

STAFF REPORT

TO: Chairman and Members, Engineering Services Committee
FROM: Roger Ashworth, Transportation Manager
REFERENCE: R430-2-44
DATE: 24 January 2008
SUBJECT: **ROADING POLICY AND PROCEDURES MANUAL**

1 PURPOSE

The purpose of this report and the associated PowerPoint presentation which will be presented at the meeting is to update Council on our Roading Policy and Procedures Manual with revisions and updates, particularly focusing on the "Licence-to-Occupy" (LTO) issue.

2 BACKGROUND

In 2005 a Roading Policy and Procedures Manual was presented to the Engineering Services Committee (ratified May 2005) in order to formalise all of our roading policies and procedures into one document. The purpose of the manual is to:

- a) identify the requirements of Council in relation to the use and occupation of roads within its District;
- b) establish the framework in which Council can exercise its powers with respect to roads under its control; and
- c) enhance the control and management of the roading network within the District.

2.1 The Roading Policy and Procedures Manual covers the following bullet points:

- Approvals
- Definitions
- Compliance
- Fees and Bonds
- Operation on the road
- Vehicular crossings and accessways
- Roadside open drains
- Fencing
- Private utilities and services on roads
- Public utilities and services on roads
- Temporary closure of roads for roading and service utilities purposes
- Temporary closure of roads for public event
- Dust suppression on roads
- Sealing low traffic roads
- Formation and maintenance of legal roads
- Stopping of roads
- Gates and cattle stops across roads

- Stock crossings at grade
- Stock races
- Debris on roads
- Stock underpasses
- Grazing the road margin
- Storage on the road margin
- Use of roads and road licences
- Structures on the road margin
- Vegetation control – chemical herbicides
- Trees and road reserve
- Signs on roads
- Traffic service

The Roothing Policy and Procedures Manual is some 200 pages and therefore copies have not been distributed. In the Powerpoint presentation we will attempt to give a brief overview of each of the policies. A copy of the document is available on request.

The most contentious issue seems to involve our “Licence to Occupy” (LTO) policy.

2.1 Ownership and Control of Roads

There are two main pieces of legislation that define the ownership, rights and powers of road controlling authorities in relation to roads. These are:

- The Local Government Act 1974 (LGA 1974), and
- The Transit New Zealand Act 1989.
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Local Government Act 1974

The Local Government Act 2002 has been passed and Schedule 18 to that Act provides that all provisions of the LGA 1974 are repealed except for certain specified provisions including Part XXI which relates to roads. Accordingly the majority of statutory powers and rights relating to the ownership of local roads continue to be those set out in the LGA. These are legally defined in Section 315.

Section 316 of the LGA sets out the property rights which attach to roads and essentially vests all roads in the Council of the District in which they are located except for state highways in existence prior to the formation of a district or for which a local authority has relinquished control. Ownership extends under Section 316 for all materials placed or laid on any road in order to be used for the purposes thereof. This suggests that utilities placed within roads do not automatically become part of the road and are therefore not an asset of the road owner. This also tends to be confirmed by other specific legislation relating to access for utilities to roads.

The general powers of a local authority in respect of roads under their control are relatively broad. These powers are set out in Section 319 of the LGA 1974 and include the power to:

- Construct, upgrade and repair roads as Council sees fit;
- Lay out new roads, divert or alter the course of any road or alter the level of the road;

- Increase or diminish the width of a road; and
- Determine which part of a road are carriageway and footpath/cycle track.

It can be seen that the powers under Section 319 which are available to local authorities with regard to roads under their control or ownership, have the potential to impinge upon both access to and the operation of utilities within roading corridors. For network utilities such matters are typically dealt with under the relative utilities legislation. The legislation which is most relevant to utilities in roads and the relevant coverage of those statutes for present purposes is summarised below:

- Local Government Act 2002 – In this context provides wide powers for local authorities to carry out water services works including works on private land.
- Transit New Zealand Act 1989 – Sets out powers and restrictions relating to the use of state highways and motorways.
- Telecommunications Act 2001 – Relates to works of telecommunications operators within roads.
- Gas Act 1992 – Relates to works of gas operators within roads.
- Electricity Act 1992 – Relates to works of electricity operators within roads.
- Railways Act 2005.
- And last but not least, the Resource Management Act 1991 requires sustainable management of natural and physical resources which includes roads and networks utilities.

The rights, powers and duties of utility operators and road controlling authorities vary under these different statutes.

Furthermore, it is clear that legislation regards roads as having a strategic function and also as valuable assets. The current TDC value is approximately \$500 million. In our view these characteristics and functions should be influential in terms of what types of conditions on access to roads should be imposed on network utility operators under utilities legislation and also private utilities which are requested to be laid within road reserve.

To date the application for road occupation particularly for relatively large non-network utilities, ie private, have been handled by LTO. This is particularly applicable when the applicant wishes to utilise a significant area of the road reserve in terms of width and length.

For applications whereby there are only single crossing points, for example from one section of farm to another that is severed by road, they have been handled by a set of conditions drafted and agreed to by the applicant prior to the installation of any servicing. It is intended that we continue with this policy for the relatively minor applications. Any subdivisional (or other) development that requires private infrastructure within road reserve will be required to complete a LTO as part of the consent conditions. The terms on which Council has allowed non-network utilities

(private operators) to lay pipes under roads are set in a licence (copy attached) Other policies within the manual are subject to legislative changes and will be updated accordingly. This will enable Council to ensure that this private infrastructure will be properly managed in future at little risk to Council.

6 RECOMMENDATION

THAT Council adopt the licence for all significant occupation requests within TDC road reserve.

Roger Ashworth
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