permitted Use</b>	<i>[Insert description of permitted use, e.g.</i> <ul style="list-style-type: none"> <li>• <i>To placing a fence on the Land.</i></li> <li>• <i>To place a Norski toilet adjacent to State Highway 1 at route position 635/0.368 TLS and 635/6.806 TLS.</i></li> <li>• <i>To install and maintain a water pipe.]</i></li> </ul>
<b>Commencement Date</b>	<i>[Insert date]</i>

5 **Grant:** The Transport Agency grants to the Licensee a non-exclusive licence to occupy the Land on the terms and conditions set out in this Licence, from the Commencement Date until this Licence is terminated under clause 4.

6 **Licence Fee:** The Licensee will pay the Transport Agency the Licence Fee (if demanded) on each anniversary of the Commencement Date.

7 **Termination:** Either party may terminate this Licence at any time by giving the other party at least [3] months’ written notice. *[The default notice period is 3 months, but this can be extended if required.]* The Licensee will not be entitled to any compensation, damages or claim of any kind on the termination of the Licence.

8 **Licensee’s obligations on termination:** The Licensee must, no later than 14 days after the termination of this Licence, leave the Land in the same condition it was in at the Commencement Date. If the Licensee fails to comply with this obligation, then the Transport Agency may at its option commence its own works to restore the Land and recover all costs from the Licensee. This clause is without prejudice to the Transport Agency’s other rights and remedies.

9 **Maintenance:** The Licensee will keep and maintain the Land, and take all reasonable steps to protect the Land, including buildings, fixtures or fittings, installations, fences, hedges, trees (including shelter belts), gates and any sealed areas or other property of the Transport Agency, free from any damage by the Licensee and the Licensee’s employees, agents or invitees.

10 **Permitted Use:** The Licensee will not use the Land for any purpose other than the Permitted Use.

11 **Damage:** The Licensee must, at its cost, promptly repair any damage caused to the Land or any of the Transport Agency’s improvements or property on the Land by the Licensee or any person using the Land under this Licence.

12 **No access:** The Licensee shall not be entitled to any form of compensation, damages, or claim of whatever kind in the event that there is an emergency and the Licensee is unable to gain access to the Land.

13 **No interference with public use:** The Licensee shall ensure that no interference is caused to the use of the State highway by the public when carrying out any works to repair, maintain, remove, or replace any improvement, utility, fence or other structure on the Land.

- 14 **Compliance:** The Licensee must comply with all relevant legislation, regulations and bylaws affecting the Land and the Licensee's use of the Land, and must not cause or allow any act on the Land that would cause nuisance or annoyance to any neighbouring property.
- 15 **Transport Agency approvals:** The Licensee must obtain all necessary approvals from the Transport Agency for works in the road corridor, including approval under section 51 of the Government Rooding Powers Act 1989. The granting of this Licence does not constitute the granting of such approval and does not guarantee that any such approval will be granted.
- 16 **Health and Safety:** Without limiting the Licensee's obligations under clause 14, the Licensee must do all things necessary as the occupier of the Land to comply with the Health and Safety at Work Act 2015 (*HSWA*). The Licensee:
- a acknowledges that the Land forms part of the Transport Agency's State highway network, and that there are hazards associated with working in, on, and around the State highway (including without limitation hazards posed by fast-moving vehicles);
  - b will ensure the health and safety of its workers and all other persons affected by work carried out by or for the Licensee in connection with the Permitted Use;
  - c will, prior to the commencement of any works permitted by this Licence, provide a site management plan for the intended works to the Transport Agency for its approval (not to be unreasonably withheld);
  - d will consult, cooperate, and coordinate its work on the Land with the Transport Agency and any persons conducting a business or undertaking (as defined in section 17 of the HSWA) who is accessing the Land;
  - e will promptly notify the Transport Agency of any accident, injury, illness, near miss, or exposure that the Licensee becomes aware of in the course of, or arising from, its work on the Land (an *incident*), and provide the Transport Agency with such assistance and information as the Transport Agency considers necessary to conduct an investigation into any such incident;
  - f if requested by the Transport Agency, will promptly give the Transport Agency copies of any documents related to or created in respect of any investigation by the Licensee into any such incident; and
  - g will promptly give the Transport Agency copies of any notices and correspondence the Licensee receives from WorkSafe New Zealand or any other authority (including the Licensee's responses to any such notices or correspondence) concerning the Licensee's compliance with the HSWA or any other health and safety legislation or regulations.
- 17 **Transport Agency access:** The Transport Agency and its agents, contractors and employees will have access to the Land at all times and for all purposes.
- 18 **Transport Agency works:** The Transport Agency may carry out any works on land adjacent to or near the Land. The Transport Agency will take all reasonable steps to ensure that the works are carried out in a way that causes minimal inconvenience to the Licensee.
- 19 **No assignment:** This Licence is personal to the Licensee, and the Licensee may not assign, transfer, sub-licence or otherwise share the Licensee's rights under this Licence to or with any other person.
- 20 **Indemnity:** To the fullest extent permitted by law, the Licensee:
- a indemnifies the Transport Agency from and against all costs, actions, demands, suits, damages and proceedings of any kind and in respect of any loss or damage that may directly or indirectly result to or be suffered by any person or property by reason of this Licence or the exercise of the rights under this Licence; and

b releases the Transport Agency from all claims and demands of any kind and from all liability which, in the absence of any negligence on the Transport Agency’s part, may arise in respect of any accident, damage or injury occurring to any person or property in or about the Land.

21 **No warranty:** The Transport Agency makes no warranty or representation that the Land is fit for any particular use. The Licensee acknowledges that it has entered into this Licence completely in reliance upon the Licensee’s own skill and judgment. The Licensee agrees to occupy and use the Land at the Licensee’s own risk.

22 **No Lease:** This Licence does not create any lease, tenancy, or interest in the Land.

23 **Notices:** Any notice or document required or authorised to be given or served under this Licence must be in writing and delivered or served by personal delivery, post, or email to the address or email specified for the relevant party below:

<b>Licensee</b>	<b>Transport Agency</b>
Name: [Insert]	Name: [Insert]
Address: [Insert]	Address: [Insert]
Email: [Insert]	Email: [Insert]

Any notice or other document is deemed to have been served:

- a in the case of personal delivery, when received by the addressee;
- b in the case of post, 3 working days following the date of posting to the addressee’s last known address in New Zealand; and
- c in the case of email, when acknowledged by the addressee orally, by return email, or otherwise in writing. Return emails generated automatically shall not constitute an acknowledgement.

24 **Transport Agency’s statutory role:** The Licensee acknowledges that the Land is controlled and managed by the Transport Agency as part of its statutory responsibilities, including under the Government Roadway Powers Act 1989 and the Land Transport Management Act 2003, which prevail over the terms of this Licence.

## SCHEDULE 2 SPECIAL CONDITIONS

[Delete the provisions which do not apply.]

### FENCING

- 25 **Fence:** The Licensee will erect a fence on the Land, in the position shown on the Plan and to the satisfaction of the Transport Agency. The Licensee shall maintain the fence in good order and repair, and remove the fence immediately on termination of the Licence.
- 26 **No disturbance:** The Licensee will not disturb the surface of the Land beyond a depth of 200mm, or do anything to cause change in the surface of the Land.
- 27 **Occupier:** The Licensee is deemed to be the occupier of the Land for the purposes of the Local Government (Rating) Act 2002 and the Biosecurity Act 1993, including for animal and vegetation pest control measures.

### STRUCTURES [Use if a structure will be placed aboveground, e.g. Portacom, Norski toilet.]

- 2 **Maintenance:** The Licensee will maintain all structures upon the Land in good order and condition, and otherwise to the satisfaction of the Transport Agency, and subject to any directions and conditions stipulated by the Transport Agency.

### PRIVATE UTILITIES [Use if a private utility will be laid underground.]

- 1 **Works:** The Licensee will install and maintain the [utility] (*Utility*) to the satisfaction of the Transport Agency, and subject to any directions and conditions stipulated by the Transport Agency. The Transport Agency may require the whole or part of any such works to be carried out by or under the supervision of a person authorised by the Transport Agency, at the Licensee's cost. The Licensee will pay such cost to the Transport Agency upon receipt of an invoice from the Transport Agency.
- 2 **Maintenance:** The Licensee will maintain the Utility in good order and condition, with as little interference as possible to the surface of the State highway above the Utility. The Licensee will make good any damage caused to the State highway within the boundaries of the legal road reserve during any works.
- 3 **Minimum Covering:** The Licensee will place the Utility at a depth to ensure a cover of at least [insert] millimetres (*Minimum Covering*) below the road surface and below the level of surface water channels. The placement must cause minimal disturbance to the State highway and be to the satisfaction of the Transport Agency. The Licensee must maintain the Minimum Covering throughout the term of the Licence, subject to Special Condition 4 below.
- 4 **New minimum covering:** The Transport Agency may give the Licensee 24 hours' notice requiring the Licensee to lower and cover the Utility to a depth specified in the notice, at the Licensee's cost. Special Condition 3 will apply from the notice date as if the specified depth were the Minimum Covering.
- 5 **Breakage/Leakage:** The Licensee is liable to the Transport Agency for the cost of repairing any damage which may occur to the State highway from any breakage or leakage in the Utility.
- 6 **Realignment:** In the event that the State highway is realigned, the Licensee will reinstall the Utility under the new realignment, at the Licensee's cost and as directed by the Transport Agency.
- 7 **Inspection and modification of works:** Any works in relation to the Utility will at all times be open to inspection by a person authorised by the Transport Agency. The authorised person may request that the works be modified or improved or carried out with different materials, provided that such request is for the purpose of preserving and safeguarding the State highway. Upon receiving the request, the Licensee shall carry out the works subject to such modification or improvement, at the Licensee's cost.



- 8 **Indemnity:** Where the Licensee engages a contractor to carry out any works to the Utility, the Licensee shall procure an indemnity from the contractor in favour of the Transport Agency. The indemnity must apply to any loss, claim, damage, expense, liability, costs or proceeding suffered or incurred at any time by the Transport Agency in relation to the works, to the fullest extent permitted by law. The existence of such indemnity shall not relieve the Licensee of any liability to the Transport Agency.

**SCHEDULE 3            PLAN**

*[Insert plan of Land, showing any relevant markings]*

# Materials and Equipment Requirements

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## General

All materials and equipment used on State highway works must be of good quality and appropriate for their intended use.

A large number of more commonly used materials and equipment have specific NZTA requirements and these must be complied with as a standard for all State highway works. Dispensations can be obtained from the National Manager Programme and Standards, the National Manager System Design or the Chief Engineer as appropriate so long as the scope and the intent of the standard are achieved.

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## NZTA materials and equipment specifications

Details of materials covered by specific NZTA requirements are detailed in *Specifications List*, NZTA, under the headings *Materials* and *Equipment*.

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## Other materials and equipment

Materials or equipment not covered by specific NZTA requirements shall comply with one of the following as appropriate:

1. A SANZ *Standard* or *Specification* where one exists.
  2. A manufacturer's specification where no SANZ standard or specification exists.
  3. A custom-made engineer's specification.
  4. A specification from overseas or from other references referred to in other NZTA Manuals.
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## Miscellaneous Policies

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**Salt as ice control**

NZTA holds no approval to use salt on roads.

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**Roadside landscaping and vegetation**

Roadside planting shall be in accordance with NZTA's *Guidelines for Highway Landscaping*.

A schedule of landscape areas maintained by NZTA shall be kept by the Network Consultants and regional offices.

All specified NZTA maintained landscape areas shall be maintained to a standard appropriate to that situation.

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# Maintenance and Operational Criteria for State Highways through National Parks, Reserves and Conservation Areas

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## General

Maintenance work is essential to ensure NZTA meets its statutory objective. Work should be carried out in accordance with NZTA's *State Highway Maintenance Contract Proforma Manual* (SM032) and all necessary resource consents.

Maintenance staff are to carry out their normal tasks within the area defined by the drainage channels on either side of the carriageway, including culvert inlet and outlet channels, provided this does not cause adverse environmental effects or significant changes to drainage.

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## Sensitivity

Maintenance activities must be consistent with NZTA's Environmental Plan and have regard to the relevant NPMP, CMP or CMS. In particular, maintenance must ensure visual quality and ecological values are maintained. Furthermore, attention to the following is required:

1. Vegetation adjoining State highways shall be trimmed back to meet the needs for safe passage of all State highway users while maintaining the ecological function and visual quality of the area as far as practicable.
  2. For guidance on the disposal of trimmed vegetation and the application of chemical control refer to Network Operations Contract specification section on National Parks, Forest Estates and Reserves, and Other Controlling Authorities.
  3. Stockpiles of materials shall not be in the direct eye of the passing public and if within public conservation land will require authorisation from DOC.
  4. Both parties will endeavour to source weed free (plant and seed) materials for NZTA to use on construction or improvement works. If weed infestation does occur on State highway sites, NZTA will remedy any adverse effects.
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## Emergencies

DOC will aim to provide to NZTA with locations of known significant natural or historic sites within public conservation lands. NZTA will provide this information to its staff and contractors. NZTA emergency workers should therefore know the location of protected significant natural or historic sites.

Emergency maintenance works to re-establish state highway links should ensure that natural and historic sites are protected, while providing for the safety of State highway users and emergency workers.

Special attention must also be paid to tidy-up works following reopening of a State highway.

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## NZTA approved on-road activities on state highways

When NZTA is considering approving on-road activities (for example, filming) on State highways through Public Conservation Land, NZTA will advise the applicant to discuss their application with DOC so they can obtain any other necessary approvals.

Similarly, if DOC is approving an activity that may affect the operation of the State highway, DOC will advise the applicant to discuss their application with NZTA.

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# Road Pavement, Surfacing, Markings and Road Furniture

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## Introduction

This section specifies the requirements for pavement design, carriageways, surfacings and traffic aids either on or adjacent to the carriageway.

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## Funding of Second Coat Seals

The *Planning and Investment Knowledge Base (PIKB)* does not explicitly exclude second coat seals from being funded as project works. However, it is expected that the allocation of funding is done effectively and efficiently in order to retain value. Therefore, it is not in the interest of the NZTA to hold project funding in excess of 12 months to fund second coat sealing as a project cost. Past experience shows this to be administratively difficult and the funding tends to be forgotten when the works are finally actioned.

The funding source needs to be given proper consideration and resolved and recorded early in the project process. A sensible approach is to consider the scale and timing of second coat seals at the time of project scoping, and certainly by the preliminary design stage. If the project is highly trafficked and will either have an asphaltic concrete surfacing or the second coat seal is likely to be required within 12 months of substantial completion, the cost of the surfacing should be included in the project cost.

If the project is rural and has relatively low traffic volumes, the second coat seal should be provided for within the maintenance allocation. This allocation will generally need to be made allowance for in the following financial year's maintenance funding. Given that maintenance is being funded in three-year blocks, there is a responsibility between Project and Network Managers to ensure that the allocation for the second coat seals for projects has been properly pre-programmed so as not to become an onerous requirement.

This process was agreed between Regional Partnerships & Programmes and Highways & Network Operations in February 2009.

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## Pavement design

Pavement structural design shall be in accordance with the *AUSTROADS Guide to Pavement Technology Part 2: Pavement Structural Design* and *Part 5: Pavement Evaluation and Treatment Design* together with the latest *New Zealand Supplement*.

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## Surfacing technical requirements

Surfacing should be in accordance with the following guidelines:

1. *Chipsealing in New Zealand 2005* (Transit New Zealand, Road Controlling Authorities, Roding New Zealand) and subsequent amendments and updates.
  2. *Chipseal Design*, New Zealand Institute of Highway Technology,
  3. *Applying Bitumen Emulsions and Polymer-Modified Binders*, New Zealand Institute of Highway Technology,
  4. *Pavement Surfacing Supervisor Chipsealing*, New Zealand Institute of Highway Technology.
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## Pavement markings

The legal requirements for pavement markings are described in the Land Transport Rule: Traffic Control Devices 2004, with its amendments.

Pavement markings shall be in accordance with the following guidelines:

1. Land Transport Rule: Traffic Control Devices 2004, with its amendments.
  2. *Traffic Control Devices Manual* and *Manual of Traffic Signs and Markings*, with relevant *Technical Advice Notes*.
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**Intersection controls and medians**

These should conform with the following guidelines:

1. *RTS 1: Guidelines for the Implementation of Traffic Control at Crossroads*, NZTA.
  2. *Traffic Control Devices Manual Part 5: Traffic Control Devices for General Use – Between Intersections*, NZTA.
  3. *Guidance on Median and Centreline Treatments to Reduce Head-on Casualties*, Austroads (2016).
  4. *Austroads Guides*:
    - *Road Design Part 4A: Signalised and Unsignalised Intersections, 2021*
    - *Road Design Part 4B: Roundabouts, 2021*
    - *Guide to Traffic Management Part 10: Transport Control - Types of Devices, 2020*.
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**Pedestrian crossings**

The requirements for pedestrian crossings are contained in the Land Transport Rule: Traffic Control Devices 2004. Note that pedestrian crossings shall not be installed on roads where the speed limit is greater than 50km/h unless approval is obtained from the General Manager, Safety, Health and Environment.

Details of pavement markings are specified in the *Traffic Control Devices Manual* and the *Manual of Traffic Signs and Markings Part II: Markings*, NZTA. No stopping lines may need extensions for visibility especially where school patrols operate.

Lighting shall be in accordance with AS/NZS 1158.4:2015.

New installations shall be constructed only where they meet the warrant requirements set out in the *Traffic Control Devices Manual* and the *Manual of Traffic Signs and Markings*.

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**Safety barriers and median barriers**

These should comply with the following guidelines:

*AUSTROADS Guide to Road Design (in particular Part 6), M23 Roadside Safety Barrier Systems* and *AASHTO Roadside Design Guide*

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**Skid Resistance**

The management of skid resistance shall be in accordance with the *Specification for State Highway Skid Resistance*, T10.

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# Lighting

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## General

With the exception of intersections with physical islands and pedestrian crossings there are no specific requirements for State highways to be lit. The necessity for lighting is normally based on the likelihood of conflict between vehicles, pedestrians or cyclists.

Lighting is generally unnecessary outside urban areas, except for motorways, major rural intersections and sections of highway where it is justified to address high night-time crash rates.

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## Technical standards

New or upgraded state highway lighting installations shall comply with *AS/NZS 1158.1.1:2005 Lighting for roads and public spaces - Vehicular traffic (Category V) lighting – Performance and design requirements*.

New or upgraded pedestrian crossings shall comply with *AS/NZS 1158.4:2015 Lighting for roads and public spaces – Lighting of pedestrian crossings*.

Installation guidance for traffic route lighting is given in *AS/NZS 1158.1 .2:2010 Lighting for public spaces - Vehicular traffic (Category V) lighting - Guide to design, installation, operation and maintenance*.

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## Lighting poles

All new lighting poles shall comply with NZTA specification M26.

Poles installed in urban or pedestrian frequented areas must not be of slip-base design. Guidance about types of poles suitable for use in various areas is given in NZTA specification M26.

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## Pedestrian Crossings

All pedestrian crossings on State highways must be kept illuminated during the hours of darkness and must be provided with either operating Belisha Beacons or 400mm diameter (min.) fluorescent reflectorised discs fitted to poles at each end.

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## Flag lighting

Flag lighting is intended to indicate the presence of a minor intersection or important access particularly in rural areas. The installation shall normally consist of no more than 2 lanterns. Capital costs can be a SH or TLA responsibility. The annual costs of flag lighting on State highways in rural areas are a State highway cost.

Specific approval can be given by Managers, System Management for flag lighting on State highway road reserves requested by a private developer or lighting for a private development required by regional office to mitigate adverse effects on the State highway. This usually only occurs in rural areas.

Capital and annual costs are the responsibility of the developer. It is important to ensure that this is recorded and an agreement to do maintenance work on the highway is in place.

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## Motorway lighting

Capital and annual costs are a State highway responsibility. Replacement systems should be LED lighting if possible and management and control systems should be considered.

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## Ambiguities

Any installation not clearly covered by policy shall have the specific approval of the GMTS.

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## Schedule of SH operational lighting

A schedule of all light installations that are an annual State highway operational responsibility shall be kept by the System Manager.

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**Maintenance**

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The maintenance of highway lighting shall be in accordance with the Network Operations Contract standard specification.

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# Traffic Signals and Traffic Signs

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## Introduction

This section specifies the requirements for off-carriageway traffic aids.

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## Legal requirements

All traffic control devices when installed must comply with the Land Transport Rule: Traffic Control Devices 2004 and its amendments.

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## Traffic signal technical standards

Guidance on the design and maintenance of traffic signal installations is contained in the following:

1. Land Transport Rule: Traffic Control Devices 2004.
  2. *Traffic Signals, A Guide to the Design of Traffic Signal Installations*, AUSTRROADS.
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## Traffic signal funding

All traffic signals installation and operational costs at a State highway intersection or a State highway motorway ramp terminal are a State highway charge. A TLA may install approved signals as part of its subsidised works programme where programming priorities do not permit State highway funding. Operational costs will in this case be funded by the State highway.

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## Traffic signs

1. The description and use of all traffic signs is contained in the Land Transport Rule: Traffic Control Devices 2004 with its amendments and gazette notices.
  2. Graphics of traffic signs are shown in the NZTA *Traffic Control Devices Manual*.
  3. All traffic signs, delegations and procedures shall comply with the NZTA *Manual of Traffic Signs and Markings* and/or the NZTA *Traffic Control Devices Manual*.
  4. Signs advising a speed restriction shall be placed within 20 metres of the gazetted positions.
  5. All permanent warning and information signs shall display a NZTA logo as illustrated in Part 2 page 11.
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## Response to the Civil Aviation Authority Rule Changes August 2015

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### Policy

The following two requirements represent the agreed policy for managing the access requests for remotely piloted aircraft systems (drones), namely:

1. That the airspace over any State highways road corridor is unavailable to recreational operators because the level of public risk is unacceptable and there are more appropriate areas available to such operators; and
  2. Requests for access to State highway corridors will only be accepted from operators of a remotely piloted aircraft system if they are certified by the Civil Aviation Authority (CAA) in accordance with the Civil Aviation Rules Part 102.
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### Other Specific Matters to be Addressed in any Approval

1. No remotely piloted aircraft system shall be operated over a live traffic lane unless it is delivering State highway services, it is airworthy and it has built-in safety devices that acceptably limit possible impacts on public safety.
  2. Operators of remotely piloted aircraft systems requesting access to other NZTA land, especially construction sites, are required to demonstrate that they have suitable training and experience similar to those operators requesting highway access.
  3. No operator shall fly a remotely piloted aircraft system over a live work site without the direct agreement of the site crew and their employer and having suitable safety measures in place.
  4. Approval of requests for access for operation of remotely piloted aircraft systems to be on a case by case process based on risk assessment and mitigation with a case specific safety mitigation plan for each application.
  5. Note that as operators requesting access to highways can be deemed to be working and that working on, over or under State highways requires written approval (s.51 Government Roading Powers Act), it can be held that Civil Aviation Authority approval does not give any operator automatic access to any highway. Requests for access should be tied back to the same process as used for managing Corridor Access Requests including the traffic management plan.
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Explanatory

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1. The notification requirements included in the Civil Aviation Rules Part 101 (last two requirements) mean that it would be fairly impracticable to try to fly over a live road under that Rule. Therefore, any operators on roads with traffic would practicably need to be certified under Civil Aviation Rules Part 102.
  2. Certified operators are required to have a safety management system in place that covers both the operator and the machine. This meets our requirements for safety under live road conditions. Where the road is closed or for other NZTA land, including construction sites, then operation is possible under Rule 101 but a safety plan should be a condition of access.
  3. There are operators such as the Police, our contractors and other suppliers who might want to operate over highways that are closed. The expansion of the technology means that a number of new uses have already become apparent, such as photo surveys, inspections, publicity etc. It is essential not to close out opportunities the technology enables but balance that with managing the risks.
  4. All remotely piloted aircraft system operators must abide by all regulations from the International Civil Aviation Organization and the Civil Aviation Rules.
  5. Note that long established aero-model clubs operating at well-established sites are excused from the Civil Aviation Rules and therefore from this process. At least two such sites are known: south of Levin and at Matamata airfield, which affect State highways directly. All that is required is to assure that any events at these sites are well managed and controlled.
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Criteria for Flying Over High-risk Infrastructure (Under Civil Aviation Rules Part 102)

1. There are two sets of zone controls that affect approvals for operations of RPAS adjacent to airports. Firstly, as part of the international regulations, all of the international airports in New Zealand (Auckland, Rotorua, Wellington, Christchurch, Queenstown and Dunedin) are listed as having Category B protection, which consists of a 0.6 mile (1 kilometre) no-fly exclusion zone for RPAS. A number of sections of State highway pass through those exclusion zones and no approvals shall be given within those no-fly areas. Secondly there is a section in the Civil Aviation Rules that applies a controlled flying zone for 4 kilometres from the boundary of any aerodrome and the Rule requires both certification from the CAA and permission from the operator of the aerodrome to fly a RPAS. There are significant airports that are close to highways e.g. State Highway 1 at Ohakea and State highway 21 at Hamilton pass very close to the end of the runways.
  2. No open approvals shall be given to fly into operational areas frequented by other transport. For example, in central Auckland there are heliports adjacent to sections of the motorway at the port and the hospital. Frequent flightpaths and practical ceilings would need to be mapped. Bridge inspections using RPAS will need to be properly controlled over navigable waterways.
  3. No RPAS shall be operated on a State highway in the period from one hour before sunset to one hour after dawn or in any situation where visibility of the RPAS may be compromised (fog, smoke, heavy rain etc.).
  4. On any highway with more than 15,000 vehicles per day, no access is to be granted during the traffic peaks. On any highway with more than 25,000 vehicles per day, no access is to be granted over any live traffic lane.
  5. All operators must be able to distinguish whether the RPAS is flying above the live traffic lane. If the RPAS is operating remotely but has sophisticated location and viewing capability this may still be achievable adjacent to high volume highways. Where the RPAS is unsophisticated and the operator is too
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remote from the RPAS, adjacent to a high-volume highway, to ensure separation from the traffic lane can be controlled visually, access should be declined.

6. Regional offices will need to identify other risk areas on their network where the use of RPAS are too high-risk, such as where there are difficult wind conditions, where Transpower mainline power transmission lines cross the highway, near radio or microwave towers that might interfere with control transmission etc.

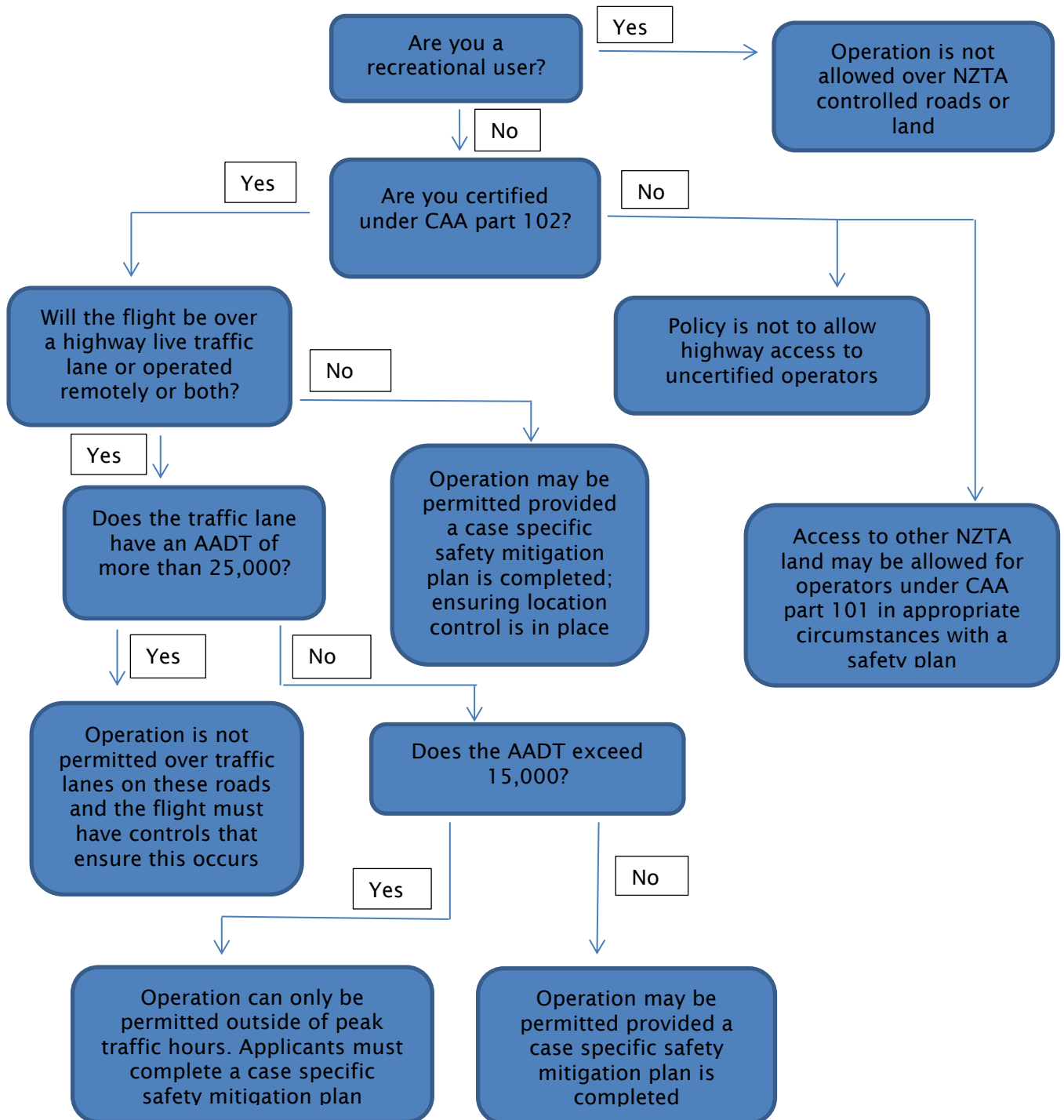
Delegation

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Approvals for access are to be made by System Managers.

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# Flowchart for drone flight requests over NZTA controlled highways and other land



## Notes:

- All drone (RPAS, UAV) operators must abide by all regulations from the International Civil Aviation Organization and the Civil Aviation Rules
- An on-highway operator must be a Civil Aviation Rules Part 102 certified operator
- The summary of operations under Civil Aviation Rules Part 101 are in the first attachment below and any non-compliance means Part 102 applies
- The outline of an appropriate safety plan are in the second attachment below

# Attachments

## The Civil Aviation Rules Parts 101 and 102 Operations

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The CAA requirements for the operation of RPAS are covered in two parts:

- (1) Those wanting to use RPAS that can operate within the Civil Aviation Rules, Part 101, do not need to be certificated by the CAA. To do so the operation must comply with the following criteria where operators:
    - Do not operate an aircraft that is 25 kg or heavier (or one that is 15 - 25 kg unless they are a member of a CAA-approved organisation) and always ensure the aircraft is safe to operate.
    - Take all practical steps to minimise hazards to people, property and other aircraft.
    - Fly only in daylight.
    - Give way to all crewed aircraft.
    - Must be able to see the aircraft with their own eyes (e.g. not through binoculars, a monitor, or smartphone) to ensure separation from other aircraft (or use an observer to do this in certain cases).
    - Do not fly their aircraft higher than 120 metres (400 feet) above ground level, unless they have approval from air traffic control.
    - Ensure they have knowledge of airspace and restrictions that apply in the area where they want to operate.
    - Do not fly closer than four kilometres from any aerodrome that is listed in the Aeronautical Information Publication.
    - Obtain air traffic control clearance from Airways Corporation NZ before flying in controlled airspace.
    - Do not fly in special use airspace without the permission of the controlling authority of the area (e.g. military operating areas, low flying zones or restricted areas).
    - Have consent from anyone they want to fly over.
    - Have consent of the property owner or person in charge of the area they want to fly above.
  - (2) Some exceptions may apply, but generally if an operator cannot meet any of these requirements; the operation needs to go through a full certification process to be approved by the CAA under Part 102 of their Rules.
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## Safety Plan

1. Some initial thinking has been given to an outline of a possible safety plan for regional office guidance. The plan should cover the suitability of the vehicle (airworthiness), including the fail safes built into it if the vehicle is to be operated over live lanes. The plan should cover the suitability of the operator, including experience and training. The plan should cover the measures to be taken to limit the exposure of the public to the risks of the proposed operation including that it should consider how to limit possible driver distraction as a result of the operation. The plan should identify any specific risks in the proposed flight area such as transmission or other lines, significantly large trees, tall buildings, wind effects etc., and how their impacts on the proposed
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operation will be mitigated.

2. As a result, Regional teams will also need to consider the limitations that might need to be applied to their networks over and above the policy outline when giving approvals. This should be from as simple as ground obstructions (wires, transmission lines, structures etc.) to issues such as areas with wind intensification or sheer (gullies, gorges etc.).
  3. Included in such considerations is to plot out any no-fly zones or special areas that may apply to their networks. More information about these can be found on the CAA website.
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# Small Claims Guideline

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## Introduction

1. The Transport Agency receives a range of private property damage claims including those associated with vehicles that have struck imperfect pavement surfaces such as potholes.
2. When such claims are received, as much as possible of the relevant factual background needs to be collected, communications carefully managed, and any threat of litigation or uncertainty should be reported to the legal team.
3. Occasionally the Transport Agency also receives personal injury claims associated with vehicle accidents. However, the Accident Compensation Act 2001 generally bars these types of personal claims according to s 317(1), where typically the plaintiff has cover under the Act. Any claim of this type should be referred to the legal team.

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## Background

1. The Transport Agency does not act as an insurer to the public in relation to its use of the state highway network, and similarly does not provide warranties or guarantees in relation to hazards and failures that can occur. However, the Agency must act in good faith in deciding how to respond to any claim and it has a certain duty of care in dealing with the management and maintenance of the state highway network.
2. Certain situations can attract liability where it can be shown that the Transport Agency or its contractors have been 'negligent' in responding to a known and serious defect, and where an omission or lack of proper care and attention in responding has resulted in quantifiable damage to personal property.
3. Nevertheless, at any one time a certain proportion of roads will contain known defects that the Transport Agency has no ability to respond to. This type of constraint is also relevant in assessing the ability to reasonably respond and in determining the limits of the 'duty of care' that can be expected.
4. It is useful to be aware of the definition of negligence that is: a breach of duty of care that results in loss or injury to a person or property that owed that duty. Negligence usually includes doing something that an 'ordinary, reasonable and prudent person' would not do, or not doing something such a person would do considering the circumstances, situation and the knowledge of parties involved.
5. In civil liability, if negligence is proven, on the balance of probabilities, an aggrieved person [or entity] is entitled to claim damages in a court.
6. As an example, in the situation where a 'defect' has been identified according to the State Highway Network Outcomes Contract VISUAL AUDIT

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GUIDELINES in conjunction with the OPMs outlines in the Network Outcomes Contract Maintenance Specification, and the response has breached the standard response time or quality of repair, then the Transport Agency may attract liability in relation to the respective damage.

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### **Collection of Facts**

1. Relevant fact collection is critical to assessing a claim. Typically this will require a detailed site inspection, and information on the following type of issues:
    - i. pavement condition prior to and at the time of the incident, according to the State Highway Network Outcomes Contract VISUAL AUDIT GUIDELINE in conjunction with the OPMs outlined in the Network Outcomes Contract Maintenance Specification.
    - ii. local historical complaints and associated defects;
    - iii. environmental conditions that may contribute to the defect;
    - iv. prior and current difficulties in responding or repairing;
    - v. historical knowledge of the contractor and Transport Agency at the time of the incident in relation to the particular defect;
    - vi. omissions such as delay in responding to the incident and providing appropriate remedial mitigation and warning notice or traffic management;
    - vii. conduct of the claimant
    - viii. detail of the vehicle damage and proximity of this in relation to the defect;
    - ix. actions or omission of the Transport Agency to remedy or manage the road defect;
    - x. witness statements of those with direct knowledge of the incident and surrounding circumstances;
    - xi. expert opinion and review of the incident.
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### **Communications**

1. Careful attention to communications to claimants is required when dealing with applicant claims, because ultimately any of the communications may be used in evidence against the Transport Agency in reviewing facts and establishing the conduct of the parties.
  2. It is important to keep the applicant informed of the process when responding to their claim and provide anticipated timeframes before a conclusive decision can be provided.
  3. The circumstances of claims vary considerably, therefore it is particularly important to identify the relevant facts and actively seek further information if these are deficient. After analysing the background and a decision is reached, the reasoning for that decision must be included in the correspondence to the claimant.
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## **Disputes Tribunal**

1. If the claimant decides to refer the matter to the Disputes Tribunal, a lawyer can't represent you in the hearing, and there are no judges. Each hearing is run by a referee who will encourage both sides to reach agreement. If they can't, the referee makes a decision and this decision is binding.
2. Although, the tribunal is not a court of record, and the decisions do not create a formal precedent, they can be persuasive because the decisions are public information and searchable.
3. You can give your case to the Tribunal in writing in the form of a written submission, and appear to present this at the hearing. This should be submitted to the Tribunal before the hearing if possible (post, courier, scan or hand them in at the court counter, quote the CIV number from your notice of hearing and the hearing date, and send a copy to the claimant). It is important to submit rigorous submissions for the Transport Agency, and the in-house legal team can assist with this aspect. You can take relevant witnesses and experts with you, who can support your submissions to the referee.
4. The Tribunal replaced the Small Claims Courts in 1988 and is covered by the Disputes Tribunal Act 1988 and Disputes Tribunals Rules 1989. For further information contact a member of the legal team.

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## **Legal Review**

1. The internal legal team should be contacted in the first instance if the matter appears to create a potential litigation risk, and then also to assist in any decision making, assessment, review, and final communications.
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## Small Claims Letters

Letter 1: Immediate response; acknowledgement of claim

Wednesday, 10 November 2017

<Customer Name>

<Address 1>

<Address 2>

<Address 3>

<Regarding: State Highway Claim>

Dear <customer name>,

### CRMS Reference:

Thank you for contacting the NZ Transport Agency. We understand that your vehicle was damaged when passing (add details of specific location of incident).

We appreciate you taking the time to raise your concerns. Being responsible for state highway maintenance and operations, we have a duty of care to all road users and we do take this duty of care seriously. In the (West Waikato South area), a maintenance contractor, (ABC Construction Limited), is employed to carry out all maintenance works. The maintenance contract specifies standards of works to be achieved including defect repair methods and response times.

Thank you for providing (the photos). If possible, please provide further details as per the attached to help the contractor review the relevant maintenance records and provide a response.

Your request will be passed onto (ABC Construction Limited) and please feel free to contact me or the contractor directly on (07 123 456). It will be helpful if you have the reference number CRMS (8000012345) handy when you make contact.

Or if prepared by NOC

If possible, please provide further details as per the attached so we can review the maintenance records and respond to your query. The process normally takes approximately 5 to 10 working days. Please feel free to contact us on (07 123 456), or email: (\_\_\_\_\_) if you have any questions. It will be helpful if you have the reference number CRMS (8000012345) handy when you make contact.

Yours sincerely

Name

Position Title

Vehicle Damage CRMS Query (8000012345) Details:

- 1) The date and time (as accurate as possible) of the incident which cause the damage;
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- 2) The weather conditions when the incident occurred;
- 3) The speed of vehicle when incident occurred;
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- 4) The name of the driver and his / her driver's licence;
- 5) The vehicle Registration number;
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- 6) A detailed and specific description of the exact location of the pothole (for example, south of White Road intersection, northbound lane, approximately 250m north from the access of the rest area; or north of Black Road, southbound lane, approximately 80m south of the curve warning sign). Please use (Diagram / basic sketch if you find it helpful)
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- 7) Brief description of incident (Diagram / basic sketch of incident)
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- 8) Witnesses (if any) – name and telephone number
  
- 9) Evidence of damages and evidence of the cost to repair the damage
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- 10) Your full name and preferred daytime contact number / cell phone number and email address

Please email or post the information to: \_\_\_\_\_ or PO Box\_\_\_\_\_.

Letter 2: Customer follow-up; maintenance requirement and liability

Wednesday, 10 November 2017

<Customer Name>

<Address 1>

<Address 2>

<Address 3>

<Regarding: State Highway Claim>

Dear <customer name>,

**CRMS Reference:**

Following our last correspondence dated (01 January 0001), we are in the process of reviewing our maintenance records and investigating the way this defect was handled.

On behalf of the NZ Transport Agency (the Agency), we maintain the state highway network as required by regulations and specifications. Nonetheless, the wet weather at this time of year makes successful and permanent repair works unviable. To ensure an active approach is undertaken on repair work during winter months and other wet weather conditions, maintenance crews are required to patrol the highway on a more regular basis compared to the summer months. The crews monitor the road condition, including potholes, and either makes the site safe by installing warning signs, or carrying out necessary temporary repair if any potholes, which pose immediate hazard to road users, are observed. Permanent maintenance work is normally carried out in summer as it requires warmer and drier conditions.

(The extreme wet weather occurred on the 1st of September caused potholes throughout the Karangahake Gorge). These potholes had been subsequently filled once the wet weather conditions subsided. Unfortunately, in extreme weather events such as this one, not only can new potholes develop very quickly, pothole repairs often lead to varying results. . Consequently, repaired potholes can quickly re-appear following traffic action. Therefore, the most practicable maintenance approach is to monitor, make-safe the site and fill the pothole as soon as practicable.

As a result, the Agency is unable to provide a guarantee or indemnity on behalf of the Crown. In all but cases of negligence by the Agency and/or its maintenance contractor, damage from road surface incidents is an insurance claim. In the case related to your vehicle damage, the appropriate maintenance records are being checked for evidence of negligence. Any associated liability for your vehicle damage can be determined based on whether the relevant specifications are met.

We will be in contact after presenting our findings and recommendations to the Agency's Maintenance Contract Manager for final review and approval.

Yours sincerely

**Name**

Position Title

Letter 3: Final response; vehicle damage outcome

Wednesday, 10 November 2017

<Customer Name>

<Address 1>

<Address 2>

<Address 3>

<Regarding: State Highway Claim>

Dear <customer name>,

**CRMS Reference**

Following our last email/letter, the investigation into your vehicle damage on (dd/mm/yyyy) at (SH2 at Karangahake Gorge) has now been completed.

During the investigation, relevant pavement repair records were reviewed for the appropriateness of the repair method and job response time. It is identified that:

- The potholes at this location were reported (by you) at 11:45am 24 July. Prior to that, the maintenance service provider was unaware of the issue;
- The potholes were subsequently repaired at 1:15pm the next day which met the maintenance contract specification of a 48-hour response time;
- The site was made safe with warning signs at 12:45 the same day which meet the maintenance contract specification of a one-hour response time.
- The repair was carried out using standard temporary repair method. Given the weather at the time, the quality of repair work was appropriate and in line with relevant specifications.

a. Note for author: contract requires defects that will, or have, caused damage or are considered a safety hazard to be managed under the incident response requirements of the contract i.e. responded to within 1hr (higher classification routes) 2 hrs (lower classification routes). If they are potholes that have not developed to this extent then 48hrs is the contract PIP period from the time it has by identified by the contractor or the principal or 3<sup>rd</sup> party.

It has been determined that the contractor has met their contractual obligations and therefore the NZ Transport Agency is not liable for damage claims Please contact your insurance company for the cost of damage repair. Or

It has been determined that the contractor has not met their contractual obligations and therefore the NZ Transport Agency will compensate for actual verified costs on behalf of its maintenance contractor. (and will then deduct this sum from monies owing to the contractor?)

There had been suggestions to place warning signs following repair work, nevertheless this "just in case" approach would affect the effectiveness of signs indicating actual problems on the road, therefore cannot be applied (example of responding to any of customer's suggestions only).

Travelling on road including the state highways will never be completely risk-free and will always require all of us to always be vigilant, keep good distance from the vehicle in front and always drive to the conditions so that we are prepared to expect the unexpected.

Yours sincerely

**Name**

Position Title