

— OFFICE OF THE —
SCOTTISH ROAD WORKS COMMISSIONER

Road Works at A9 Dunkeld, October 2023

Review Report

13 March 2024

Introduction

On 23 October 2023, SGN commenced major road works on the A9 at Dunkeld in Perth and Kinross as part of a major project to replace a main gas pipe between Birnam and Logierait . The works resulted in extensive delays to road users on Monday 23 October and then again on Friday 27 October 2023. These delays were widely reported in the media and resulted in a debate in the Scottish Parliament.

As Scottish Road Works Commissioner, I decided to undertake a review of the circumstances which led to the works including the planning stages and the responses of SGN as the works undertaker and Transport Scotland as the Road Works Authority.

My main aim was to establish if there had been any breach of statutory duties with a secondary aim to identify any learning that could be applied to future works.

I collected evidence from both SGN and Transport Scotland and followed up with discussion with relevant parties.

This report provides a summary of my findings.

Legislative Background

Road works activity is mainly governed by the requirements of the New Roads and Street Works Act 1991 (NRSWA). These requirements place duties on Road Works Authorities to co-ordinate works and on 'undertakers' to co-operate with Road Works Authorities to achieve effective co-ordination.

In the case of the A9, Transport Scotland is the Road Works Authority, acting on behalf of Scottish Ministers. Transport Scotland contracts the day-to-day operation of the trunk road network to area Operating Companies – in the case of the A9, this is BEAR Scotland. However, Transport Scotland retains responsibility for its duties as Road Works Authority.

SGN as a gas transporter has statutory powers granted under the Gas Act 1986 to place apparatus (eg pipes) in roads and to maintain such apparatus. In exercising these powers, SGN becomes an 'undertaker' in terms of the NRSWA and has to comply with various requirements in that act. SGN employs contractors to plan and undertake works but retains the responsibility for its duties as an undertaker under NRSWA.

The specific duties of relevance to this investigation are contained within Sections 118 and 119 of NRSWA and are as follows:

118 General duty of road works authority to co-ordinate works

(1) A road works authority shall use their best endeavours to co-ordinate the execution of works of all kinds (including works for road purposes) in the roads for which they are responsible—

(a) in the interests of safety,

(b) to minimise the inconvenience to persons using the road (having regard, in particular, to the needs of people with a disability), and

(c) to protect the structure of the road and the integrity of apparatus in it.

(2) That duty extends to co-ordination with other road works authorities where works in a road for which one authority are responsible affect roads for which other authorities are responsible.

(2A) In discharging their duty under this section, a road works authority shall have regard to all information in the SRWR which relates to the functions of the authority.

(2B) A road works authority shall, so as to maximise the utility of that information for the purposes of subsection (2A)—

(a) assist the Commissioner in complying with the duty imposed by subsection (1) of section 112A (as read with subsection (2) of that section), and

(b) keep that information under surveillance.

(3) The Secretary of State shall issue or approve for the purposes of this section codes of practice giving practical guidance as to the matters mentioned above; and in discharging their general duty of co-ordination and the specific duties imposed by subsections (2) to (2B) a road works authority shall have regard to any such code of practice.

(3A) In discharging all the duties referred to in subsection (3), a road works authority shall have regard also to such guidance as is contained in the practice referred to in section 17(4)(b) of the Transport (Scotland) Act 2005.

(4) If it appears to the Commissioner that a road works authority are not properly discharging their general duty of co-ordination, he may direct the authority to supply him with such information as he considers necessary to enable him to decide whether that is the case and if so what action to take. The direction shall specify the information to be provided and the period within which it is to be provided.

(5) If after the end of that period (whether or not the direction has been complied with) it appears to the Commissioner] that the authority are not properly discharging their general duty of co-ordination, he may direct the authority to take such steps as he considers appropriate for the purpose of discharging that duty. The direction shall specify the steps to be taken and the period within which they are to be taken, and may include a requirement to make a report or periodic reports to the Commissioner as to what steps have been taken and the results of taking them.

(6) A direction under this section may be varied or revoked by a further direction.

119 General duty of undertakers to co-operate

(1) An undertaker shall as regards the execution of road works use his best endeavours to co-operate with the road works authority and with other undertakers—

(a) in the interests of safety,

(b) to minimise the inconvenience to persons using the road (having regard, in particular, to the needs of people with a disability), and

(c) to protect the structure of the road and the integrity of apparatus in it.

(1A) In discharging the duty under this section, an undertaker shall have regard to all information in the SRWR about matters which might affect, or be affected by, works being or proposed to be carried out by the undertaker.

(1B) An undertaker shall, so as to maximise the utility of that information for the purposes of subsection (1A)—

(a) assist the Commissioner in complying with the duty imposed by subsection (1) of section 112A (as read with subsection (2) of that section), and

(b) keep that information under surveillance.

(1C) In subsections (1A) and (1B), “undertaker” does not include a person having permission under section 109 to execute road works.]

(2) The Secretary of State shall issue or approve for the purposes of this section codes of practice giving practical guidance as to the matters mentioned in subsection (1); and—

(a) so far as an undertaker complies with such a code of practice he shall be taken to comply with his duty under that subsection, and

(b) a failure in any respect to comply with any such code is evidence of failure in that respect to comply with that duty.

(2A) In discharging the duties imposed by subsections (1) to (1B), an undertaker shall—

(a) comply with any direction in that respect given to the undertaker by the Commissioner, and

(b) have regard to such guidance as is contained in the practice referred to in section 17(4)(b) of the Transport (Scotland) Act 2005 (asp 12), and paragraphs (a) and (b) of subsection (2) shall apply in relation to any such direction as they apply in relation to the code of practice referred to in that subsection.

(2B) If it appears to the Commissioner that an undertaker is not properly complying with his duty under subsection (1), he may direct the undertaker to supply him with such information as he considers necessary to enable him to decide whether that is the case and, if so, what action to take. The direction shall specify the information to be provided and the period within which it is to be provided.

(3)

(4) A direction under this section may be varied or revoked by a further direction.

Pre-works planning

My review found that there was a considerable amount of effort put into pre-works planning by both the Road Works Authority and the Undertaker. An initial meeting took place as early as May 2021 and through the subsequent meetings and discussions, it was established that there was no viable alternative than to place the pipe in the A9 carriageway through a section at Dunkeld. It was also established that the lowest traffic flows would be from late Autumn through winter and this would be the preferred time to undertake the disruptive works.

Due to the strategic importance of the A9 route, the Road Works Authority asked that traffic modelling be undertaken to try to predict the queues and delays. This was undertaken by an experienced traffic consultant engaged by the Undertaker's contractor. The traffic modelling, whilst including some key assumptions, suggested that the works could be undertaken with acceptable delays.

Under NRSWA, the Undertaker has to give formal notice of its intention to carry out works at specific times in advance of starting. My investigation found that there was full compliance with these requirements.

The evidence collected in my investigation led me to the firm conclusion that both the Road Works Authority and the Undertaker had complied with their respective duties under Sections 118 and 119 of NRSWA.

Storm Babet – 18-20 October 2023

Between 18 October and 20 October 2023, Storm Babet brought extensive rainfall which caused severe flooding in central and eastern Scotland. A 'red' weather warning was issued and police advised people not to travel. The A9 was closed at Dunkeld for a period overnight on 19 October into the morning of 20 October. There was extensive damage to a footpath crossing under the A9 at Dunkeld and there was widespread disruption on the trunk road and rail networks that carried on well into the following week. As a result of this

disruption, it is possible that there was some additional traffic using the A9 route although I did not find any evidence to support this. The opinion of Transport Scotland officials was that any additional traffic would have been marginal.

Events on Monday 23 October 2023

Works commenced on the A9 on Monday 23 October as planned utilising two-way traffic lights. It was clear from around 11am that unexpected delays were occurring.

The traffic lights were being 'manually controlled' – a process that involves an operator adjusting the times given to each traffic stream manually. This system is widely used in situations where heavy traffic is experienced and in the right circumstances, can be quite efficient. However, it relies heavily on experienced operators who have good information about the lengths of queues building up. This is either through being able to visually see the ends of the queues or having good radio communication with experienced 'spotters' who can relay queue information back to the operator.

Transport Scotland officials indicated that there were some initial problems with the manual control arrangements which took time to resolve. In particular, it was suggested that there was an issue with large vehicles creating gaps in the traffic flow which increased the time needed to get the traffic cleared and reduced the efficiency of the traffic control.

There appears to have been a number of unrelated incidents which occurred in the roadworks queues which exacerbated the delays experienced on that first Monday. These incidents included several breakdowns and abnormal loads.

It is not clear what immediate response there was to these specific incidents, but Transport Scotland advised that there were phone exchanges between BEAR Scotland's Control Room and the traffic management team on site to alert them to the unbalanced flow and delays and provide travel time information for onward transmittal to Traffic Scotland.

Post - 23 October Action

A review meeting had been prearranged for the morning of 24 October and this was attended by representatives from SGN and its contractors, Transport Scotland and BEAR Scotland and the local roads authority (Perth and Kinross Council). At this meeting, the delays and incidents of the previous day were considered and additional mitigation measures were agreed. These consisted of breakdown recovery facilities including recovery of heavy vehicles and additional variable message signs to indicate length of delays to approaching drivers. These were not implemented on the ground until Sunday 29 and Monday 30 October respectively.

Further meetings were held on 26 October and the morning of 27 October but no further mitigation measures were considered necessary.

On the afternoon and into the evening of Friday 27 October, there were again very significant delays of up to 2 hours reported. The main cause of this appears to have been a significant increase in traffic associated with the start of the weekend, a bus stopping due to a medical emergency onboard, abnormal loads and additional traffic travelling to Pitlochry for a special event.

Following this event, there was considerable public and press attention with direct involvement of Ministers, senior Transport Scotland officials and senior SGN representatives. Works were suspended for short periods when traffic flows were expected to be highest and whilst the additional attention did lead to increased awareness, which may in itself have led to reductions in traffic demand, no significant changes were made to the traffic control arrangements.

Regular weekly senior level review meetings were held between the utility, contractor and the roads authority representatives until early January, with daily 9am meetings between operational management staff held until 12 February when they were reduced in frequency to twice per week.

The works have continued and at the time of writing are ongoing, albeit they are now totally located on the adjacent grass verge and traffic control is currently limited to a temporary 30 mph speed limit.

Recommendations

I would make the following recommendations for consideration in the planning and execution of future works on the A9 or similar strategic roads:

1. The results of any traffic modelling should be carefully scrutinised by the Road Works Authority and used to inform traffic control strategies for works. Decisions on such strategies should be well documented.
2. The use of manual traffic control should be carefully monitored to ensure that it is as efficient and effective as possible, particularly in the early stages of works.
3. Communication channels between utilities, contractors and the roads authority should be clearly defined with clear escalation procedures in place before works commence.
4. Works on key strategic routes such as the A9 should be well communicated in advance to ensure the largest number of affected road users is informed

Conclusions

There is no doubt that the SGN works on the A9 at Dunkeld caused significant disruption to road users for a period in late-October 2023. However, I found no evidence that any statutory duties had been breached in the planning and execution of these works.

There are some lessons to be learned in the planning of the works and in particular in the response to the issues encountered but I am encouraged that the utility and roads authority have recognised this and have continued to work together to minimise disruption for the remainder of the works.

Kevin Hamilton
Scottish Road Works Commissioner
13 March 2024

Annex 1 – Timeline of Events

4 May 2021	meeting with SGN, TS, BEAR
Pre October 2022	SGN in discussion with TS Major Projects A9 Dualling Team (date tbc)
20 October 2022	SGN issued an e-invite to an Open Day for the local community, held in Birnam. BEAR Scotland attended on behalf of TS. The open day was helpful. Details of the full route were provided. Contact details were provided to SGN at this time to enable further discussion.
4 December 2022	meeting with SGN, TS, BEAR
3 March 2023	meeting with SGN, TS, BEAR, timing of work to be at time of lowest A9 flows, winter 23/24
19 September 2023	meeting SGN, TS, BEAR, Morrisons, Touchstone, Police Scotland. First traffic modelling discussed. Abnormal loads handling discussed.
10 October 2023	advance notification signs and VMS deployed.
10 October 2023	meeting SGN, TS, BEAR, Morrisons, Touchstone. Second traffic modelling discussed. Lengths of work sections advised.
23 October 2023	work starts on site at Inver as publicised
23 October 2023	Monday significant delays to traffic experienced from 11am
24 October 2023	pre-arranged review meeting SGN, TS, BEAR, Morrisons, Touchstone. PKC – increased mitigation, recovery vehicles, Bluetooth VMS
26 October 2023	TS, BEAR visit SGN site
27 October 2023	meeting SGN, TS, BEAR, Morrisons, Touchstone
27 October 2023	Friday pm significant delays to traffic to 9pm
27 October 2023	meeting SGN, TS, Morrisons, Touchstone
28 October 2023	Ministerial involvement, CEO involvement

28 October 2023 Saturday am SB delays to traffic, pm NB delays to traffic

29 October 2023 meeting SGN, TS, BEAR, Morrisons, Touchstone

30 October 2023 meeting SGN, TS, BEAR, Morrisons, Touchstone

30 October 2023 meeting SGN Managing Director, TS CEO & Director,

30 October 2023 meeting SGN MD, Minister for Transport, TS CEO

31 October 2023 daily (remote) site team meetings started (Mon to Fri ongoing)
increased use of verge discussed

31 October 2023 TS internal meeting Roads & Major Projects

31 October 2023 meeting SGN, TS, BEAR, Morrisons, Touchstone, PKC

01 November 2023 meeting TS, BEAR

02 November 2023 meeting SGN MD, TS CEO & Director increased comms, wide loads,
TRISS on site

03 November 2023 TTLs removed, reassess situation

06 November 2023 daily weekday remote meetings continue

06 November 2023 TTLs back on, TS CEO observes the site

08 November 2023 meeting TS Roads & Major Projects, use of verge agreed

09 November 2023 meeting SGN MD, TS CEO & Director

10 November 2023 TTLs removed because operationally possible

13 November 2023 TTLs back on

13 November 2023 daily weekday remote meetings continue

16 November 2023 meeting SGN MD, TS Director

20 November 2023 daily weekday remote meetings continue

23 November 2023 meeting SGN MD, TS Director, SGN advise plan to be off the road on Sundays if possible

27 November 2023 daily weekday remote meetings continue

30 November 2023 meeting SGN MD, TS Director

7 December 2023 meeting SGN Head Major Projects, TS Director

14 December 2023 meeting SGN MD, TS Director

21 December 2023 meeting SGN MD, TS Director

11 January 2024 meeting SGN MD, TS Director

12 February 2024 frequency of daily operational meetings between SGN, contractor, TS reduced to twice weekly