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**Submission to the Ministry of Economic Development on the Discussion Paper:  
Review of issues affecting Utilities and Road, Rail and Motorway Corridors**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 40 nationally organised societies. It has 33 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

Ten specialist Standing Committees, working through various forms of correspondence, study issues relating to their particular subjects and, with input where possible from the general membership, prepare submissions on legislation and discussion documents. The Parliamentary Watch Committee monitors changes to legislation and makes oral submissions before the Select Committees of Parliament.

This submission has been prepared by the Public Issues Standing Committee.

**LEGISLATIVE CONSISTENCY**

**Key Issue**

**Is the utilities legislative regime piecemeal and disparate?**

**Does the legislation result in inconsistency, vagueness and difficulties for utility operators and RCAs to work together?**

NCWNZ agrees that over time legal requirements and rules developed individually by local authorities have resulted in inconsistencies leading to different protocols in different areas. We applaud the establishment of New Zealand Utilities Advisory Group (NZUAG) chaired by Local Government New Zealand, what it has achieved to date, and encourage its continuation.

We would support the creation of an all-encompassing specific utilities statute in preference to tinkering with and trying to rewrite and amend current utilities legislation.

Developing new legislation means that there is a complete fresh start and outlook where all involved can clearly see their role and responsibilities. New legislation can be written to respond to advances in mechanisation and technology combined with a futuristic outlook.

Many of the key issues and questions would be superfluous if the legislation were rewritten

**DEFINING A ROAD**

**Key issue**

**Are definitions of "roads" in various disparate and inconsistent, and what problems do they cause?**





We would agree that the definition of a “road” provided within the Electricity and Gas Acts 1992 is appropriate and will provide for more consistency than the Telecommunications Act 2001 and support the need to call for public submissions.

However we consider that the principal objective of the road corridor is to carry vehicular traffic and pedestrian traffic and that the access of the corridor by utility providers is supplementary. Nonetheless this use is important and can be seen as a sustainable use of land space. Establishing Road Controlling Authorities (RCAs) use as paramount and adjusting the legislation to reflect this will enable vehicle and pedestrian road surfaces to be maintained to an agreed standard after excavation by both utility operators and RCAs.

## **NOTIFICATION OF AFFECTED PARTIES**

### *Key Issue*

**Is there inconsistency regarding the procedure to provide notice of an intention to carry out work to other utilities whose services could be affected?**

NCWNZ believes that the required notification should be consistent for all parties there is no real reason for it to be otherwise, this includes the RCAs.

A process of self-responsibility should require all parties to notify the other affected parties., Such a process can easily be established using electronic technology, for example a website. One agency can be identified to initially establish and co-ordinate the website, with each agency taking responsibility to keep details of their organisation and work proposals current. All operators should contribute financially to establishment costs of a website.

We applaud the work of the NZUAG in developing a code of practice, Standards NZ (2003) Code of Practice for Working in the Road.

## **COST SHARING ISSUES**

### **Key issues**

**Is there consistency with the provision of cost sharing arrangements in the legislation?**

NCWNZ does not believe that there is consistency with the provision of cost sharing arrangements in the legislation, but it is acknowledged that it is difficult to have consistent rules because each utility deals with different issues.

There does need to be a more transparent method of setting cost-sharing arrangements. A holistic view should be taken having regard to financial contributions by sub-dividers. There is currently no ability to waive or off-set financial contributions where, for example, a bush area or similar, could be given in lieu.

**Is there a lack of an accepted payment formula/ratio?**

**Is there agreement on the categories of chargeable services or on the principles for Charging/not charging?**

Consistency in cost sharing around New Zealand should be the aim. There will still be variance in charges between local authorities and utility operators unless legislated for, as each local authority is autonomous in its decision making.



A formula will need to be carefully thought through and decision made on the difference between provision of new services and maintenance. Some grand parenting may need to be factored in.

## **DEFINITION AND APPLICATION OF REASONABLE CONDITIONS**

### **Key issue**

**Does the current legislative framework create inconsistency and incompleteness regarding the criteria providing guidance to set "reasonable" conditions on working in the road corridor.**

The current legislative framework is incomplete and inconsistent in setting criteria for "Reasonable Conditions". As the Telecommunications Act 2001 s119 appears to outline acceptable criteria for setting conditions, this section could easily be uplifted and included in new legislation which should cover all the utilities.

As NCWNZ has always been a strong advocate for consistency in legislative terminology, this proposal would have its support.

## DISPUTE PROVISIONS

### **Key issue**

**Does current legislation provide a satisfactory appeal mechanism to cover disputes around "reasonable" conditions and penalty provision?**

Mediation and arbitration are robust means of resolving disputes and NCWNZ would support this as a primary means for dealing with disputes. The suggestion of including a dispute resolution process that requires mediation, as the first stage followed by arbitration is supported. It must always be remembered that the public in one form or another through payment of rates or the delivery of services will ultimately pay for resolving any disputes and court decisions at the first level are costly.

The use of the court system should be the final means of recourse. The Environment Court is the preferred choice as it is most familiar with setting conditions in the context of the Resource Management Act and has far more expertise than the District Court in these matters.

## ACCESS TO RAIL AND MOTORWAY CORRIDORS

### *Key issues*

**Is the current legislation regarding access specific only to the road corridor and to level crossings?**

**Does the difference in legislation covering access to the rail corridors and motorways result in unreasonable delays and uncertainty in terms of the outcome for utility providers wishing to undertake work?**

NCWNZ would agree with the sentiments expressed in paragraphs 109 and 115 that refining the definition of rail corridor and motorway to differentiate between the carriageway and corridor could provide as-of right access to the corridor but not the carriageway. Our preference would favour the use of the road corridor as the roads are the main link to housing and therefore the utilities would be more closely aligned with the consumer, even though this introduces a hazard for road safety in the form of transmission poles.



## INTERFERENCE & HAZARDS

### **Key issues**

**Do the current legislation and regulations adequately ensure that the quality of a service provided by one utility is not adversely affected by the activities of another?**

**Do the current legislation and regulations adequately provide effective means of addressing safety issues related to the management of hazards to equipment and people?**

Given that high household use of technological communication, computer networks and mobile cell phone, the quality of service provided is important to New Zealanders.

Currently New Zealanders are reliant on and have high expectations of a reliable supply of electricity to sustain their households. It is, therefore, important that any changes to legislation need to include a means of protecting and improving the quality of the service delivered and steps taken to avoid interference between utility suppliers.

While the proposal for change to s24 of the Electricity Act 1992 would seem to provide a solution, NCWNZ submits that greater strength lies in writing new legislation with a fresh holistic view rather than a continuing series of amendments or amendments to amendments.

For women living in rural areas, in particular those in isolated areas, we would welcome changes where they had the same level of interference-free and quality access to technology as urban women.

## STRATEGIC PLANNING AND COORDINATION OF UTILITY WORKS WITH THE ROAD

### *Key issues*

**Is there a consistent approach to the allocation of space in the roading network corridor with no consistent rule of thumb approach?**

**Is there a need for greater local government strategic planning and coordination of utility works within the roads?**

The discussion document as presented identifies, as has NZUAG, anomalies and inconsistencies through legislation and rules throughout the country for the allocation and use of space in the roading network. Again NCWNZ applauds the work of the NZUAG to date to produce documents such as RoadShare providing guidelines and a Code of Practice and promoting best practice in district plans. We support the continuation of this group and suggest that emphasis is put on encouragement of the voluntary use of codes through recognition schemes and promotional activities.

NCWNZ congratulate those local authorities who have taken the initiative to create specific utility ducts in new roads and support this becoming a requirement of all new roading construction and major re construction where it is possible and cost effective.

The formula for financial contribution will mean considering development impact levies or an identified contribution per developer. Initially all utility providers should contribute, with access for new services being allowed for and this space purchased or leased after agreement with all users.

RCAs and Utility providers working more closely together in respect of the 10 year planning required by legislation for Transit and local Authorities could make considerable savings through interactive communication. Taking advantage of long term planning for major sewer and



stormwater renewal in road corridors to upgrade utility services is sensible use of road opening and easy to mesh into.

NCWNZ believes that the RCAs can take some responsibility for maintaining a registry of location of utility networks in any new corridor and we propose that each regional and unitary council establishes a working group of all users to coordinate this.

Mapping of location of services is vitally important for consistent service supply to prevent costly service disruption and computer programming such as GIS simplifies this task.

Other issues [Issues not covered]

### **Treaty of Waitangi**

It is usual for Treaty of Waitangi matters to be addressed by applicants, and local authorities during any resource consent process where archaeological aspects would also be taken into the assessment of environmental effects. A substantial component of physical work in road, rail and motorway corridors would not need resource consent as stated in the discussion paper.

NCWNZ recommend that any subsequent changes to legislation or any new legislation has a requirement for Treaty of Waitangi matters to be taken into regard as appropriate and that legislation pertaining to archaeological aspects is referred to.

### **Disability**

Statistical information informs us that increasingly New Zealand will comprise a high percentage of older people with a probability that the percentage of people with physical disabilities will be greater.

NCWNZ recommends that residents in streets or portions of where it is likely utility operators or RCAs will be working for more than one day be notified of any disruption to their property access.

It is also recommended that emergency service providers be notified of right of any lack of access to residential properties if legislation does not already require this.

NCWNZ is pleased to have had the opportunity to respond to this discussion document.

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