

Before the Hearing Panel

Whangarei District Plan – Plan Change 129 Trees

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 129 -
Notable and Public Trees to the
Whangarei District Plan

AND

IN THE MATTER of the submission of the Whangarei
District Council Roading Department

**STATEMENT OF EVIDENCE FROM MICHAEL BATCHELOR MADE ON BEHALF OF THE
WHANGAREI DISTRICT COUNCIL ROADING DEPARTMENT**

DATE: 23 November 2018

1.0 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

1.1 This evidence has been prepared by Mike Batchelor. I am the Road Maintenance Engineer in the Roding Department of the Whangarei District Council.

1.2 I hold the following qualifications:

- National Diploma of Civil Engineering;
- Bachelor of Commerce Degree.

1.3 I am a Chartered Member of Engineering NZ and a Registered Professional Engineer with over nineteen years' experience in my current role, which includes the maintenance of roadside vegetation.

1.4 I confirm that the evidence on vegetation maintenance matters that I present is within my area of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

2.0 OUTLINE OF EVIDENCE

2.1 I would like to acknowledge that the Section 42A Report recommends amendments to Proposed Plan Change 129. I support the majority of the amendments made but have concerns about some aspects of the recommendations.

2.2 My main concern is that aspects of the Proposed Plan Change, as amended by the Section 42A Report place an un-necessary regulatory burden on the management of trees within the road reserve and does not enable the road reserve to be properly managed for its primary purpose, which is to provide a safe and efficient transport corridor for the community. I believe that this additional burden will create additional and unnecessary costs to the ratepayer.

2.3 My evidence will set out the legal requirements for the management of trees in the road reserve, along with the implications and costs to the ratepayer associated with the management of trees in the road reserve.

3.0 LEGAL REQUIREMENTS – TRANSPORT

3.1 The maximum legal height for a vehicle on the road is 4.25 metres. Council is required to maintain a clear envelope in the road corridor to ensure the safe passage of legal vehicles.

3.2 Requirements for vegetation control are:

“ . . . Vegetation Envelope

"Rural roads will be maintained so that vegetation which encroaches within 1.5 metres from edge of seal or unsealed edge of trafficable carriageway (hinge point) or 4.5 metres above the roadway shall be cut back."

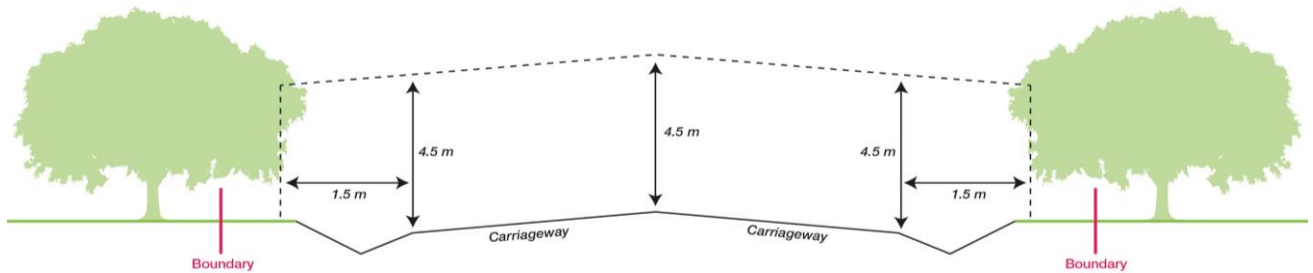


Figure 1: Vegetation Envelope for a Typical Rural Road (Sealed and Unsealed)

"Vegetation shall also be removed to ensure intervisibility from curves, intersections and railway crossings. At these areas the Contractor is to ensure that the line of sight requirements specified in Austroads Guide to Road Design Part 4A"

4.0 SUMMARY OF ELECTRICITY (HAZARDS FROM TREES) REGULATION 2003

4.1 The purpose of these regulations is to protect the security of the supply of electricity and the safety of the public by: . . .

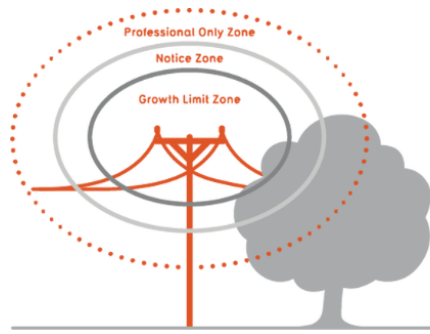
- a) *setting rules about who has responsibility for cutting or trimming trees that encroach on electrical conductors; and*
- b) *assigning liability if those rules are breached; . . ."*

4.2 The Regulations set two classes of trees:

- 1) Trees the landowner does not want to keep (a **"no-interest tree"**) for which the cost of trimming or tree removal to protect electricity supply lines lies with the power line owner (in our case North Power).
- 2) Trees the landowner declares an interest in (**"trees with amenity value"**).

4.3 If the trees endanger the power supply the first trim of these trees required after 1 July 2005 will be at the cost of (North Power). Thereafter the continued cost of trimming or removal, required to protect the power supply, (including any resource consent costs) will be at the cost of the landowner, (i.e. WDC).

4.4 The Regulations require the power supply owner (North Power) to remove danger to persons or property from trees damaging power supply lines.



The Notice Zone (NOTZ)

The Notice Zone (NOTZ) extends **one metre** out from the GLZ.

You can trim any trees in the NOTZ provided we've given you written authorisation. Please **contact us** and let us know of the tree location and when the work will be done - at least three working days before you want to carry out the work.

If your tree is growing in the NOTZ, we may send you a Hazard Warning Notice advising that the tree needs trimming.

Figure 2: Northpower Notice and Growth Limit Zone Diagram

- 4.5 The tree owner (WDC) is liable for associated costs of such works if the tree owner had been previously notified of the requirement. Cost may include cutting or trimming costs, removal of debris and repairs to the power supply network.

5.0 PROPOSED DISTRICT PLAN CHAPTER

- 5.1 Proposed NPT.1.10 provides a definition for a 'public tree' which includes any tree or trees located within a road reserve, park or reserve administered by Whangarei District Council greater than 6.0m in height or with a girth (measured 1.4m above the ground) greater than 600mm, with various exclusions for pest species.
- 5.2 Proposed NPT.1.X Discretionary Activities (Land Use) states that "Removal of any public tree defined in NPT.1.10.1 which does not comply with the permitted activity rules within NPT.1.5.6" is a Discretionary Activity, requiring a resource consent. Also, "Construction or alteration of any structure, excavation of land, compaction of soil or formation of any new impervious surfaces within the root zone of any public tree identified in NPT.1.10.1" is a Discretionary Activity, requiring a resource consent.

6.0 LEGAL IMPLICATIONS

- 6.1 All trees (excluding those that are not protected) over 600mm in girth and/or 6m in height on a Council reserve or road reserve are a "**Public Tree**". This would also include trees on paper roads, and paper roads through commercial forests in the District, and could conceivably include Council forests on Council reserves at Whau Valley, Hikurangi and Parihaka.
- 6.2 As Council has nominated all of these trees to be "**Public Trees**", then all such trees are now classed as "**trees with amenity value**" under the Electricity Regulations. This means that when resource consent is required for the ongoing trimming or removal of these trees for

the protection of the power supply network, the costs of these works, including obtaining consents, will lie with the Council.

- 6.3 If these works did not require consent, then they would be classed as “**no-interest trees**” and costs would (and up to now have) lay with (Northpower).
- 6.4 A resource consent is also required for any excavation or sealing work within the root zone of a “**Public Tree**”. This includes new footpath construction (WDC undertakes 2km p/a); footpath repair (2km p/a); seal extension (6km p/a); road rehabilitation (4.5km p/a); and pavement maintenance works (120 km p/a).
- 6.5 All utility operations are also affected. Any excavation in the root zone of a “**Public Tree**” requires a resource consent. This would affect new works and repairs for watermains, stormwater, sewers, power, telephone, gas etc. and also the construction of private vehicle crossings. These works take place throughout the District on a daily basis. .

7.0 POTENTIAL RESOURCE CONSENT COSTS

- 7.1 Advice from Council’s Resource Consents Division indicates that the minimum Council fees for a Resource Consent application is \$1,200, (the average fee is \$1,500). In addition, the applicant would be required to prepare an environmental impact report, most probably from a qualified tree arborist, say a further \$500-00.
- 7.2 However, if the applications were required to be notified, the Councils average fee costs rises to \$4,500. To give an indication of the potential costs involved, maintaining just the roading safety clear zone for legal height vehicles and visibility on Council’s road network the Roothing Division currently spends \$620,000 on tree maintenance annually, which includes selective limbing and felling of trees by a qualified tree arborist to achieve the requirement “. . . *that they (tree limbs) do not intrude or grow back within one year into the clear vegetation envelope.*”

8.0 POTENTIAL EFFECTS ON ROADING DEPARTMENT

- 8.1 As part of Council’s annual road construction programme, the design of seal extensions and road widening as part of rehabilitation works includes the establishment of the “clear vegetation envelope” as part of the new road design. This involves the removal of a number of trees to achieve the design safety standards, many of which would fall within the proposed definition of a ‘public tree’. We have estimated from our records that the number of trees removed at the instigation of the Roothing Division at approximately 40 per year and these include trees removed for safety reasons due to age or instability.
- 8.2 In addition, Council is regularly approached by adjacent land owners citing health, safety and/or potential liability reasons for the removal of trees from the road reserve. These trees are normally inspected by a qualified tree arborist to assess their conditions before

deciding on trimming or removal options. These requests number a approximately 30 per annum.

- 8.3 In accordance with the Electricity Regulations, North Power are currently undertaking a “first cut or trim” of affected tree at their cost, with notification to the tree owner (WDC). They also pay for clearing and removal of the debris. In future, any further ongoing trimming (“2nd trim or cut”) or removal of these trees required, including consent costs, will have to be met by Council where there would be consent requirements as this is deemed as showing an ‘interest’ in the tree.
- 8.4 Between October 2016 and October 2018, Council has been notified under the Electricity Regulations that 169 trees that would be classified as ‘Public Trees’ were “trimmed or cut” by North Power on Council’s road network to protect electricity supply lines. As most of these trees are adjacent to roadways, trimming or removal of the trees often involves extensive traffic management, removal in small sections and sometimes the use of cranes for the larger trees. The cost to remove a tree is between \$2,000 to \$6,000 including removal of the debris.
- 8.5 Similarly trimming of trees incurs on average, a cost of \$400-00 plus \$250-00 clearance costs.

9.0 FINANCIAL IMPLICATIONS

9.1 The potential cost for vegetation control on Council’s Roading network is shown below:

Table 1: Potential Vegetation Control Costs

2017 (Per Annum Figures)	Quantity	Average Cost	Current Cost	Potential Cost
WDC				
Roadside tree removals & limbing	179	\$3,500	\$626,500	\$626,500
Roadside tree removals & limbing resource consents	179	\$1,500	0	\$268,500
Formerly by North Power				
Either Tree pruning - resource consents	169	\$650	0	\$109,850
	42	\$1,500	0	\$63,000
		Total	\$624,212	\$1,067,850 p/a

9.2 However, if the (Northpower) trees are only trimmed there will be an ongoing annual cost for maintenance of these particular trees, , that Council will be liable for. Potentially there will also be a new set of 169 trees to be maintained each year across the network that will also have to be maintained once every five years.

9.3 The alternative is to remove those trees endangering the power lines, assuming that they are not true significant trees worthy of “ **Notable Tree**” status using STEM, and then the total annual potential could be:

Table 2: Estimated Potential Cost of Removals

Oct 17 – Oct 18 (Per Annum Figures)	Quantity	Average Cost	Previous Cost	Potential Cost
OR				
Tree removals (North Power)	169	\$3,000	0	\$507,000
- resource consents	42	\$1,500	0	\$63,000
		Total	\$624,212	\$1,465,500 p/a

9.4 In summary, the annual costs to Council for roadside tree maintenance is approximately \$624,000. This cost would increase due to consenting requirements and the additional cost paid to Northpower of either \$1,067,850 for tree pruning or \$1,465,500 for tree removal.

9.5 The figures above take no account of potential resource consent costs for working in the root zone of these “ **Public Trees**”. It is estimated that there is approximately 80 occurrences per annum which would cost approximately \$120,000.

10.0 RELIEFSOUGHT

10.1 The Roding Division is in agreement with the Proposed Plan Change 129 Notable and Public Trees that provides adequate protection to trees properly identified as having ‘Notable Tree’ status.

10.2 However, section NPT.1.X Discretionary Activities of the Plan, has, we believe serious financial implications on the Council, Utility Operators and the community. I support the

evidence of Heather Osborne requesting amendments to the proposed provisions to achieve a suitable outcome for the Roding Department, with the following additional statement.

10.3 It is recognised that trees within urban areas provide a higher amenity value to the public and have often been planted in specific locations to achieve this outcome. Therefore, it is proposed that trees in road reserves with a speed environment of 50kph, and less, are able to be removed only when required for the safe and efficient operation of overhead and underground network utilities.

10.4 The majority of trees that require pruning, maintenance or removal by Roding are within a road reserve with a road speed environment over 50kmph. These trees generally grow in ad-hoc locations and have little public amenity value but can easily impact on the safety of road users if not able.

10.5 It is requested that Roding and Network Utility Operators are provided the ability to use their professional judgement to determine if it is necessary to undertake pruning, maintenance or removal of trees that threaten the safety of the road network or network utility infrastructure, especially for maintenance works that seek to avoid future emergency works caused by trees.



Michael Batchelor
Road Maintenance Engineer

For and on behalf of
Whangarei District Council Infrastructure Group