

Report

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Report to:	Enterprise Resources Committee
Date of Meeting:	1 September 2010
Report by:	Executive Director (Enterprise Resources)

Subject:	Basic Asset Protection Agreements (BAPAs)
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ Advise on action taken, in terms of Standing Order No.36(c) because of the timescales involved, by the Executive Director (Enterprise Resources), in consultation with the chair and ex officio member, to grant the authority to enter into Basic Asset Protection Agreements with Network Rail.
- ◆ Request that powers be delegated to the Executive Director (Enterprise Resources) to enter into future Basic Asset Protection Agreements with Network Rail.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the following action taken, in terms of Standing Order No 36(c), by the Executive Director (Enterprise Resources), in consultation with the Chair and an ex officio member, be noted:-
 - ◆ Approval to enter into a Basic Asset Protection Agreement with Network Rail in respect of traffic signal improvement works at Peacock Cross, Hamilton and Hamilton Street, Larkhall.
- (2) that powers be delegated to the Executive Director (Enterprise Resources) to enter into any future Basic Asset Protection Agreements with Network Rail, in consultation with the Head of Legal Services as appropriate, in terms which are in the best interests of the Council

3. Background

3.1. A Basic Asset Protection Agreement (BAPA) is a standard Network Rail agreement which local authorities are required to enter into when working on Network Rail land or close to operational railway lines. The BAPA:-

- ◆ requires the Council to agree work programmes with Network Rail;
- ◆ requires the Council, or our designers, to exercise reasonable skill, care and diligence;
- ◆ requires the Council to pay all costs incurred by Network Rail in connection with the works;
- ◆ requires the Council to indemnify Network Rail for all losses, liabilities and claims which may arise as a result of the works;

- ◆ allows Network Rail to suspend the work if they consider the safety of the rail network is at risk.

4. Current Position

- 4.1 The Council is progressing two new traffic signal installations in close proximity to railway infrastructure. The first location is at Peacock Cross in Hamilton and is part of the wider package of traffic management improvements in the area. The second location is at the junction of Hamilton Road/Hamilton Street/Summerlee Road in Larkhall where traffic signals are being introduced to support the redevelopment of the Summerlee Roads Depot site as a new Primary School.
- 4.2 The urgency to enter into a Basic Asset Protection Agreement with Network rail stems from the fact that these works are scheduled to commence during August / September 2010. The requirement to enter into a BAPA had not originally been expected due to the works all taking place within the existing public road boundary. However, due to the likely risk to the rail network and as a result of rail incidents elsewhere in the UK, Network Rail has now confirmed that a BAPA will be required at both locations prior to the works commencing.
- 4.3 Network Rail has also confirmed that there may be scope to enter into a generic BAPA for future works in South Lanarkshire. This approach is currently being explored in discussion with Legal Services.

5. Employee Implications

- 5.1 There are no employee implications.

6 Financial Implications

- 6.1 The Council is required to indemnify Network Rail for all losses, liabilities and claims which may arise as a result of the works. Given the works will be undertaken within the public road by employees exercising reasonable skill, care and diligence the risk to the rail network is low. The Council is also offered protection by external contractors' insurance and therefore there are not considered to be any significant financial implications for the Council.

7. Other Implications

- 7.1 By entering into this Agreement the projects are able to proceed. If we do not enter into this agreement the Council could be open to challenge from Network Rail who could force us to suspend work at both sites.

8. Equality Impact Assessment and Consultation Arrangements

- 8.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and therefore, no impact assessment is required.
- 8.2. Appropriate consultation has taken place with officials from Network Rail.

Colin McDowall
Executive Director (Enterprise Resources)

3 August 2010

Link(s) to Council Objectives/Values

- ◆ Improve the quality of the road network and public transport
- ◆ Improve the quality of the physical environment
- ◆ Improve the quality of life of everyone in South Lanarkshire

Previous References

- ◆ None

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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