VNG Realisatie

NOTITIE

Onderwerp : Public consultation on the draft BEREC Guidelines on the coordination of civil works

Van : [redacted]vng.nl

Aan : BEREC article 5(6) consultation

Datum : 11-7-2025

The Netherlands Association of Municipalities represents all 342 municipalities in the Netherlands. It sends its comments on the Public consultation on the draft BEREC Guidelines on the coordination of civil works according to Art. 5(6) of the Gigabit Infrastructure Act. In Article 5(6) of the GIA, the co-legislators task the Body of European Regulators for Electronic Communications (BEREC) with the provision of Guidelines by 12 November 2025 on “apportioning the costs associated with the coordination of civil works”, “the criteria that the dispute settlement bodies should follow when settling disputes falling within the scope of this Article”, and “the criteria for ensuring sufficient capacity to accommodate foreseeable future reasonable needs if coordination of civil works is refused.” This is an informal response, because the allocated time for response to the consultation was too short to follow the process for a formal response.

General

The document put forward for consultation makes little mention of the role and jurisdiction of local authorities in initiating and coordinating civil works. They are responsible for planning the use of their territory above the ground and subsurface, to ensure that cables, pipes and ducts are in the correct location and don’t interfere. Local authorities are also responsible for a large percentage of the civil works that are executed as well as for coordinating the civil works that happen in their territory. Local authorities have therefore a strong interest in facilitating an efficient process for the roll-out of any type of infrastructure, including but not limited to VHCNs.

VNG invites BEREC and the Dutch regulator to have an informal meeting with us and the Dutch Municipal Platform for Cable and Ducts to explain and discuss the general principles associated with the coordination of civil works.

Informal processes and formal requirements

VNG would like to stress that Dutch municipalities have so far relied to a large extent on informal consultation and cooperation with relevant parties to coordinate the civil works. Dutch law contains formal requirements, but those set the limits in which the informal processes operate. The law is a last resort when the informal processes break down. The GIA creates formal obligations and requirements which are for a large part in line with the goals of local policy on civil works. What should be more clear throughout the document is that “reasonable requests” start with active coordination with local authorities far ahead of the actual civil works taking place.

Active participation by all stakeholders in the municipal coordination meetings on cables and ducts, which Dutch municipalities have, is essential for efficient and cost effective civil works. The city of Amsterdam has held such meetings since 1924! The city of Amsterdam requires such coordination of civil works, unless it is impossible.The deadlines that the GIA provides and that are mentioned in paragraph 39 should therefore be seen in the context as the last deadline, but also be used to qualify whether a request is reasonable. Submitting a request for coordination a month before the final project is submitted to the permit granting authorities or 2 months for planned civil works may be reasonable for small projects, but may be unreasonable for large projects, when they require significant effort including for the engineering.

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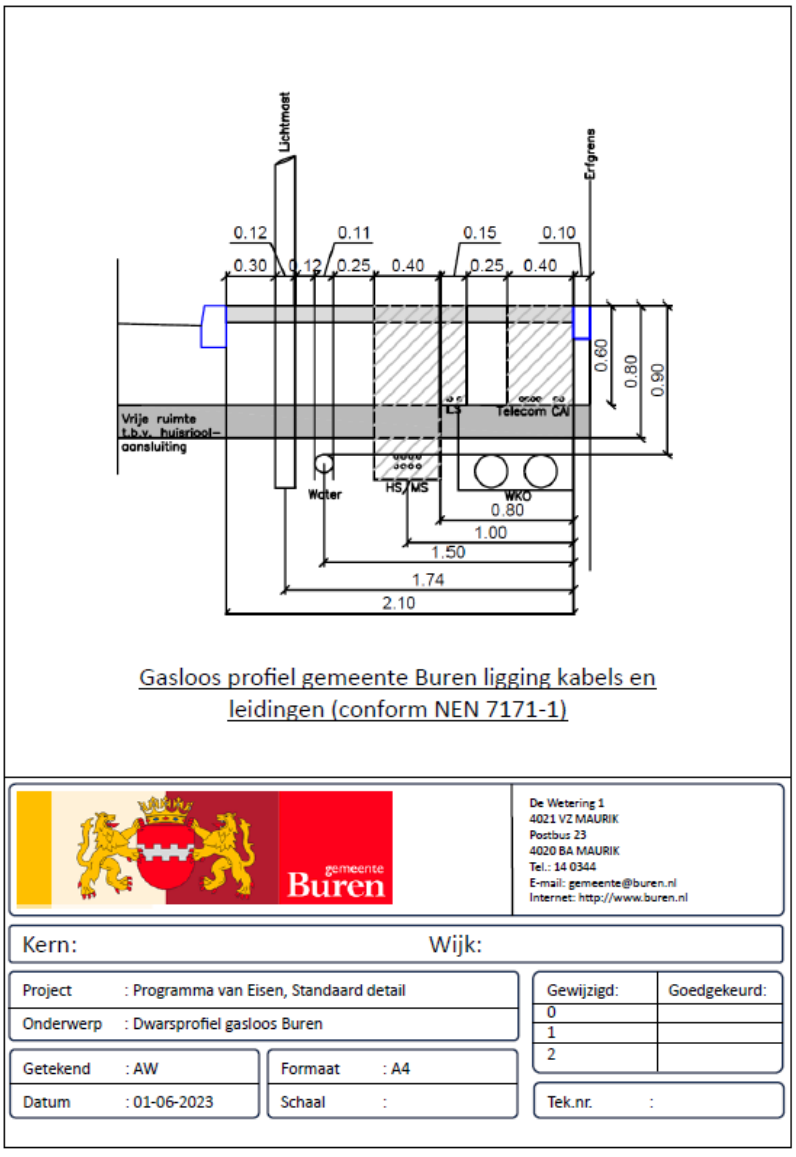
Local context is important

The local context for the civil works is essential. The Netherlands has used the term “slim graafwerk”, i.e. smart digging, for the coordination of civil works to promote the roll-out of VHCN since 2001. Despite having a name for it, the coordination of civil works has proven to be less successful in facilitating the roll out of VHCN in the Netherlands, than had been expected in 2001. The reason lies in part in the unique Dutch soil conditions, which are sand, mud and clay. Most cables, pipes and ducts are directly buried into the ground.

All underground infrastructure has its own horizontal and vertical location. In theory digging up an electricity cable shouldn’t interfere with a telecom cable. Telecom being the least deep in the ground has been able to achieve a much faster roll out speed than when it would have been in the same location and depth as other infrastructure. Each municipality has a profile for what the underground should look like (often different profiles for different parts of cities, countryside etc). The profile of the municipality of Buren has been included as an example. What should be clear is that the guidelines don’t affect this coordination of local authorities.



In Annex 1 Figure 3 and Figure 4 show a hypothetical situation where a “commonly used co-deployment” trench is shown. Such a situation would be exactly what Dutch municipalities and network owners don’t want for different utilities. Co-deployment in the same trench is in the Dutch situation not cheaper and will lead to more cable breaks in the future. Co-deployment between different infrastructures would therefore not necessarily be more efficient in the Netherlands and the example should make clear that the example is not universally applicable.

Allocation of costs

How costs are allocated in section 2 should explain that when local authorities coordinate their civil work with other networks and telecom networks, that section 2 provides an upper limit to how much costs can be allocated. We also invite BEREC and ACM to take note of how cost allocation of civil works is currently implemented by municipalities, such as the City of Amsterdam, where the cost allocation is part of the local system for coordination. It should be clear that the choice between “Based on the capacity of the infrastructure (ducts and pipes) laid into the trench”, “Based on the hypothetical stand-alone costs (Shapley value)”, “Based on the used capacity of the trench: Costs could be split proportionally” and other relevant considerations is on a case by case basis. Local authorities may sometimes see a need to choose between different options or even allocate fewer costs to private networks in order to save time and engineering costs on the whole project or to prevent future digging. It should also be clear that such considerations don’t trigger state aid clauses.