

Network Outcomes Contract Governance & Management Group Clarification

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| Reference Number: | NOCC No. 22 |
| Subject Title: | Contract Risk Profile 61 |
| Issue Date: | 26 September 2017 |
| Clarification Purpose | Clarification is provided to ensure the NOC is being interpreted consistently. The clarification does not remove or supersede the Network Outcomes Contract documentation. |

SUBJECT

Clarification of the intent of Contract Risk Profile 61 (CRP 61) in terms what constitutes a risk excluded event / response.

Definitions:

The following definitions from the NOC Conditions of Contract are pertinent:

- CRP 59 description states:

“The removal of the first 50 cubic metres in total of slip material” = Risk Included.

- CRP 61 description states:

“Road slumping settlement / slumping / dropout / washout / over slip of any part of the formation and pavement on the sites listed within Appendix 6.15, Recurring Hazards.” = Risk Excluded.

There is no definition of ‘formation’ within the NOC document or NZTA repository.

In the context of CRP 61 ‘formation’ would be deemed to be the engineered or constructed cross section of the road corridor, including the battered slopes or hillsides beside and beyond the shoulder or surface water channel area and the carriageway itself.

The Appendices clause 6.2 indicates a typical cut or fill batter adjacent the carriageway.

The definition of “over slip” in this context is typically material that has slipped from the adjacent cut or fill batters or hillsides **and has affected the road formation/foundation and or the pavement structure or surfaced areas.**

Section 6.6.1 Operational Activities, Incident Response, bullet 4 states

“Removing slips up to 50 cubic metres in volume as specified within the Conditions of Contract, 18th Schedule. The Principal will bear the risk of slips onto the road except that

the Contractor bears the risk of the first 50 cubic metres, truck measure, of cut-to-waste material required to reshape and reinstate the road corridor profile to its pre-existing standard following any single slip event. A “single slip event” is defined as:

- One or more slips that can be managed within a single implementation of traffic control.
- One or more slips that occur at the same site within a 24 hour period.”

Background:

Based on the above definitions the slumping, settlement, dropout and washout circumstances are considered clear, i.e. damage to the formation and or pavement, including shoulders is typically readily evident and is not in dispute. These repairs are Principal Risk.

The inclusion of ‘over slip’ within the risk profile is causing some differing views on what constitutes a risk excluded event / response.

A Supplier has interpreted that incident response to any and all over slips, including rockfall, regardless of size or scale is risk excluded, regardless of whether they affect the formation or pavement. This contention assumes that the cut batters or hillsides are considered to be part of the formation.

In many cases, this is leading to disproportionate claims for clearance of very minor rockfall or loose material, including SWC clearance that has slip material build up. i.e. material that has fallen from the batter slope or hillside above.

RESPONSE

The intent of CRP 61 is for the Principal to own the risk for damage sustained to the carriageway pavement and formation of the road on any sites listed in Appendix 6.15 Recurring Hazards as a result of the described events.

In the case of an over slip, CRP 61 would normally be considered complimentary to CRP 59 such that the risk excluded activity in CRP 61 covers the cost to repair any damage to the formation or pavement that is beyond the scope of CRP 59, which covers removal of slip material only (risk excluded beyond 50m³).

In the event a small over slip or slips (less than 50m³) caused damage to the formation or pavement, then the initial response and removal of the material would be risk included under CRP 59, but the subsequent repair works would be risk excluded under CRP 61, this includes cut to waste material to reinstate the road corridor profile to its pre-existing standard.