

SCHEDULE 10

Protective provisions

PART 16

For the protection of Welsh Ministers as Strategic Highway Authority

Application

195. The provisions of this Part have effect for the protection of the Welsh Ministers (“the WM”) as the Highway Authority for the strategic road network in Wales, in addition to all other applicable statutory protections, unless otherwise agreed in writing between the undertaker and the WM.

Interpretation

196. In this Part—

“highway structure” means any bridge, subway, culvert, pipe, tunnel, manhole, chamber, wall, reinforced soil embankment, piece of street furniture, building or other structure built in, over, under or adjacent to any part of the highway which materially affects the support of that highway and/or the safety of the travelling public;

“strategic highway” means any part of the highway network including trunk roads or special roads which the WM are responsible for;

“NMWTRA” means the North and Mid Wales Trunk Road Agency, who act as the highway agents of the WM and exercise functions relating to the management and operation of the relevant part of the strategic highway on behalf of the WM pursuant to an agreement between the WM and Gwynedd Council under section 6 of the Highways Act 1980. In practice therefore, the procedural matters contained in this Part will be largely dealt with by NMWTRA on behalf of the WM; and

“works” means—

- (a) that part of Work No. 39 which requires the trenchless installation of the pipeline under the A494 (Aston Expressway) highway;
- (b) that part of Work No. 44 which requires the open cut installation of the pipeline under the verge of the A55 adjacent to Junction 33a, heading north under Chester Road; or
- (c) any other work forming part of the authorised development within or which affects or requires occupation of the strategic highway.

Approvals

197. The crossing of the A494 and its associated assets must only be carried out by trenchless techniques. The installation of the pipeline under the verge of the A55 adjacent to Junction 33a, heading north under Chester Road shall be carried out as open cut installation.

198.—(1) Prior to the commencement of the works the undertaker must obtain the written approval of the WM to such works.

(2) When requesting approval under sub-paragraph (1), the undertaker must submit to the WM:

- (a) Copy of location plan to a scale not less than 1/10,000 showing the location and/or proposed route and siting of the works;
- (b) Details of the methodology of the works;

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- (c) Details of the proposed timing of the works;
- (d) Details of any traffic management measures (including signage) proposed in connection with the works; and
- (e) Where approval is sought for works to or within the carriageway of a strategic highway, evidence of NHSS (National Highways Sector Scheme) certification and Street Works Qualifications.

199. No crossing is to take place until a monitoring regime and the Geotechnical Design Report (GDR as defined by the DMRB CD622 Managing Geotechnical Risk) is agreed and certified by the WM.

200. Technical Approval from WM in accordance with DMRB CG300 is required in advance of any part of the works which is likely to affect any existing highway structure(s)

201. Approval under this Part may be sought in one or more applications.

202. Any approval of the WM under this Part may be given subject to such reasonable requirements or conditions as the WM may determine.

203. The undertaker must contact any owners or operators of apparatus in, on, over, under or near the strategic highway including other statutory undertakers to ascertain whether their existing or proposed apparatus to within or under the strategic highway is likely to be affected by the works. The undertaker must comply with the reasonable requirements and conditions imposed by the owners or operators relating to the protection of existing apparatus in, on, over, under or near the strategic highway likely to be affected by the works.

204. The undertaker must pay a fee of £250 to the WM with any application for approval under this Part.

Indemnity

205. The undertaker indemnifies the WM against any and all claims in respect of injury, damage or loss arising out of—

- (a) the placing or presence in the strategic highway of apparatus as part of the works; or
- (b) the excavation by any person of any works within the strategic highway,

always provided that the undertaker shall not be liable for any consequential loss or any indirect loss under any circumstances.

206. The undertaker (or any person carrying out works on its behalf) must have and maintain in force for the duration of any works to or within the strategic highway network, public liability/third party insurance to the sum of £10 million covering its liability under paragraph 205. The undertaker must provide evidence of such insurance to the WM if requested.

Traffic management

207. The undertaker must contact the NMWTRA, the WM RA Control Room, North Wales Traffic Management Centre, Ffordd Sam Parri, Morfa, Conwy, LL32 8HH – Telephone number 01492 564790 before erecting or removal of traffic management measures on the strategic highway on each occasion that erection or removal is required.

208. The undertaker must execute the works in strict accordance with the requirements contained in Chapter 8 of the Traffic Signs Manual (2009) as published by Her Majesty's Stationery Office HMSO and any amendments thereof.

Inspections

209. The WM or any person authorised by them for this purpose is entitled to inspect any works to, within or under the strategic highway while such works are being carried out and following completion of such works.

210. Exercise of the right to inspect under paragraph 209 must be carried out reasonably, in compliance with any requirements of any health and safety requirements in place within the site of any works, and in accordance with the instructions of the undertaker.

211.—(1) The undertaker must compensate the WM in respect of any loss, damage, charge, cost or expense reasonably suffered or incurred by the WM as a result of the execution, use or maintenance of the works.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect of—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of WM, its officers, employees, contractors or agents; and / or
- (b) any indirect or consequential loss of WM or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption).

Reinstatement

212. Any reinstatement of the strategic highway required in connection with or as a consequence of the works must be carried out in strict conformity with the Code of Practice “Specification for the Reinstatement of Openings in Highways”.

213.—(1) Where, in the reasonable opinion of the WM, any reinstatement carried out by the undertaker is defective, three defect inspections will be carried out comprising:

- (a) A joint inspection by the WM and the undertaker to determine the nature of the failure and what remedial works need to be carried out;
- (b) Inspection by or on behalf of the WM of remedial works in progress; and
- (c) Inspection by or on behalf of the WM when remedial works have been completed.

(2) The undertaker must pay an inspection fee of £47.50 for each inspection carried out under this paragraph.

214. Any and all reasonable costs associated with the reinstatement work will be met by the undertaker.

Notice of completion of Works

215. The undertaker must notify the WM of the completion of works approved by the WM under this Part within 10 working days of such completion.

216. The undertaker must supply the WM with as built records of any apparatus sited within or under the strategic highway within 20 working days of the completion of works, including, in particular, the location and depth of any electrical cables on a plan to a scale of 1/500 with a longitudinal and vertical accuracy of + or - 100mm.

217. The undertaker must submit a Geotechnical Feedback Report (GFR as defined in the DMRB CD622 Managing Geotechnical Risk) including all monitoring results and as built drawings to the WM no later than six months from the date of completion.

218. After the apparatus has been placed, the undertaker must not carry out any further works or maintenance to the apparatus or works or any other works involving excavation within the

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boundaries of the strategic highway without the prior written approval of the WM, such approval not to be unreasonably withheld or delayed, and any such works must be carried out and completed to the reasonable satisfaction of WM.

Arbitration

219. Any difference or dispute arising between the undertaker and the WM under this Part must, unless otherwise agreed in writing between the undertaker and the WM, be determined by arbitration in accordance with article 49 (arbitration).

Notices

220. The plans submitted to the WM by the undertaker pursuant to this Part must be submitted to North & Mid Wales Trunk Road Agent, Unit 5 Llys Britannia, Parc Menai, Bangor, Gwynedd, LL57 4BN and streetworks@nmwtra.org.uk or such other address as the WM may from time to time appoint instead for that purpose and notify to the undertaker in writing.

Maintenance

221. The undertaker must maintain the apparatus in an appropriate state of repair and condition. The undertaker must if required place and maintain within the limits of the said highway suitable permanent signs of a type and in positions to be approved by the WM for the purpose of indicating as nearly as possible the exact position under the highway in which the said apparatus is laid.