

Thoughts on the Network Outcome Contract (NOC)

Gained from a meeting with Dean Heiford (standing in for Richard Coningham) (MDC), Steve Murrin (MDC/MR), Andrew Caddie (KCSRA) and Tania Croucher (KCSRA) at the offices of Marlborough Roads and Alistair Cameron (KCSRA) and Kevin Bright (KCSRA) on Zoom, 11 April 2023

A. Overview Comments

1. The Network Outcomes Contract (NOC) is between NZTA (branded as Marlborough Roads) and the Fulton Hogan (FH) /HEBs JV for Marlborough roads. The NOC covers the repair and maintenance of the State highway and Council road networks in the Marlborough region.
2. The NOC contract appears to be divided into at least two parts when it comes to invoicing by NZTA's contractor the FH/HEBs JV (**JV**).
3. The first is an annual sum for a list of Business As Usual (**BAU**) maintenance tasks. Secondly, a **measure and value** component for tasks outside of the BAU maintenance (e.g. a slump in the road less than 50mm is BAU maintenance but over 50mm would be paid for over and above the annual contract amount as measure and value).
4. Under the Contract BAU is an annual lump sum automatically paid out at 1/12th each month. There appears to be little contractual flexibility for NZTA if things change (e.g. It appears no adjustment is automatically made when a length of road is not able to be maintained (i.e. due to road closure, storm damage)).
5. Contract value is determined on an estimate of how many times a certain maintenance item will be undertaken within the year and allocates a fixed amount **regardless of location** within the network (e.g. repair of a pothole is \$30 if it is located in the centre of town or the end of Kenepuru Road).
6. Work is completed by either the JV directly or a subcontractor engaged by the JV. JV have started to engage local contractors to undertake BAU work. This has only occurred due to community pressure. As the Contract is outcomes focused it appears the NOC does not provide for Council/NZTA to have much in the way of input into the way work is completed by the JV.
7. Each month the JV provides the quantum of work (i.e. 10x potholes on Kenepuru Road).
8. The only check on the amount of work completed or the quality of the work is a random audit of 10% of the roading network. It is understood this audit **is**

independent of the location of work that was actually carried out in the previous month.

9. There was little response when asked what checks are in place to ensure that BAU maintenance is not left till it becomes measure and value.

10. Under the NOC the JV have control of the roading network. This makes it difficult for NZTA (or Council) to have any meaningful say as to who does what, when on a day to day basis.

11. Recovery work is completed as measure and value.

12. NZTA manages the recovery design process, JV obtain three prices if the work is over \$300k, NZTA supported by the project management office (PMO) assess the tenders.

B. Some Initial Concerns

1. Why is the contract value not adjusted to recognise when BAU maintenance is unable to be undertaken due to storm damage, road closures, state of emergency etc.? Without adjustment the JV is being paid for work it cannot undertake. It appears correcting even this simple point is generating a complex "dispute" process under the NOC.

2. What real incentive is there for the JV to undertake BAU maintenance at the extremities of the network?

3. Why is the audit not undertaken on the previous months work instead of a random selection of 10% of the whole network?

4. What provisions are in place to ensure BAU maintenance work doesn't become measure and value enabling the JV to claim additional payment outside of the NOC?

5. If the JV maintains control of the roading network during an emergency/recovery situation how does this affect the ability of NZTA (or the Council) to independently undertake recovery works, in particular any work under \$300k?

6. The NOC construct appears to make it very difficult for NZTA (or the Council) to have obvious cost and efficiency measures implemented e.g. using locally based contractors to cut down on travel time.

7. The NOC construct appears to limit MR to making "suggestions" as to how the work program might be completed.

8. Process's for pulling the JV up for inadequate standards of work outside of the random audit process appear to be weak to non-existent.

C. Post meeting development

1. Subsequent to our meeting of 11 April we made some enquiries as to the scope of the upcoming NOC contract review. We were disappointed to be advised that this was a very limited review and indeed one controlled by the HEBs/FH JV for Marlborough roads.
2. The focus of the review is limited, we understand, to a revision of the various lump sum rates agreed some three years ago. It is not a review as to the relative performance of the respective parties with a termination option or similar should the parties be unable to agree a way to improve performance outcomes.
3. The advice thus being “we are locked in until March 2027”.
4. An unfortunate turn of events in terms of achieving our objective of improved standards of performance of routine roading maintenance for rural roads such as the Kenepuru network.
5. Looking forward perhaps we need to push to for better supervisory practices, apply some focus on the performance criteria, such as it is, in the NOC contract (no small task given its complexity and size) as well as advocating for better operational outcomes reporting to the Council Assets and Services committee.

Kenepuru and Central Sounds Association

18 May 2023