

# **CONTROL OR REMOVAL OF VEGETATION THAT IS DAMAGING THE DISTRICT'S ROADS (OR CREATING A SAFETY HAZARD)**

## **Introduction**

The district's roading network includes a significant length of sealed rural roads. At a number of locations significant vegetation, including rows of trees and shelter belts, can or have been planted on land adjoining some of these roads. This vegetation, if planted or not appropriately controlled, pruned or trimmed can -

- restrict driver's line of sight causing a safety hazard
- obstruct road signage
- shade the road surface preventing the thaw of ice, creating a serious road safety hazard and contributing towards the failure of the road surface in the immediate area
- create a serious injury risk in the event of a collision if the vegetation close to the road is non-frangible
- contribute towards the deterioration of the road surface.
- Impede roadside drainage

"These effects can equally apply to the state highways in the district. Transit New Zealand is responsible for state highways, and the Transit New Zealand Act 1991 contains specific provisions relating to the control or removal of trees affecting state highways and the safety of motorists".

This policy is to be applied only where it has been established that trees or vegetation are resulting either individually or in combination any of the above.

## **Policy Statements**

1. The District Plan includes the following:

### Tree Rule - Rural Zone - Operative District Plan

#### 7.6.5.1.17 Tree Planting - Shading and Intersection Visibility

- (a) no tree shall be allowed to grow such that it shades the carriageway of a road between the hours of 1000 and 1400 on the shortest day of the year
- (b) no tree shall be planted within 30 metres of a road intersection, reassessed to the point at which the legal boundary lines of the two road frontages intersect.

## **Rural Zone**

2. Trees or vegetation requiring removal, trimming or pruning are defined as trees or vegetation meeting either individually or in combination any of the following criteria:
  - ~~Is shading the carriageway between the hours of 1000 and 1400 on the shortest day of the year (7.6.5.1.17 (a) of the District Plan).~~
  - ~~Is planted within 30m of a road intersection, measured to the point at which the legal boundary lines of the two road frontages intersect (7.6.5.1.17 (b) of the District Plan).~~
  - Restricts driver's line of sight.
  - Is either directly or indirectly creating a safety hazard.
  - Obstructs road signage.
  - Is located on publicly owned road reserve and is non-frangible.

- Is contributing to the deterioration of the road surface (tree root intrusion, shading causing ice and frost).
- Is impeding roadside drainage.

### Urban Zone

- Restricts driver's line of sight.
- Is either directly or indirectly creating a safety hazard.
- Obstructs road signage.
- Is contributing to the deterioration of the road surface (tree root intrusion, shading causing ice and frost).
- Is impeding roadside drainage.

3. When any tree or vegetation meets either individually or in combination the criteria above, Section 355 of the Local Government Act 1974 shall be applied as follows:

**[355 Council may require removal of overhanging trees, etc**

- (1) The council may, by notice in writing under the hand of the Chairman or the [principal administrative officer], require the owner of any land abutting upon any road within the district to do any of the following acts:
  - (a) To remove, lower, or trim to the satisfaction of the council any tree or hedge overhanging or overshadowing the road in cases where, in the opinion of the council, the removal, lowering, or trimming is necessary in order to prevent injury to the road or obstruction to the traffic thereon or to any channel, ditch, or drain appertaining thereto:
  - (b) To cut down or grub up, as the council directs, and remove all obstructions to traffic or drainage arising from the growth of plants or the spreading of roots upon or under the road up to the middle line thereof along the whole frontage of the land occupied or owned by him:
  - (c) To remove, lower, or trim to the satisfaction of the council any tree or hedge, or to lower any fence or wall, if in the opinion of the council the tree, hedge, fence, or wall is likely, by reason of its obstructing the view, to cause danger to the traffic on that or any other road.
- (2) Within 10 days after service of the notice, the owner may apply to a [District Court] for an order setting aside the notice.
- (3) On the hearing of the application, the Court, whose decision shall be final, shall determine whether the notice should or should not be set aside, and in the former case the notice shall be deemed to be void.
- (4) In the case of a notice which is not set aside as aforesaid, if the owner fails to do any such act in compliance therewith within one month from the service thereof, or where application as aforesaid has been heard, then within one month after the giving of the decision of the Court, he commits an offence and is liable to a fine not exceeding \$5 for every day during which the failure has continued, and the council, by its officers or agents, may enter on the land and do that act and recover the cost from him.

- (5) The said cost shall be a charge upon the land.
  - (6) In any case where the council might give any such notice as aforesaid in respect of any land, any resident of the district may, by notice in writing, request the council to do so.
  - (7) If for the space of 28 days after the receipt of the last-mentioned notice the council fails to comply therewith, the resident making the request may apply to a [District Court] for an order requiring the council to comply with that notice.
  - (8) On the hearing of the application, the Court shall determine whether and to what extent the notice shall be complied with by the council, and the decision of the Court shall be final.
  - (9) The council may remove, lower, cut down, grub up, or trim, as the case may be, any fence, wall, tree, hedge, or plant to which subsection (1) of this section applies, after giving oral notice to the occupier, or, where there is no occupier, to the owner, of the land, if life, property, or any road is in imminent danger. The cost of the work shall be a charge against the land as if notice has been given under subsection (1) of this section and had not been set aside by a [District Court].
  - (10) For the purposes of this section the term "**cut down**" means cutting down and keeping cut down or removing or controlling by chemical means the stem and roots of any plants so as to prevent their throwing out any leaf, offshoot, or flower.]
4. That for the purposes of implementing this policy the powers of the Chairman and principal administrative officer be delegated to the Operations Manager.

13 December 2001