**Work Within Road Reserve**

**Duties of Works Manager and Infrastructure Manager**

**as specified in the**

**Road Management Act 2004 (Schedule 7)**

**Definitions:**

* **Works Manager** - means the person or organisation responsible for the conduct of the works.
* **Infrastructure Manager** – means the person or organisation responsible for the infrastructure being installed or maintained

Specific duties

 1 Duty to apply principles

An infrastructure manager or works manager must have regard to the principles in clause 14 in the performance of its functions or the exercise of powers in the provision of non-road infrastructure on roads.

 2 Duty to act in accordance with good engineering practice or relevant industry standard

An infrastructure manager or works manager must in installing non-road infrastructure and conducting related works apply good engineering practice and relevant industry standards.

 3 Duty to have traffic management plan

An infrastructure manager or works manager must comply with—

 (a) any requirements in relation to the safety of road users; and

 (b) section 99A of the **Road Safety Act 1986**.

 4 Duty to cooperate

An infrastructure manager or works manager must cooperate in good faith with any other infrastructure manager or works manager in coordinating the management and maintenance of infrastructure and related works on a road.

 5 Duty to avoid unnecessary delay or obstruction or interference with infrastructure

An infrastructure manager or works manager must—

 (a) if practicable, use methods which do not involve excavating or breaking up the surface of a roadway or pathway or interfering with infrastructure in preference to methods that do;

 (b) if it is necessary to excavate or break up the surface of a roadway or pathway, the works should be conducted—

 (i) at a time and in a manner to minimise as far as is reasonably practicable inconvenience to road users and other persons; and

 (ii) so as to minimise long term damage or disruption;

 (c) as far as is practicable, reinstate at its own cost the roadway or pathway or infrastructure to the standard before the works were commenced.

 6 Duty to maintain non-road infrastructure or related works to a satisfactory standard

An infrastructure manager must take reasonable measures to—

 (a) maintain the non-road infrastructure or related works to a satisfactory state of repair;

 (b) avoid causing damage to the roadway, road infrastructure or non-road infrastructure;

 (c) repair any damage caused to the roadway, road infrastructure or non-road infrastructure by a failure of infrastructure for which the infrastructure manager is responsible;

 (d) take reasonable precautions to ensure that anything placed on a roadway or pathway does not cause an obstruction or inconvenience;

 (e) take reasonable precautions to ensure that anything placed on a roadway or pathway does not cause an obstruction or danger to any person with a disability;

 (f) in the case of any part of a road used for rail infrastructure, ensure that the condition of the surface is maintained to a standard which is equivalent to the standard of the adjacent road surface.

**Example**

A road authority, a utility or a provider of public transport which has infrastructure in a road must take care that its pit lids, access hole covers, gratings and similar things are kept flush with the surrounding surface of the roadway or pathway so that they do not cause a hazard or adversely affect the smooth passage of traffic.

 7 Duty to give notice to relevant coordinating road authority

 (1) An infrastructure manager or works manager must give notice to the relevant coordinating road authority of any proposed installation of non-road infrastructure or related works on the road reserve.

 (2) Subclause (1) does not apply if the proposed installation of non-road infrastructure or related works are necessary because of an emergency, but the infrastructure manager or works manager must advise the relevant coordinating road authority about the installation of non-road infrastructure or related works as soon as is reasonably practicable.

 8 Duty to give notice to other infrastructure manager or works manager

 (1) Unless subclause (3) or (4) applies, an infrastructure manager or works manager must give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area which could be affected by any proposed installation of infrastructure or related works on a road or the road reserve of any road.

 (2) The infrastructure manager or works manager must negotiate in good faith so as to minimise any adverse effects on any other non-road infrastructure.

 (3) Subclause (1) does not apply if the proposed installation of infrastructure or related works are necessary because of an emergency, but the infrastructure manager or works manager must advise any other infrastructure manager or works manager responsible for non-road infrastructure in the area which could be affected about the installation of non-road infrastructure or related works as soon as is reasonably practicable.

 (4) Subclause (1) does not apply if an exemption under the regulations applies.

 9 Duty to provide information

 (1) An infrastructure manager responsible for non‑road infrastructure must comply with a request for information from a coordinating road authority, an infrastructure manager or a works manager responsible for existing or proposed road infrastructure or non-road infrastructure which is reasonably required in relation to—

 (a) the location of any non-road infrastructure; and

 (b) technical advice or assistance relating to the conduct of any works on that non-road infrastructure in a safe manner.

 (2) If an infrastructure manager or works manager becomes aware that any infrastructure or works for which another infrastructure manager or works manager is responsible—

 (a) is not in the location shown in the relevant records; or

 (b) appears to be in an unsafe condition; or

 (c) appears to be in need of repair or maintenance—

the infrastructure manager or works manager must give that information to the other infrastructure manager or works manager.

 10 Duty to consult members of the public

 (1) This clause applies if an infrastructure manager or works manager is proposing to install non-road infrastructure or conduct related works which are likely to significantly affect—

 (a) occupiers or owners of property near the road; or

 (b) a class of road users or another section of the public.

 (2) If practicable, the infrastructure manager or works manager should conduct appropriate consultation with the persons likely to be significantly affected.

 11 Duty to take other reasonable measures to minimise disruption and ensure safety

While works are being conducted on a road, the works manager must take all reasonable measures to—

 (a) minimise disruption to traffic;

 (b) ensure the safety of the works for road users and adjoining properties;

 (c) make adequate provision for persons with a disability.

 12 Duty to reinstate

 (1) In completing the works, the works manager must after the works are completed reinstate the roadway, pathway or area of roadside to the standard before the works were commenced—

 (a) as promptly as is reasonably practicable; and

 (b) as nearly as is reasonably practicable to an equivalent standard of quality and design; and

 (c) so as to ensure that any feature to assist persons with a disability is restored.

 (2) If a works manager has not completed the works as required by this clause, the relevant coordinating road authority may direct the infrastructure manager or works manager to conduct reinstatement works as specified in the direction within the period specified in the direction.

 (3) If an infrastructure manager or works manager fails to comply with a direction under subclause (2), the relevant coordinating road authority may take measures to ensure the reinstatement works are completed.

 (4) For the purposes of subclause (3), if but for this clause the conduct of the works would be regulated by another law, the relevant coordinating road authority must ensure that
as far as is reasonably practicable the works are conducted by an appropriately qualified person in compliance with that law.

 (5) The relevant coordinating road authority may recover any costs reasonably incurred under subclause (3) from the infrastructure manager or works manager.

 13 Notice of completion of works

 (1) The works manager must within 7 days of completing any works, including any reinstatement works, notify the relevant coordinating road authority as to the works that have been completed.

 (2) The period of 7 days specified in subclause (1) may be varied by—

 (a) the relevant coordinating road authority;

 (b) the regulations.

 (3) The infrastructure manager must ensure that the works manager has complied with this clause.

**Notes**

1 Section 64 provides that it is an offence to fail to give notice.

2 The Regulations may provide for an exemption from the requirement to give notice: see section 132(3)(b).

**14 Principles applying to infrastructure managers and works managers**

 (1) An infrastructure manager or a works manager must have regard to the principles specified in this clause in the provision of non-road infrastructure on roads.

 (2) The primary purpose of a road is use by members of the public and authorised uses must be managed as far as is reasonably practicable in such a way as to minimise any adverse impacts on the primary purpose.

 (3) Without limiting the generality of subclause (2), authorised uses must be managed so as to—

 (a) minimise any damage to roads and road infrastructure;

 (b) ensure that any works necessary for the provision of non-road infrastructure are conducted as quickly as practicable;

 (c) minimise any disruption to road users;

 (ca) minimise any disruption to users of different modes of transport which have priority on specified roads;

 (d) minimise any risk to the safety and property of road users and the public generally;

 (e) facilitate the design and installation of infrastructure which minimises any risk to the safety of road users;

 (f) ensure that the road and any other infrastructure is reinstated as nearly as practicable to the condition existing before the works necessary for the provision of the non-road infrastructure were conducted;

 (g) protect and preserve existing significant roadside vegetation and sites of biological significance within the road reserve.

 15 Duties of infrastructure managers and works managers

 (1) This clause applies to any infrastructure manager or works manager which—

 (a) is responsible for the provision of any non-road infrastructure on a road reserve; or

 (b) carries out any works on a road; or

 (c) exercises any power or function conferred by any other Act or law which affects a road.

 (2) If an infrastructure manager or works manager is required to comply with a duty or a condition of a consent under this Act, the infrastructure manager or works manager must meet the cost of complying with that duty or condition.

 (3) The duties set out in this Schedule also apply to any other person who installs infrastructure on a road or conducts works on a road without being authorised to do so.