



October 2018

## **NZUAG Submission on A Proposed Independent Infrastructure Body**

### **Summary**

The New Zealand Utilities Advisory Group (NZUAG) supports in principal the proposal to establish a new independent infrastructure body and requests it be kept informed of developments of this initiative.

### **Background**

The NZUAG was incorporated in 2013 as a joint group of transport corridor managers and utility operators with responsibility for maintaining and administering the *National Code of Practice for Utility Operators' Access to Transport Corridors (the Code)*. The organisation is governed by a board comprising equal representation of corridor managers (NZTA, Kiwi Rail, the Road Controlling Authority Forum and Local Government NZ) and utility operators (electricity, gas, water, and telecommunications) with oversight by an Independent Chair.

Calls by industry for a national industry Code followed local government restructuring of the late 1980's and the privatisation of many utilities in the 1990's. The rules around utilities' access to transport corridors relied heavily on primary legislation, which was seen as a blunt instrument that wasn't able to provide guidance on the access process. Various voluntary codes were developed, but their effectiveness was variable. The Government was approached in 2007 to provide for the establishment of a national, mandatory Code of Practice that would provide guidance on utilities' access to transport corridors in the interests of communities, industry and the New Zealand economy.

### **The Utilities Access Act 2010**

The Government response to this call by industry was the passing of the Utilities Access Act (the Act) in 2010, which provided for the establishment and administration of a mandatory national Code of practice. The Code would deliver a nationally consistent approach to managing access by utility operators to transport corridors. The Code, which had been drafted by industry prior to the passage of the Act, was refined by NZUAG and came into effect on 1 January 2012.

## **The Code of Practice for Utility Operators' Access to Transport Corridors**

All parties to the Code recognise the importance of infrastructure investment in promoting economic performance and well-being. The purpose of the Code, therefore, is to enable access by utility operators' to transport corridors to be managed in such a way that maximises the benefit of infrastructure investment to the public, while ensuring all utility operators are treated fairly, disruptions are kept to a minimum, safety is maintained and a nationally consistent approach to access is applied.

The Code contains a set of general principles that must be applied when utility operators are seeking access to transport corridors. These principles require parties to work together, to apply consistent and efficient procedures, to foster technical excellence and quality, to ensure equity and fairness, to respect others' assets and property rights and to promote safety.

The Code is entirely consistent with the Government's proposal to establish a new independent infrastructure body designed to lift the quality of investment in New Zealand, and NZUAG is keen to be advised of progress with the initiative.

### **Key Issue: Code Compliance**

Each year NZUAG is required to report to the Minister and industry on any trends on the performance of the Code, and to identify "whether Code compliance, operational understanding or the quality control processes needs attention, and whether any amendments to the Code are necessary" (Section 8.2.3). This report is based on data collected from Utility Operators and Corridor Managers who are subject to the Code. Utility Operators are required to report on the number of third party damages incidents to their assets, and Corridor Managers are required to report on the number of corridor access requests and works completion notices received each year, and the number of non-conformance notices issued. In the 16/17 report, despite the Code requirements being compulsory as outlined in the Act, the return from utility operators was 77% and from corridor managers 58%, which has made analysis of trends that may be useful to industry and future infrastructure investment extremely difficult.

NZUAG is currently conducting the second formal review of the Code, and compliance with Code provisions is one of the common concerns outlined in review submissions.

NZUAG has established a Code compliance and enforcement committee to address the issue and is currently investigating how Code compliance could be improved. NZUAG considers that the establishment of a new independent infrastructure body could assist with Code compliance in the best interests of all parties concerned.

### **Support for a new independent infrastructure body**

NZUAG supports in principle the proposal to establish an independent infrastructure body that would help improve the quality of infrastructure investment in New Zealand. NZUAG supports the eight functions outlined in the consultation document that span the two broad areas of strategy and planning and project

delivery support. NZUAG also supports the statement that the body would not duplicate or replace existing functions where these are working well. However, it is not clear whether responsibility for oversight of the Code will remain with Treasury, or be passed to the new independent infrastructure body. NZUAG seeks clarification on this issue.

NZUAG has particular interest in the proposed Function 7: “(to) provide best practice on infrastructure procurement and delivery”. NZUAG can envisage a role for the new body under this function to assist with improving utility operators’ and corridor managers’ compliance with the Code.

NZUAG has an ongoing interest in the role and function of the new independent infrastructure body, as some of its work will overlap with, and impact on, the work of the NZUAG.

## **Conclusion**

NZUAG supports in principle the establishment of a new independent infrastructure body, and requests that it be kept informed of developments in this important initiative for improving the quality of infrastructure investment in New Zealand.



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