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NZUAG Submission on Critical Infrastructure Resilience

Thank you for the opportunity to make a submission by the New Zealand Utilities Advisory Group Inc. (**NZUAG**) regarding the discussion document on Strengthening the resilience of Aotearoa New Zealand's critical infrastructure system.

Introduction

NZUAG was established by agreement between the Government and the infrastructure sector (including utility operators and corridor managers) to develop the National Code of Practice for Utility Operators' Access to Transport Corridors (**the Code**) for approval by the responsible Minister, conduct periodic reviews, and recommend changes for approval by the responsible Minister (currently the Minister for Infrastructure). NZUAG is an incorporated society whose membership and governance is drawn from across the infrastructure sector, with an independent chair. In effect, NZUAG is the forum for the various parties involved to collaboratively develop and agree the rules by which they will interact operationally within the transport corridors.

Purpose and content of the Code

The statutory purpose of the Code is to enable access by utility operators to transport corridors to be managed in a way that -

- maximises the benefit to the public while ensuring that all utility operators are treated fairly; and
- ensures that disruptions to roads, motorways, and railways caused by work by utility operators are kept to a minimum, while maintaining safety; and
- provides a nationally consistent approach to managing access to transport corridors.

The Code must set out the following:

- who it applies to;
- the principles governing how corridor managers deal with utility operators, and how utility operators deal with corridor managers and other utility operators, on issues relating to access to transport corridors;
- the processes and rules for coordinating work done in transport corridors by utility operators, or that affects utility operators' assets:

- processes for dealing with conflicts of interest arising from the same person being both a corridor manager and a utility operator, or being the operator of different utilities:
- how the statutory criteria for setting reasonable conditions, when utility operators have a right of access, are to be applied:
- whether, what, and how any other conditions relating to access may be imposed by corridor managers when utility operators have a right of access:
- how the criteria (published in accordance with a statutory requirement) for granting access are to be applied when utility operators request access:
- processes and rules for utility operators and corridor managers to share information:
- how compliance with the provisions of the Code is to be encouraged and provided for, including 1 or more dispute resolution procedures:
- operational processes and rules about work done by utility operators within transport corridors.

The Code may also -

- refer to standards, guidelines, or other documents that are not set out in the Code;
- provide for its provisions to be applied differently in different geographic locations, provided those provisions fulfil criteria of economy, efficiency, fairness, and acceptance by the affected utility operators and corridor managers;
- include any other matter that is consistent with the purpose of the Code and not inconsistent with any enactment.

In summary, the Code comprehensively covers how utility operators and transport corridor owners will fairly and equitably interact with each other in the transport corridor. The Code is subject to periodic review; indeed, such a review is due for completion later this year. That review is also likely to call for a broader mandate for the Code and its administration in the light of:

- many years of successful pre- and post-legislative consultation and agreement between infrastructure entities and government agencies to develop and renew the Code;
- over 10 years of practical experience of the Code's operation; and
- evolving opportunities for greater collaboration and efficiencies in operational processes, information provision, asset management, and extended coverage beyond the transport corridors.

Whether this document accurately identifies the issues with New Zealand's current approach to regulating the critical infrastructure system?

The key issues are identified and highlight well that the definition of critical infrastructure needs to grow, and technology has changed our understanding of resilience. The interdependencies between the lifeline utilities have been understood and managed well through regulation such as the Code and national and regional groups up to this point. However, with the mega trends identified, the current system needs investment and regulatory support to continue to meet the expectations of Aotearoa New Zealand.

Where relevant, ideas for possible reforms that may help address these problems.

The 5 resilience domains defined in the discussion document,

- physical resilience
- cyber and information system resilience

- personnel security
- supply chain resilience
- procurement security

require differing levels of reform. Recent events have highlighted supply chain and procurement security lacked resilience and required government intervention, whereas Cyclone Gabrielle highlighted the physical interdependency of lifeline utilities and the need to have processes and relationships in place. In this circumstance investing in the existing regulation such as the Code and regional and national lifeline groups makes better sense.

Caution needs to be taken when imposing regulation as often this may drive counterproductive outcomes. An example of this could be, regulating that all critical infrastructure buildings meet Building Importance Level 5 (IL5). This may then require significant investment by the asset owners, for little benefit as they may already have created resilience in the network by other means.

Barrier 1: Information sharing is as hoc, rather than comprehensive and systematic.

While the Code is only applicable to Utility Operators' and Road Controlling Authorities, it provides a platform for comprehensive and systematic information sharing between these Lifeline utilities. Any reforms to the emergency management system needs to incorporate and utilise the regulatory obligations the Code has already in place:

- obligation to Coordinate (section 2.7)
- Participation in Liaison Meetings (section 2.7.2), which promote the discussion of a number of matters including the below 3 points.
 - The development of corridor management policy, frameworks, or procedures to ensure coordinated outcomes are achieved that address all Parties' needs.
 - Consideration of issues relating to 'lifelines' co-location (for example, where having a number of critical assets in the same Transport Corridor creates a point of significant vulnerability).
 - Consideration of public safety, health and safety and safety in design.

Barrier 2: There are no enforceable minimum resilience standards.

The Code does not contain any minimum resilience standards, but it does provide a vehicle to enforce. Section 3, Planning for New Assets in the Transport Corridor, sets out requirements and includes a risk assessment for determining depth of underground Utility Structure in Road Corridors (Table 3.1). This could be weighted to provide for minimum resilience standards. In recent events bridges have been a common failure point with potential interruption to roading, telecommunications, water and electricity networks. Section 3.4, Utility Assets on Transport Corridor Structures, could be amended to better align with resilience at this point.

Barrier 3: There are limited tools to manage national security risks.

The Code exists to enable cooperative behaviour amongst corridor and utility managers. For example, after the 2016 Kaikoura all digging along the western side of the South Island was briefly stopped due to the risk to the South Islands telecommunications connectivity with the temporary loss of the Cook Strait

cable. Communication and the management of this critical risk was managed through the Code and relationships between utilities and corridor managers.

Barrier 4: There are unclear accountabilities for system resilience in government and across the community.

The NZUAG and particularly the Code are accountable for operational interactions between Utility Operators' and Road Corridor Managers enabling them to achieve resilience. While this is only one part of the ecosystem to achieve system resilience, it is a key enabler for delivering other regulatory obligations and should be considered and utilised as part of the framework for delivering and enforcing accountabilities for lifeline utilities.

In conclusion.

The operational and consultative approach adopted in the Code is a proven mechanism based on practical working relationships, especially important now when funding and delivering extensive infrastructure development and renewal are pressing economic, social, and financial issues. The Code also has an established review process to embrace new developments and requirements. Any policy proposal regarding network infrastructure design, construction, maintenance, and operation should be developed with the Code as a prime consideration, and should not contradict or redundantly relitigate the principles and processes inherent in the Code.

We will be happy to respond to any queries you have on our submission, and members of the NZUAG can attend the public meetings.

New Zealand Utilities Advisory Group

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