



# Public utilities and private connections within the state highway corridor

## Planning Policy Manual

Waka Kotahi operational transport and land use planning guidance

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## Document information

### Purpose

This guidance forms part of the Planning Policy Manual (PPM) which provides a hub for operational transport and land use planning guidance to assist Waka Kotahi staff and external stakeholders to navigate through relevant planning processes. PPM guidance is grouped into three parts:

- **Part I**      **Third party land use developments (LUDs)**
- Part II      Operational responses to Waka Kotahi strategic planning policy direction
- Part III      Planning the transport network

This guide is part of the PPM Part I.

### Availability

This document is held in electronic form by the Waka Kotahi Environmental Planning Group and on the Waka Kotahi internet ([nzta.govt.nz](http://nzta.govt.nz))

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### Document History

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## Contents

<b>1</b>	<b>What this guide covers</b> .....	<b>4</b>
<b>2</b>	<b>Introduction</b> .....	<b>4</b>
<b>3</b>	<b>Public utility connections within the state highway corridor</b> .....	<b>4</b>
3.1	Overview .....	4
3.2	Public connections - Waka Kotahi process and approvals.....	5
3.2.1	Public utility connections within the state highway corridor (excluding motorways) .....	5
3.2.2	Public utility connections within the motorway corridor.....	5
<b>4</b>	<b>Private connections within the state highway corridor</b> .....	<b>5</b>
4.1	Overview .....	5
4.2	Private connections - Waka Kotahi process and approvals .....	6
<b>5</b>	<b>Other process requirements</b> .....	<b>6</b>
5.1	Resource consents and other approvals.....	6
5.2	RMA s176(1)(b) approval for works within a designation.....	7
<b>6</b>	<b>Access to the rail corridor</b> .....	<b>7</b>
<b>7</b>	<b>Summary of process/requirements</b> .....	<b>8</b>
<b>8</b>	<b>Who to talk to for more information</b> .....	<b>8</b>
<b>9</b>	<b>Useful references</b> .....	<b>9</b>

# 1 What this guide covers

This guide summarises the requirements and process associated with:

- public utilities connections within the state highway corridor
- public utilities connections within a motorway
- private connections to public or private services within the state highway corridor
- connections to utilities within the railway corridor

It also provides links to other relevant guidance, templates and contacts.

For detailed information on the above processes, and information on utility connections in the local road corridor, refer to the *National Code of Practice for Utility Operators' Access to Transport Corridors*, Version 2, July 2019.

## 2 Introduction

The framework for managing utility operator access to transport corridors (road and rail) is the *National Code of Practice for Utility Operators' Access to Transport Corridors*, Version 2, July 2019 (the Code). Compliance with the Code is mandatory for utility operators and corridor managers. The Code is produced and approved in accordance with the Utilities Access Act 2010 and was developed to provide a nationally consistent and cooperative framework for corridor managers and utility operators.

The Code processes do not over-ride the obligation to also comply with the requirements of the Resource Management Act 1991 (RMA), the Health and Safety at Work Act 2015, their successors or any other relevant legislation.

Under the Government Rounding Powers Act 1989 (GRPA), written approval must be granted by Waka Kotahi NZ Transport Agency for all public or private utility and services installation within the state highway corridor to avoid committing an offence. The detailed requirements for processing access applications are outlined in the Waka Kotahi *State Highway Control Manual, SM012*, (Part 18 Consolidated Utilities Section). SM012 seeks to ensure applications are processed consistently, appropriate legal agreements are in place, service locations are recorded and maintenance and improvements are provided for.

The approvals/documentation for public and private utilities in the state highway corridor are slightly different processes; however, the assessment requirements, as set out in the Code, can be applied in the same manner, if desired. The Code itself is only applicable directly and legally to utility operators registered or authorised under an appropriate statute.

All applicants are responsible for investigating existing services on the highway corridor, ensuring that the design meets the relevant standards of all utility providers and the Code, and obtaining all necessary approvals from Waka Kotahi, relevant public utility providers and the council.

## 3 Public utility connections within the state highway corridor

### 3.1 Overview

All public utility activity within the state highway carriageway or road reserve (motorway or otherwise) must comply with the *National Code of Practice for Utility Operators' Access to Transport Corridors* and the *State Highway Control Manual SM012 Part 18 Utilities*.

Owners of public utility services have certain statutory rights to place services within the state highway corridor (excluding motorways), subject to conditions outlined in the Code.

Except in certain circumstances noted below, Waka Kotahi has no power to refuse power lines authorised by the Electricity Act 1992, pipelines authorised by the Gas Act 1992 and telecommunications lines

authorised by the Telecommunications Act 2001 in the state highway corridor (excluding motorways), but may apply reasonable conditions including the recovery of reasonable costs and expenses. The same also applies to local authority water utilities authorised by the GRPA, the Local Government Acts 1974 and 2002 and the Local Government (Auckland Council Act) 2009.

Waka Kotahi may however refuse permission for installations of electricity lines with a voltage over 110 kV and a capacity of more than 100 MVA, except for power lines over 110 kV suspended above a road (but not motorways), subject to reasonable conditions. Gas lines with a pressure over 2000 kPa have no statutory rights to access roads or motorways and may be refused permission by Waka Kotahi.

For all other services covered by a statute, s52 of the GRPA requires Waka Kotahi to permit utility operators and territorial local authorities to install services in state highway reserves subject to application and necessary conditions. This right does not apply to motorways; operators must always obtain written approval to access motorway corridors. Most of the utilities legislation relies on the Local Government Act 1974 definition of road and a motorway is not considered a road under the Local Government Act 1974.

## **3.2 Public connections - Waka Kotahi process and approvals**

### **3.2.1 Public utility connections within the state highway corridor (excluding motorways)**

All public utilities or services within the state highway corridor are required to submit a completed Corridor Access Request (CAR) to Waka Kotahi in accordance with the requirements of the Code. Waka Kotahi then arranges for a site inspection and report by the Network Outcomes Contract (NOC) supplier.

For non-motorway state highways, Waka Kotahi may respond with either a Works Access Permit (WAP) (for authorised services under the Code) or an Agreement as to Work on State Highway (ATWOSH) for non-authorised services under the Code.

### **3.2.2 Public utility connections within the motorway corridor**

While the Telecommunications Act has its own definition of road that doesn't specifically preclude motorways, the GRPA s78 provisions still apply. This section of the GRPA provides that no utility operator or territorial local authority (including the Crown) can locate services on, over or under a motorway without prior formal written consent from Waka Kotahi. Section 78A gives utility operators the right to apply for access and Waka Kotahi is obliged to give them a formal answer within a set time period.

Where Waka Kotahi gives approval for services to be located on motorways, the correct form of consent is a Works Access Permit (Motorways). The National Code of Practice and State Highway Control Manual SM012 contain detailed requirements on this process, including the assessment criteria, and the relevant template forms.

Also refer to section 5 for additional RMA process requirements.

## **4 Private connections within the state highway corridor**

### **4.1 Overview**

Private connections should not be located within the state highway corridor unless there is no practical alternative.

The GRPA s51 gives Waka Kotahi discretionary powers to permit private individuals or bodies to install services within the state highway corridor. Examples of private applicants include government departments, private individuals or trusts, companies or other entities that do not have statutory rights of access to the state highway corridor. Some local authorities also require that connections to reticulated water and/or wastewater services within the state highway corridor are installed and owned by the property owner.

All private utility services must be approved by Waka Kotahi and have a Licence to Occupy (LTO) between Waka Kotahi (the licensor) and the approved licensee. The LTO template provides that the licence is not transferable. Agreement can be reached with particular utility operators however to allow a quasi-transferable status by way of permitted assignments. Where utility ownership changes, Waka Kotahi would still require that a new licence is entered into, to maintain the contractual relationship between Waka Kotahi and the new owner.

Certain private services<sup>1</sup>, such as installing services for water/sewage for new subdivision developments in accordance with NZS 4404, must demonstrate that on completion of the subdivision these services will be vested in a local authority.

## 4.2 Private connections - Waka Kotahi process and approvals

Private services or utilities in the state highway corridor must also comply with the Code as per lay position, depth, scope and methodology. Two separate approvals are required for such connections as follows:

- A Licence to Occupy must be obtained and signed off in accordance with Waka Kotahi formal delegations. The LTO provides the *long-term right* to be in the road.
- An Agreement as to Work on State Highways (ATWOSH) is also required to provide the applicant with the *written consent for the physical works* and to provide the conditions for undertaking the work, especially health and safety.

A copy of the latest LTO template can be obtained by contacting the relevant Waka Kotahi regional infrastructure property manager. The 'Agreement as to Work on State Highway' template is available in the SH Control Manual SM012, Part 4, Agreements.

A Works Access Permit (WAP) should not be used for private connections as it is only authorised by the Code, which only applies to utility operators authorised under statute.

It is recommended that the whole process is uploaded into the Waka Kotahi Corridor Management database with other Utilities approvals.

Also, as noted by the Code, all statutes must be adhered to in equal measure so the requirements of the RMA including any relevant district plan rules must also be met for the installation to be compliant. Refer to section 6 for additional RMA process requirements.

# 5 Other process requirements

## 5.1 Resource consents and other approvals

The installation of services in a transport corridor may also require assessments and approvals under the RMA (either under district or regional plan (or both), or an applicable national environmental standard) or Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA).

In particular, the transport corridor subject to a request for utility services may contain archaeological sites and/or contaminated sites.

It is the responsibility of the party installing the utility services to undertake the appropriate assessments and obtain any necessary approvals under the HNZPTA or RMA for their works, prior to works commencement.

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<sup>1</sup> Other examples include new connections under urban intensification, new connections with rural subdivisions and connections at new subdivision road junctions

## 5.2 RMA s176(1)(b) approval for works within a designation

Both the railway and state highway corridors are typically designated under s167 of the RMA. Where this is the case, approval under s176(1)(b) of the RMA is generally required from the requiring authority (the 'owner' of the designation) for any other party's works within that designation including;

- in locations where the road and rail designations cross each other (e.g. via overbridge or level crossing). Waka Kotahi or KiwiRail (whomever is undertaking the works) may need to give the other party s176(1)(b) approval;
- The installation of 3<sup>rd</sup> party public or private utilities within the designated state highway corridor or rail corridor.

Waka Kotahi s176(1)(b) approval can be provided separately, or to simplify paperwork, a clause noting the provision of Waka Kotahi approval under s176(1)(b) can be included within:

- the WAP for public utilities, or
- the ATWOSH for private utilities.

Approval under s176(1)(b) can only be provided subject to Waka Kotahi statutory delegations and should be discussed with a Waka Kotahi Environmental Planning Group member in the first instance.

## 6 Access to the rail corridor

The procedures for dealing with rail corridors are set out in sections 4.1 and 4.9 of the Code.

In summary, both the New Zealand Railway Corporation Act 1981 (NZRCA) and Railways Act 2005 apply to utility operators wanting access to the rail corridor. The NZRCA applies to the *rail owner* and the Railways Act applies to the *rail operator* (which is not always KiwiRail).

As the rail owner, KiwiRail can grant easements to place utility structures in the railway corridor as it sees fit, in accordance with s35 of the NZRCA. Anyone wanting to exercise a right under an easement, or carry out work on railway land also requires the written permission of the railway operator under the Railways Act 2005.

The Telecommunications Act, Electricity Act and Gas Act do not provide additional rights of access to the rail corridor as they do to the state highway corridor.

Utility operators covered by the Telecommunications Act, Electricity Act and Gas Act will have certain pre-agreed rights to enter railway land for existing works in the rail corridor as covered by their existing Deeds of Grant. Where a rail authority has turned down an access request, utility operators governed by the Electricity Act and Gas Act can seek court orders requiring access at level crossings for the construction and maintenance of their facilities where there is no practical alternative route. Outside of this right to apply to the court, access rights are at KiwiRail's discretion, including for any work associated with the state highway within the railway corridor. Utility operators must use the 'Rail Corridor Access Request' process to obtain the Railway Corridor Manager's consent before entering the land.

Access to rail/road level crossings requires approval from both the rail and road controlling authorities for separate access to their corridors. For grade separated crossings, either an agreement to enter or Deed of Grant (or both) will be required as well as health and safety requirements particular to working over the rail lines. Utility operators should contact the relevant authorities to discuss requirements.

# 7 Summary of process/requirements

Type of service	Requirements
<b>Public utility in the state highway corridor (non-motorway)</b>	<ul style="list-style-type: none"> <li>• Corridor Access Request (from the applicant)</li> <li>• Works Access Permit (will include conditions of work and long term management)</li> <li>• s176(1)(b) RMA approval from Waka Kotahi if the state highway is designated (can be wrapped up in the WAP if desired) (may include conditions)</li> <li>• other RMA approvals (utility provider to assess)</li> <li>• Archaeological authority to modify under the HNZPTA (utility provider to assess)</li> </ul>
<b>Public Utility on a Motorway</b>	<ul style="list-style-type: none"> <li>• Corridor Access Request (from the applicant)</li> <li>• Works Access Permit (Motorways)</li> <li>• s176(1)(b) RMA approval from Waka Kotahi if the state highway is designated (can be wrapped up in the WAP if desired) (may include conditions)</li> <li>• other RMA approvals (utility provider to assess)</li> <li>• Archaeological authority to modify under the HNZPTA (utility provider to assess)</li> </ul>
<b>Private utility in the state highway corridor (non-motorway)</b>	<ul style="list-style-type: none"> <li>• Licence to Occupy (the long term approval)</li> <li>• Agreement as to Work on State Highways (ATWOSH). This is the approval to undertake physical works.</li> <li>• s176(1)(b) RMA approval from Waka Kotahi if the state highway is designated (can be wrapped up in the ATWOSH if desired) (may include conditions)</li> <li>• other RMA approvals (utility provider to assess)</li> <li>• Archaeological authority to modify under the HNZPTA (utility provider to assess)</li> </ul>
<b>Rail corridor access</b>	<i>Both rail owner and rail operator agreement required for works within, or that might impact on, the rail corridor. KiwiRail's website contains information on the specific requirements.</i>

# 8 Who to talk to for more information

In the first instance for major project work, a preliminary meeting should be set up with the Waka Kotahi Regional Corridor Manager in consultation with the Regional Network Outcomes Contractor. The Corridor Manager is appointed by the System Manager on a regional basis to be a point of contact for the local utility operators and their contractors.

Contact the Waka Kotahi Environmental Planning Group for information on any RMA related matters [EnvironmentalPlanning@nzta.govt.nz](mailto:EnvironmentalPlanning@nzta.govt.nz) and the Infrastructure Property Team for information on LTOs.

For minor or repeat works, the applicant should apply via the BeforeUdig or Submitica websites. Further information will be sought from the applicant as necessary.



## 9 Useful references

<b>National Code of Practice for Utility Operators' Access to Transport Corridors, v2, July 2019</b>	<a href="http://nzuag.org.nz/national-code/">http://nzuag.org.nz/national-code/</a>
<b>State Highway Control Manual SM012 part 18 Utilities Section</b>	<a href="https://www.nzta.govt.nz/assets/resources/state-highway-control-manual/docs/sm012-consolidated-part-18-utilities-sections.pdf">https://www.nzta.govt.nz/assets/resources/state-highway-control-manual/docs/sm012-consolidated-part-18-utilities-sections.pdf</a>
<b>BeforeUdig</b>	<a href="https://www.beforeudig.co.nz/nz/home">https://www.beforeudig.co.nz/nz/home</a>
<b>Submitica</b>	<a href="https://www.submitica.com">https://www.submitica.com</a>
<b>Rail corridor access information</b>	<a href="https://www.kiwirail.co.nz/how-can-we-help/access-the-rail-corridor/">https://www.kiwirail.co.nz/how-can-we-help/access-the-rail-corridor/</a>
<b>Local road access information for utilities</b>	Contact your city or district council for more information