
Chapter 5

Applying the Integrated Planning Policy to development proposals

This chapter contains the following sections:

Section No.	Topic
5.1	Introduction
5.2	Development and access
5.3	Cost sharing
5.4	Third party issues <ul style="list-style-type: none">• Advertising signs• Lighting• Vegetation

5.1 Introduction

Transit's involvement

In order to fulfil its statutory objective, Transit must have regard to the effects of individual developments on the state highway network, as these can positively or negatively affect the safety and sustainability of state highways.

The location, scale, density, design and mix of land uses are major determinants of the demand for travel and consequently the need for and effectiveness of transport infrastructure. While these can be influenced through strategic planning mechanisms, such as regional policy statements, district plans and structure plans, Transit's involvement in individual developments is essential so the transport impacts are properly understood and mitigated.

This chapter

This chapter is set out in three broad sections, containing:

1. Transit's approach to individual development proposals and in particular its approach to those that seek access to the state highway network;
2. Transit's approach to identifying and sharing the costs of mitigating transport effects; and
3. Transit's approach to managing the effects of signs, lighting and vegetation on properties in the vicinity of the state highway network.

This chapter is inherently technical and the Appendices contain additional detail that is essential to understand Transit's approach to individual development proposals.

5.2 Development and access

5.2.1 Introduction and issues

The effects of development

Development brings benefits to New Zealand by creating wealth, jobs and improved economic performance. However, new development usually generates additional traffic and this can potentially create adverse effects by:

- reducing average vehicle speeds, increasing journey times and delays and trip variability;
- increasing the number and/or severity of road accidents;
- accelerating the need to upgrade the state highway network;
- complicating future plans to upgrade a road, for example by adding new lanes or a central median barrier; and/or
- creating environmental and social effects, such as increased pollution from vehicle emissions. Development close to state highways can also create reverse sensitivity effects.

The cumulative effects of small-scale development are particularly difficult to manage within the provisions of the RMA. This is a concern for transport systems where each development may adversely impact levels of service, congestion and safety by only a small amount, but where the combination of a number of developments can result in significant adverse effects.

Achieving a balance

Such impacts and effects can reduce the contribution that state highways make to the economic prosperity of New Zealand by making the state highway network less effective. In managing the location, type and design of development, a balance is required between local economic, social and environmental costs and benefits and wider, cumulative and cross boundary impacts, including those on the state highway network. This balance can only be achieved by working in partnership.

Role of regional planning and district plans

Regional planning and district plans influence the location and type of development. Ensuring integration between land use and transport infrastructure provision in regional policy statements and regional and district plans is an important way to achieve sustainable development patterns.

Transit's role

Transit has a role in shaping the location, type and design of development by:

- planning, building, maintaining and operating the state highway system;
 - engaging in regional and local planning processes;
 - responding under the RMA, including as an affected party, to plan changes, resource consent applications and notices of requirement for designations for development proposals;
 - using access management tools, such as its statutory powers in relation Limited Access Roads, to manage access to and from state highways.
-

5.2 – Development and access

Scope of section 5.2

This section sets out Transit’s policy and approach to the last two of these methods. In particular, it sets out policy on Transit’s approach to development and access proposals. It also contains specific policy on managing reverse sensitivity effects.

Facilitating economic development

Transit has a role in facilitating economic development through the provision and management of one of the country’s primary transport networks. Achieving economic development in the absence of adverse transport effects is a long-term national goal under the NZTS. However, Transit recognises that currently most economic development results in transport effects that cannot always be fully avoided, remedied or mitigated.

Early involvement

It is better for all parties if Transit’s issues in respect of a proposal are considered at an early stage to avoid surprises and delays.

Factors to consider

A development may have effects on a state highway even when it is located some distance away because of the traffic it generates. The effects will vary according to the nature and scale of the development, the character and function of the state highway, the extent to which the safety of road users is affected, the level of existing traffic and congestion and whether or not direct accessway onto the state highway is sought. All these factors need to be considered.

Direct access and side friction

Where direct access onto a state highway is sought for a development, the effects of such access may be particularly adverse if the state highway is a high-speed environment and/or heavily trafficked. Many developments that are unsuitable for direct access to and from a state highway may have an acceptable level of impact if alternative access can be found via the local road network.

Access management tools

Transit uses access management tools, such as its statutory powers in respect of Limited Access Roads and non-legislative measures such as segregation strips, to manage access to and from state highways. Better integration between the use of these access management tools and the RMA process is likely to reduce uncertainty and time delays for all parties and Transit will work hard to achieve this integration.

Interpretation

For the purposes of this chapter, “development” includes the establishment of a new activity and includes changes to or intensification of a new or existing land use. Development may result in the need for a plan change or variation, application for resource consents (e.g. land use consent, subdivision consent and coastal permit for activities in the coastal marine area) or notice of requirement for a designation.

5.2 – Development and access

5.2.2.1	Development and access policy
	<i>Transit will implement the Integrated Planning Policy by giving effect to this supporting policy:</i>
Shared responsibility	Managing the effects of development on the transport network is a shared responsibility between road controlling authorities including Transit, local authorities, landowners, developers and infrastructure providers. No one sector or agency can single-handedly achieve a strong interface between development and infrastructure.
Recognition of transport effects in land use planning	Transit advocates strongly for recognition of the effects of development on transport infrastructure, in particular on the state highway network, through the inclusion of appropriate objectives, policies and methods (including rules) in regional policy statements, regional and district plans, long term council community plans and other planning documents such as growth strategies and structure plans.
State highway categorisation	<p>Transit uses state highway categorisation to inform its responses to development proposals to achieve nationally consistent outcomes that also recognise local context such as:</p> <ul style="list-style-type: none"> • greater emphasis on promoting the through-traffic function of <i>national</i> state highways compared with <i>regional</i> and <i>sub-regional</i> state highways; • recognising that in many <i>rural</i> areas state highways perform both national and local road functions, particularly on <i>regional</i> and <i>sub-regional</i> state highways; • recognising that <i>urban</i> state highways that are not motorways or expressways often have a diverse range of transport functions; • encouraging the development of a local road network with agreed intersections with state highways, particularly in <i>peri-urban</i> areas, so property access is provided primarily via a local road network; and • avoiding direct access to motorways, expressways and bypasses.
Adverse effects	Transit aims to ensure the adverse effects of development on the state highway network, including reverse sensitivity and cumulative effects, are appropriately avoided, remedied or mitigated by the developer.
Safety	Transit requires all accessways to and from state highways, whether private accessways or intersections with local roads, to be safe, primarily by applying Transit’s accessway safety and intersection design standards. Transit specifically seeks to ensure accessways do not compromise the future safety of state highways where additional lanes, central median barriers or other projects to improve safety or provide passing and overtaking opportunities are planned.
Access management	Transit uses access management tools, including those available under the Transit New Zealand Act 1989 and the RMA, in a co-ordinated manner. Transit encourages developers to seek all approvals concurrently.

5.2 – Development and access

5.2.2.2

Reverse sensitivity policy

Transit will implement the Integrated Planning Policy by giving effect to this supporting policy:

One of Transit's key planning aims is to reduce the potential for conflict between state highways and nearby land uses to:

- a) ensure state highways function in an optimal manner;
- b) ensure new developments near state highways protect future occupants from potential adverse effects such as traffic noise and vibration; and
- c) improve the amenity values of sensitive areas near state highways.

Transit will fulfil this aim by:

- a) taking a joint approach to managing reverse sensitivity issues with local authorities, developers and landowners, having regard to the following:
 - i. Transit is committed to avoiding adverse effects to the extent reasonable in the circumstances, in accordance with the Land Transport Management Act 2003, Resource Management Act 1991, Transit's Environmental Policy and the New Zealand Urban Design Protocol;
 - ii. local authorities have a key role to play in planning and enforcement as an integral part of their commitment to protecting the environment and achieving community wellbeing under the Resource Management Act and the Local Government Act 2002; and
 - iii. developers and landowners have important responsibilities under the Resource Management Act to manage reverse sensitivity effects associated with new developments near state highways. Careful and considered planning is pivotal, as is a sense of social responsibility towards the wellbeing of those who will live, work and play in the developments in the future.
- b) engaging early and regularly with local authorities, developers and landowners to ensure all parties understand the importance of taking responsibility for managing reverse sensitivity effects from the outset of planning and development processes.
- c) participating in and influencing:
 - i. district and regional planning processes, to ensure performance standards to address potential reverse sensitivity effects associated with state highways are included in all plans; and
 - ii. Resource Management Act approval processes for subdivision and land use activities that involve sensitive land uses adjoining, or in close proximity to, state highways.

5.2 – Development and access

5.2.3

Methods

Development and access methods

Transit will use the following methods to deliver its development and access policy:

1. Early Transit involvement and affected party status
 2. Land use planning and structure plans
 3. Assessment of transport effects
 4. Transit's assessment of development proposals
 5. Mitigation
 6. Reverse sensitivity
 7. Access management tools
-

5.2.3.1

Method 1 – Early Transit involvement and affected party status

Early involvement

Transit will seek early involvement in development proposals that may affect the state highway network. It is in developers' interests to seek Transit's response to a proposal at the earliest stage in the process, since this allows any issues Transit has to be considered in the design of the development and is more likely to avoid surprises and delays later on. Early involvement may also allow Transit to programme its contribution to any mitigation works needed, again saving time later.

Transit resources

Transit will provide, within reasonable limits, professional advice from staff in a timely fashion and will attend joint meetings between Transit, local authorities and developers and will provide meeting space where practicable.

When Transit is an affected party

Transit will be an affected party where the state highway network may be adversely affected by a proposed development. The fact that a development may not involve direct access to and/or from a state highway does not necessarily mean Transit is not an affected party. Development can be some distance away from a state highway and still have an adverse effect on that state highway because of its traffic generation characteristics. The High Court¹ has confirmed that Transit must be "affected...in all but the clearest and simplest cases". Transit is always happy to discuss any issues to help the local authority determine whether Transit is an affected party.

¹ Progressive Enterprises Limited v North Shore City Council [2006] NZRMA 73.

5.2 – Development and access

Table 5.2/1 - Indicative criteria for when Transit may be an affected party in relation to a development proposal

- 1. The degree of consistency of the proposed development with district and regional plans and regional policy statements, including the status of the activity under the relevant RMA plan.** Non-complying, discretionary and restricted-discretionary activities may be of greater concern than controlled activities.
- 2. Whether the development proposal involves direct or indirect access to a state highway.** Direct access onto any state highway will confirm Transit's status as an affected party, whether or not a road is a LAR. Indirect access that generates significant traffic movements is also likely to trigger Transit's affected party status.
- 3. Whether the development proposal affects a state highway or state highway intersection that is already at level of service D, E, or F or is predicted to reach this level within 10 years** (either as a result of the proposed development, or due to background traffic growth). This criterion helps identify potential cumulative effects.
- 4. Whether the development proposal is safe** with particular regard to the crash history of the locality and whether the proposal can meet Transit's relevant safety standards.
- 5. The percentage increase in traffic volumes** (on a daily peak or AADT basis) in relation to state highways and/or state highway intersections. Increases in traffic volumes over a 2% threshold may create effects that establish Transit's interest.
- 6. Whether there may be other adverse effects** in relation to the state highway such as reverse sensitivity effects as a result of a sensitive development being proposed in close proximity to a state highway or direct environmental effects on the state highway such as stormwater discharge.

Controlled activities

The affected party criteria above apply to development that is a controlled activity as well as to discretionary, restricted discretionary and non-complying activities. Where development is taking place in the vicinity of a state highway, Transit may be affected even where the development is a controlled activity. In particular, it is noted that:

- under section 106 of the RMA consent authorities can refuse applications for subdivision consent, including applications for consent for controlled activity subdivisions, if, among other things, sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision; and
- where a proposed development is seeking direct access to and/or from a state highway that is a Limited Access Road, Transit support will be required for the accessway to obtain Ministerial approval.

5.2 – Development and access

Early scoping meeting

Transit strongly advocates an early scoping meeting between the developer, the local authorities involved and Transit. Such meetings provide an opportunity for:

- the developer to outline of the proposal;
- the local authority/ies to explain the planning context, particularly the relevant provisions of RMA plans and policy statements and the likely impact of the proposal on the local road network;
- Transit to identify the likely effects of the proposal on the state highway network;
- identifying data gathering requirements for full assessment and evaluation of the proposal;
- early consideration of potential design and mitigation solutions;
- early consideration of the need for a structure plan and/or Integrated Transport Assessment; and
- agreeing a timetable and structure for ongoing dialogue.

Where appropriate, this meeting can form the first stage of an Integrated Transport Assessment (see Appendix 5C).

Suggested objectives and policies

Suggested objectives and policies in relation to affected party status for inclusion in regional policy statements and district plans are provided in Appendix 4B.

5.2.3.2

Method 2 – Land use planning and structure plans

Land use planning

Transit strongly supports land use planning as a key mechanism for achieving integrated planning. Effective land use planning processes bring together key agencies, infrastructure providers and other stakeholders and in relation to transport identify:

- the impact of proposed development on existing infrastructure;
- access routes from proposed development to the transport network, including where necessary the provision of alternative local road networks and/or the limiting of state highway accessways;
- mechanisms for funding infrastructure required to avoid, remedy or mitigate the effects of development, including provision for developers to make equitable contributions;
- a timetable and where necessary phasing arrangements, to ensure development coincides with the provision of infrastructure; and
- provision for multi-modal solutions, where appropriate.

5.2 – Development and access

Structure planning

Structure planning, once incorporated into statutory plans, is Transit's preferred tool for achieving integrated solutions to development proposals. Structure planning is likely to be particularly useful in two main circumstances:

- larger or more complex developments with significant transport effects; or
- cumulative smaller-scale development, for example lifestyle blocks, which individually may have a small effect, but which collectively can generate significant demand for transport infrastructure.

Structure planning does not necessarily need to be a long, complex or expensive procedure. Equally it should not be delayed if comprehensive data is not available. There are benefits in a simple process that allows discussion of the growth and other strategic pressures in a particular locality, the preferred location of future development and the transport and other infrastructure required to service this growth. The most important elements are that so far as practicable all the relevant parties are involved in the discussion, any agreed outcomes are realistic and that structure planning is undertaken as early as practicable.

Once a structure plan has been developed, Transit will advocate for it to be given legal effect by incorporation into the relevant RMA plan as soon as practicable.

Further guidance

Further details on the use and content of structure plans is available on the Quality Planning website www.qualityplanning.org.nz.

5.2.3.3

Method 3 – Assessment of transport effects

Assessment of transport effects

Transit expects the effects of a development proposal on the state highway network to be analysed in the Assessment of Environmental Effects (AEE) accompanying a RMA application. Without such an analysis it is difficult to determine whether a development may generate adverse effects or the extent to which these can be avoided, remedied or mitigated.

Section 88(2)(b) of the RMA requires that the degree of detail in an AEE to be proportionate to the scale and significance of the effects that the proposed development may have on the environment. A similar provision applies to private plans changes as set out in clause 22 of Schedule 1 to the RMA.

Appendix 5C provides a checklist of transport-related factors that Transit considers should be assessed for different types and scales of development.

5.2 – Development and access

Integrated Transport Assessment

Integrated Transport Assessment (ITA) is becoming recognised internationally as a useful tool for assessing impacts for larger and/or more complex development proposals. Transit supports the preparation of ITAs in relation to development proposals that may generate a significant number of vehicle trips and will assist in the provision of information in relation to state highways. Transit will also:

- advocate for regional policy statements and district plans to include policies and rules requiring ITAs to be undertaken for developments that may generate a significant number of vehicle trips;
- advocate that such provisions be supported by an ITA guide which:
 - defines when an ITA should be prepared;
 - provides guidance on the information to be included; and
 - seeks to ensure a level of consistency in ITA preparation.

Further information on ITAs is set out in Appendix 5C.

5.2.3.4

Method 4 – Transit’s assessment of development proposals

Transit undertakes an assessment of development proposals that may affect state highways that covers two aspects:

1. strategic assessment against planning documents; and
2. detailed assessment of effects on the state highway network.

Large developments, particularly in peri-urban areas, can have complex transportation impacts.



5.2 – Development and access

Strategic assessment

Transit undertakes a strategic assessment of each development proposal, which considers:

- the consistency of the proposal with:
 - the regional policy statement and the district plan;
 - any relevant structure plan where Transit has been involved; and
 - other relevant planning documents, including regional growth strategies, the RLTS, the NSHS, the SHF and any Transit strategic studies.
- the category of the state highway likely to be affected by the development proposal.

Consistency with planning documents

Transit places weight on the consistency of a development proposal with planning documents, particularly those that:

- have a statutory status;
- are based on integrated planning objectives; and
- reflect land use planning processes with which Transit has been involved.

Transit is unlikely to support a development that is inconsistent with this framework, unless transport effects on the state highway are proven to be insignificant.

State highway categorisation

Transit places strong emphasis on state highway categorisation in forming its response to development proposals. Transit seeks development solutions that avoid, remedy or mitigate adverse transport effects on all state highways. However, the priority and relative importance that will be given to addressing adverse effects on the functioning of state highways is set out below:

Function		Environment		
		<i>Urban</i>	<i>Peri-urban</i>	<i>Rural</i>
<i>National</i>	Motorways, expressways and bypasses	Very high priority	Very high priority	Very high priority
	Other national state highways	High priority	Very high priority	High priority
<i>Regional</i>		Medium priority	High priority	Medium priority
<i>Sub-regional</i>		Low priority	Medium priority	Low priority

Urban limits and state highway categorisation

Transit's definition of an *urban* area under state highway categorisation may not coincide precisely with the district plan definition of urban limits. In particular, this may reflect a time delay between plan policies that facilitate urban expansion, actual changes in land use and the reactive changing of posted speed limits to reflect the new urban environment. Equally, few district plans identify *peri-urban* areas.

5.2 – Development and access

This may have important implications, since Transit is likely (for example) to seek more rigorous access controls in *peri-urban* areas.

Transit will seek agreement, through discussion with local authorities, over the identification of current and future boundaries for *urban* and *peri-urban* areas and will seek to ensure that district plan urban limit boundaries and posted speed limit changes are managed in a co-ordinated and integrated way.

Detailed assessment

The criteria listed in the following table will inform Transit's assessment of development proposals:

Table 5.2/2 – Detailed assessment criteria

1. The level, pattern and type of traffic generated by the development.
2. Current and projected traffic levels on the state highway and its intersections and approach roads; current and future levels of congestion; and whether the new development may compromise the function of the state highway by adversely affecting average vehicle speeds or causing vehicle bunching, delays or trip variability.
3. The safety record of the state highway and whether the new development may materially compromise road safety.
4. Cumulative effects and any precedent potentially set by the development.
5. Reverse sensitivity effects.
6. Physical effects on the state highway such as stormwater run-off.
7. Community severance effects.
8. Whether the state highway is a motorway, expressway, bypass, Limited Access Road or has more than two lanes; or whether there are future plans to add lanes or otherwise upgrade the state highway (particularly where direct access to a state highway, or access via a new state highway intersection, is proposed).
9. Where direct access to a state highway is proposed, whether alternative access via an existing or new local road is practicable, either now or in the foreseeable future.
10. Where direct access to a state highway is proposed, whether the proposed new accessway is safe.
11. Where indirect access to a state highway via a local road is proposed, whether the safety and efficiency of the local road intersection with the state highway will be compromised.

Further detail on each of these considerations is provided in Appendix 5A. Suggested regional policy statement objectives and policies and regional and district plan objectives, policies and rules are provided in Appendix 4B.

5.2 – Development and access

5.2.4.5

Method 5 – Mitigation

Legal duty to avoid, remedy or mitigate

The RMA places a duty on a developer to avoid, remedy or mitigate any adverse effects on the environment arising from their development (s17). The “environment” includes all physical resources (s 2(1) RMA), such as the state highway network. This reinforces the general duty to act subject to or in accordance with the sustainable management purpose in Part 2 of the RMA.

Where a development proposal has adverse impacts on a state highway, Transit will seek to ensure, through negotiation with the local authority and the developer, that this duty is fulfilled at the developer’s cost.

Types of mitigation

Identification of appropriate mitigation of adverse effects, particularly for large developments with significant levels of traffic generation or where a number of developments will cumulatively generate significant levels of traffic, should be viewed within the context of the wider planning and transport objectives for that area. In large urban areas, for example, consideration may be given to multi-modal solutions to reduce traffic generation, although measures to enhance the capacity or safety of the state highway and its intersections will often be required. Mitigation may be delivered by the developer on their own land, may be required on state highways or may be delivered by a third party such as a territorial authority.

Table 5.2/3 sets out the types of mitigation Transit will generally advocate for in negotiations, submissions and appeals concerning proposed developments, where the adverse effects of a proposal on the state highway cannot be avoided entirely or fully remedied:

If mitigation cannot be achieved

If the adverse effects of a proposal on the state highway network cannot be avoided entirely or fully remedied and reasonable mitigation of those adverse effects on the state highway cannot be achieved following negotiation, Transit is likely to object to the development under the RMA.

Cost sharing

In some cases Transit may consider it appropriate to share costs of mitigation where it will have wider network benefits. Transit’s policy for cost sharing is set out in section 5.3 below.

5.2 – Development and access

Table 5.2/3 – Mitigation considerations

Effect	Situation	Mitigation options
Congestion, safety hazards or other effects caused by additional traffic generation	All development	<ul style="list-style-type: none"> • Indirect access to state highways via local roads • Improvements to state highway infrastructure including intersection upgrades, additional state highway capacity, new access roads and/or safety improvement schemes • Measures to reduce travel demand • Signage, education or other measures to reduce adverse safety, environmental or social impacts
	Larger developments	<ul style="list-style-type: none"> • Travel plan
	All development where public transport, cycling or walking are potential alternatives to the private car (including most large urban areas)	<ul style="list-style-type: none"> • Public transport infrastructure (on-site and/or off-site) • Financial support for public transport services • Cycle paths and walkways on the development site with connections to surrounding networks • Contribution to cycling and walking measures in the vicinity, including crossing facilities on major roads • Levels of parking provision (e.g. maximum for private cars, minimum for cycles)
	Residential development near urban centres and public transport hubs	<ul style="list-style-type: none"> • Levels of parking provision (e.g. maximum for private cars, minimum for cycles) • Network connections for cycling and walking
	Development in the vicinity of a rail network generating significant freight movements	<ul style="list-style-type: none"> • Rail network connectivity
Community severance	All development	<ul style="list-style-type: none"> • Grade separated or controlled crossings, or other measures to allow safe access across the state highway particularly for cyclists and pedestrians
Safety hazards caused by proposed new accessway or intersection	All development	<ul style="list-style-type: none"> • Alternative local road access • Access or intersection to comply with accessway safety standards in Appendix 5B
Structural impacts on the integrity of the state highway	Development with significant HCV generation	<ul style="list-style-type: none"> • Measures to strengthen bridges and structures, or otherwise deal with effects
Reverse sensitivity effects	All sensitive development (residential, schools etc)	<ul style="list-style-type: none"> • Measures to avoid or reduce noise and other reverse sensitivity effects – see Method 5 and Appendix 5D
Other effects on state highway infrastructure and users (e.g. stormwater discharge, lighting, driver distraction and degradation of visual quality)	All development	<ul style="list-style-type: none"> • Remedial measures identified on a case-by-case basis

5.2 – Development and access

5.2.4.6

Method 6 – Reverse sensitivity

What is reverse sensitivity?

Reverse sensitivity is “the vulnerability of an established activity to objection from a sensitive land use.” For Transit this means the risk that new activities (such as houses and offices) that choose to locate near established state highways may object to the effects of the highway (such as traffic noise and vibration) and take legal action against Transit.

“Reverse Sensitivity” applies to situations where incompatible land uses are located in close proximity to each other, resulting in conflict between the activities, typically through complaints from the more sensitive activity. The term generally relates to the effects of the development of a sensitive activity in an area that is already affected by established activities².

Vehicles on state highways can produce significant adverse effects that extend beyond the state highway, such as:

- traffic noise and vibration
- vehicle generated emissions, especially to air
- lighting/glare
- dust
- non-point source pollution eg. stormwater run-off, spray-drift and litter
- outlook, visual detraction.

Many of these are beyond Transit’s control. Sensitive receivers that are susceptible to the effects of roads can include houses, schools, hospitals, offices and hotels/motels.

Why is reverse sensitivity an issue for Transit?

Tension can arise between Transit’s need to operate the state highway network and the desires of sensitive receivers to develop their land as they wish, or to enjoy their property free from unreasonable interference or nuisance. Transit aims to minimise these situations by careful planning from the outset.

Transit’s reverse sensitivity policy

Transit’s approach to managing reverse sensitivity, set out in Appendix 5D, is based on three primary mechanisms:

1. Transit to avoid adverse effects to the extent reasonable in the circumstances;
 2. Transit and local authorities to manage effects; and
 3. landowners and developers to mitigate reverse sensitivity effects on the state highway.
-

² Judge Sheppard in *Auckland Regional Council v Auckland City Council* (RMA 10/97) confirmed: “the term reverse sensitivity is used to refer to the effects of the existence of sensitive activities on other activities in their vicinity, particularly by leading to restraints in the carrying on of those other activities”.

5.2 – Development and access

Regional and district plan provisions

Transit will seek that reverse sensitivity is efficiently managed by local authorities by:

- providing environmental buffer areas;
 - encouraging non-sensitive land use buffers eg. commercial or recreational activities to insulate residential or sensitive activities from major transport corridors;
 - imposing separation and setback distances between habitable buildings and the road edge;
 - requiring design and construction standards to achieve “satisfactory” or “maximum” internal sound levels of AS/NZ2107:2000 and vibration criteria ISO2631-2:1989;
 - seeking funding from developers for agreed environmental mitigation; and
 - using Land Information Memoranda and Property Information Memoranda to educate and inform landowners and developers.
-

Responding to development proposals and participating in RMA consent process

Responding to individual development proposals and participating in the consent process represents a reactive, but effective, method for Transit to manage reverse sensitivity effects.

It applies to situations where Transit is an affected party under s93/94 RMA (resource consents), s73 RMA (district plan changes), or where approval is required under the Limited Access Road provisions of the TNZA. The plan change and consent process can be used to protect sensitive activities (e.g. residential use) from undesirable environmental effects of the state highway, by identifying and imposing performance standards or conditions on resource consents (s108 RMA).

Effects-based approach: adopting performance standards

While a basic building setback is an obvious and valuable solution, it is not achievable in all cases. Therefore, it is also effective to adopt an effects-based (performance standard) approach to achieve a desired amenity standard for the sensitive receiver.

Provided an activity can meet the required performance standards and provided the developer agrees to register a *no-complaints* instrument on the property’s title, potential reverse sensitivity issues will be satisfactorily addressed. However, where an activity is unable to meet the required performance standards or the developer is not prepared to register a *no-complaints* instrument, Transit will typically consider it inappropriate for the sensitive activity to proceed and may oppose it.

Transit aims to ensure new development achieves an acceptable level of amenity by ensuring habitable rooms meet “satisfactory” internal sound levels recommended by Australian and New Zealand Standard (AS/NZS) 2107:2000 Acoustics - Recommended design sound levels and reverberation times for building interiors.

5.2 – Development and access

5.2.4.7

Method 7 – Access management tools

Access management tools

The previous methods within this section set out Transit's approach to influencing development through engagement in the RMA process. However, Transit has other tools that it uses to manage access onto state highways. These are:

1. motorway declaration
2. segregation strips
3. its Limited Access Road powers under the TNZA

In addition Transit has powers in respect of the construction and design of accessways with the state highway under section 51 TNZA.

Motorway declaration

Transit may seek the declaration of state highways as a motorway (refer section 3.2). One of the consequences of motorway declaration is that access to the motorway is legally restricted to roads or accessways specifically authorised by Transit. Transit has a strong presumption against direct access to any road declared as a motorway. There may be circumstances where major areas of development justify a new motorway interchange, but strict criteria apply to the spacing between intersections.

Segregation strips

Segregation strips are narrow stretches of land (typically between 50 and 100mm wide) located on either side of a road reserve that are in Crown ownership but are not legally public highway/road. The use of segregation strips allows Transit control over access as the public, including adjacent landowners/occupiers, do not have a legal right to pass across the strips unless they obtain a private right to do so from the Crown, e.g. a right-of-way.

Transit normally requests the Crown to acquire segregation strips along new sections of state highway such as bypasses and expressways, where a high level of access control is appropriate.

Limited Access Roads

The Transit New Zealand Act 1989 (TNZA) gives Transit powers to declare state highways to be Limited Access Roads (LAR). No person can lawfully drive or move a vehicle onto or from a LAR except at a road intersection that existed prior to the state highway being declared a LAR, a road intersection with a LAR that has been authorised by Transit, or an identified crossing place that has been authorised by Transit.³

Also, where any person wishes to exercise any right involving the subdivision or use of land, and that right is conditional in any way upon the existence of a road, a LAR will not be treated as a road for the purpose of any such condition, unless the Minister has notified it as such at Transit's request.⁴ The Minister's notification may also be subject to conditions.

³ Section 92 Transit New Zealand Act 1989.

⁴ Section 93 Transit New Zealand Act 1989.

5.2 – Development and access

Limited Access Roads (continued)

Transit is required to authorise such a crossing place to and from a parcel of land that does not have reasonably practicable alternative legal access to some other road. However, even in those circumstances Transit is only required to grant one crossing place, will specify the location of that accessway and can impose appropriate conditions on that accessway.⁵

Use of Limited Access Road powers

Transit may use the LAR powers in the TNZA to prevent access to and/or from a LAR, including where the accessway is sought for a new development, where this may have an unacceptable adverse effect on the safety or functioning of the state highway. However, where Transit considers a new accessway onto a LAR should not be authorised, it may still be possible for the development to proceed if alternative access arrangements via the local road network can be found.

Where new development is, or is proposed to be, undertaken in the vicinity of a LAR, or land in the vicinity of a LAR is rezoned under a plan review, plan change or variation, Transit will generally consider using the powers under the TNZA to review, and where appropriate rationalise, the authorised crossing places in that area. This may include cancelling crossing places that are no longer required, changing the location of crossing places and/or combining existing crossing places.

Integration of LAR and RMA processes

Transit will seek at all times to ensure that concerns are raised as early as possible in the lifecycle of a proposed development and do not come as a surprise, for example after resource consent has been granted. Transit prefers that the LAR and RMA processes operate in parallel. Where there are RMA appeals and an objection to the Environment Court in respect of the exercise of powers under section 93 TNZA that relate to the same development, Transit will generally seek for those matters to be heard by the Court together.

However, Transit may consider it necessary to prevent access to a state highway under LAR provisions where Transit was not notified as an affected party to a development proposal (refer section 5.2.3.1 for guidance on when Transit should be considered an affected party). LAR authorisation is still required even where a proposed development is a permitted activity, and for this reason Transit generally encourages territorial authorities to identify in district plans any new crossing place to a LAR that otherwise is in accordance with plan rules as a discretionary activity (refer Appendix 4B).

Declaration of new LARs

Transit declares sections of state highway as LAR, taking into account state highway categorisation, as part of its approach to access management. Declaration allows Transit to use the LAR controls described above and signals to the local community and local authorities the importance placed by Transit on managing access in that area in support of integrated planning objectives. Transit advocates that all LARs are shown on district plan maps (refer Appendix 4B for suggested district plan provisions).

⁵ Section 90 Transit New Zealand Act 1989.

5.2 – Development and access

Declaration of new LARs (continued)

Declaration of new LARs does not necessarily mean that no accesses will be authorised. Transit is required to allow each parcel of land that adjoins or has legal access to any part of an LAR declared state highway, and which does not have reasonably practicable alternative legal access to some other road, to have at least one crossing place (which may be subject to conditions). Each case will be considered on its merits and in accordance with Transit's wider policy on access management and LARs. In addition, LAR brings certain costs and responsibilities for Transit, particularly in the auditing of accesses in existence prior to LAR declaration for safety purposes and in the measures required to monitor and manage accesses on the LARs. Transit prioritises its programme for LAR declaration using the criteria set out in Table 5.2/4 below.

Criterion	Comment																			
State highway category.	Transit will generally reflect state highway categories in the prioritisation of LAR declaration as follows: <table border="1" style="margin-left: 20px;"> <thead> <tr> <th rowspan="2">Function</th> <th colspan="3">Environment</th> </tr> <tr> <th><i>Urban</i></th> <th><i>Peri-urban</i></th> <th><i>Rural</i></th> </tr> </thead> <tbody> <tr> <td><i>National</i></td> <td>Low priority</td> <td>High priority</td> <td>Medium priority</td> </tr> <tr> <td><i>Regional</i></td> <td>Low priority</td> <td>Medium priority</td> <td>Low priority</td> </tr> <tr> <td><i>Sub-regional</i></td> <td>Low priority</td> <td>Low priority</td> <td>Low priority</td> </tr> </tbody> </table>	Function	Environment			<i>Urban</i>	<i>Peri-urban</i>	<i>Rural</i>	<i>National</i>	Low priority	High priority	Medium priority	<i>Regional</i>	Low priority	Medium priority	Low priority	<i>Sub-regional</i>	Low priority	Low priority	Low priority
Function	Environment																			
	<i>Urban</i>	<i>Peri-urban</i>	<i>Rural</i>																	
<i>National</i>	Low priority	High priority	Medium priority																	
<i>Regional</i>	Low priority	Medium priority	Low priority																	
<i>Sub-regional</i>	Low priority	Low priority	Low priority																	
Status of the state highway	It is a high priority to declare LAR on all expressways and bypasses that do not have segregation strips.																			
Existing or proposed passing and overtaking facilities	LAR declaration is considered important in the vicinity of all new or proposed passing lanes, particularly at or near the taper points, where segregation strips do not exist. Other passing and overtaking treatments such as central median barriers may also justify LAR declaration. Detail is provided in Transit's Passing and Overtaking Guidelines.																			
Level of development pressure	The level of development pressure will generally be greater in <i>peri-urban</i> areas. However, there may be other circumstances, such as coastal development areas, where pressure for development justifies a high priority for LAR declaration in other areas.																			
Safety record	A section of state highway with a poor safety record, particularly where accidents are frequently associated with turning movements, may be a high priority for LAR declaration.																			
Number of existing accessways	High numbers and densities of existing accessways may justify a higher priority for LAR declaration, particularly where other factors also apply.																			
Vulnerability due to district plan provisions	Where a district plan has identified certain activities adjacent to a state highway as controlled, permitted or restricted discretionary (where access is not one of the aspects over which discretion can be applied), Transit may consider declaration of a LAR so access matters can be properly considered. This course of action will only be considered where there is significant concern that new or altered activities could compromise the safety or functioning of the state highway, taking into account the other criteria set out above and where these concerns have been raised previously with the local authority.																			
Provision for public transport	Where a section of state highway contains provision for public transport (such as bus priority lanes), cycle lanes, or where such facilities are planned in the future, LAR declaration will be a high priority.																			

Section 51 authorisations

Under section 51 of the Transit New Zealand Act 1989 any physical works on a state highway requires specific authorisation by Transit. This provides Transit with a level of control over the design and construction of accessways, though it does not control the act of accessway itself.

5.3 Cost sharing

5.3.1 Introduction and issues

Duty to mitigate

The RMA places a duty on a developer to avoid, remedy or mitigate any adverse effects on the environment arising from their development (s17). The “environment” includes all physical resources (s 2(1) RMA), such as the state highway network. Further, decision makers under the RMA act in accordance with the sustainable management purpose of the Act. This purpose requires the development of natural and physical resources to be managed in a way that avoids, remedies or mitigates any adverse effects on the environment.

Section 5.2 above provides guidance on Transit’s approach to assessing development proposals and identifying the mitigation measures required for proposals that may have adverse effects on the state highway network.

A developer may be able to mitigate the effects of a development on the state highway network on land they own (for example, mitigating against reverse sensitivity effects through building design or mitigating against unsafe access by providing land for a slip lane). However, mitigation works may be required on a state highway or local road. Therefore, a developer may make a monetary contribution to Transit or the local road authority towards the costs of providing the mitigation, or in appropriate circumstances may undertake works to upgrade the road network themselves.

Cost sharing

Where mitigation takes the form of a new road or an improvement to an existing state highway, it is often the case that there will be wider network benefits arising from the mitigation measure over and above the minimum improvement in service or safety that would be needed solely to address the adverse effects of the development proposal. Equally there may be cases where the road improvement measure would have been undertaken by Transit in due course in any case and the development brings forward in time the need for implementation.

In these circumstances, it may be appropriate for the mitigation costs to be shared between the developer, Transit and other parties.

In this PPM the term “cost sharing” refers to any situation where a developer makes a contribution towards the costs of a road network improvement triggered by the need to mitigate adverse effects of their development by the provision of money, land and/or works. Mitigating direct effects of property access, such as the need for improved sight distances or sealed entrances, is not subject to cost sharing because the developer is required to pay the full cost.

5.3 – Cost sharing

Types of contribution	<p>Contributions from developers towards the costs of projects to provide or improve transport infrastructure come in several forms:</p> <ol style="list-style-type: none">1. developer contributions under the Local Government Act 2002;2. financial contributions under the RMA;3. side agreements to secure contributions of land, works or money;4. in-kind contributions (for example of land); or5. construction of the mitigation measures by the developer (for example a section of new road or a slip lane) followed by vesting of the asset as a state highway or local road.
Availability of matching funds	<p>Where a particular package of mitigation needs to be partially funded by Transit, Transit may not have the funds readily available to provide its share. The more notice and certainty Transit has in relation to a proposed development, the higher the likelihood that it can be considered and included in the SHF.</p>
Phasing of development and infrastructure provision	<p>Ideally, the required transport infrastructure will be in place before the transport effects of a new development occur. However, developers may find funding mitigation difficult until at least part of the development has been completed. To deal with this issue, larger developments may need to be phased, such that development below a certain threshold can be undertaken with limited mitigation and development beyond that threshold level can only be carried out once the required transport infrastructure is in place.</p>
Cumulative effects	<p>Where a succession of small to medium-scale developments have a significant adverse effect on the state highway network, it can be difficult to identify the point in the time when a state highway network improvement becomes required, or the proportion of the cost of the improvement that should be attributed to each development. The complexities of these situations can sometimes be dealt with by a side agreement involving Transit, the developer and the local authority.</p>

5.3 – Cost sharing

5.3.2

Cost sharing policy

Transit will give effect to the Integrated Planning Policy by implementing this supporting policy:

Significant adverse effects of new development on the safety and/or function of the state highway network should be avoided in the first instance and if unable to be avoided should be remedied or mitigated. Transit will:

1. Seek sharing of the costs of state highway network improvements directly related to development through contributions of land, works or money from developers, local authorities and other relevant parties (if appropriate) to mitigate the adverse effects of development on the state highway network where:
 - the development will have a significant adverse effect on the safety and/or function of a state highway;
 - practical and economically justifiable solutions exist to mitigate the adverse effects directly attributable to the development; and
 - there is reasonable certainty through the cost sharing arrangement that the state highway works will be undertaken within a reasonable time period.
2. Negotiate with developers, local authorities and other relevant parties to agree the equitable sharing of costs, generally based on the proportion of the traffic generated by the development, whether the development significantly advances a project identified in Transit's State Highway Forecast or generates a new or amended project and the real cost to meet Transit's requirements to mitigate the effects on the state highway network.
3. Seek recognition of the importance of sharing the costs of state highway network improvements directly related to developments in regional policy statements, district plans, long term council community plans and other planning documents such as growth strategies and regional land transport strategies through the inclusion of objectives, policies and, where appropriate, rules.

5.3.3

Methods

5.3.3.1

Method 1 - Provision in planning documents to enable cost sharing

Introduction

Local authorities have a number of statutory and non-statutory mechanisms available to collect contributions from developers. Transit will advocate for appropriate mechanisms to be included in regional and district council planning documents so that these mechanisms are coordinated and available for use.

5.3 – Cost sharing

Financial contributions under the RMA

Under the RMA, local authorities can collect financial contributions, through the imposition of appropriate conditions on resource consents. For a local authority to impose a consent condition requiring the payment of a financial contribution the relevant regional or district plan or proposed regional or district plan must specify the purposes for which such contributions will be required and how the amount of any financial contributions is to be determined. Unless the relevant plan provides for the imposition of conditions requiring the payment of financial contributions, a local authority cannot impose such conditions.

Local authorities decide whether to impose consent conditions requiring the payment of financial contributions on a case-by-case basis and any such conditions must meet the usual requirements for ‘reasonableness’ that apply to all resource consent conditions. Developers can appeal the consent decision, including any financial contribution conditions imposed.

Financial contributions for state highway improvements

It is important that Transit seeks the explicit ability for local authorities to impose conditions requiring the payment of financial contributions to avoid, remedy or mitigate adverse effects on state highways. Given that some local authorities are removing or limiting the financial contributions sections in their plans, it is important that Transit seeks that those plan provisions be retained and (where necessary) explicitly expanded to enable state highways to benefit from financial contributions levied under the RMA where appropriate.

Suggested objectives, policies and rules for inclusion in planning documents are contained in Appendix 4B.

Long term council community plans (LTCCPs)

LTCCPs under the LGA are an important mechanism to secure funding for multi-modal transport networks. The inclusion of appropriate funding policies, including those requiring contributions from developers, is important and is actively sought by Transit. This is particularly where:

- an integrated package of local and state highway network transport solutions is required;
- the local road network or alternative mode is integral to the effective functioning of the state highway network; and/or
- there is an opportunity for Transit and a local authority to share the costs of network improvements, such as intersection improvements.

Other planning documents

Other planning mechanisms undertaken by local authorities can help secure and coordinate transport funding. While some of these are non-statutory or do not lead to direct requirements for developer contributions, they can help set expectations and provide justification for the quantum of cost sharing arrangements. These mechanisms include:

- structure plans;
 - transport plans (including passenger transport plans);
 - regional growth and development strategies; and
 - RLTSs.
-

5.3 – Cost sharing

5.3.3.2

Method 2 – Identifying, quantifying and securing cost sharing arrangements

Identification - general approach

Contributions from developers will often be required to directly remedy or mitigate any significant adverse effects of development on the land transport system.

In identifying which developments require cost sharing arrangements, Transit will particularly focus on those with significant adverse effects that must be mitigated in order to ensure Transit provides a safe and sustainable state highway network.

Cost sharing scenarios

Cost sharing arrangements generally fall into two types:

1. If a development gives rise to the need for works on the state highway network that are not listed or provided for in the SHF, then a contribution may be required. The amount of the contribution will be relative to the proportion of the development's adverse effect on the state highway network.
2. If a development gives rise to the need for works that are listed or provided for in the SHF or are a project that Transit intends to undertake more than 10 years into the future and as a result of the development the works will be required ahead of the time that Transit has forecast, then Transit may seek for a contribution towards the costs of bringing the works forward.

Exceptions

Cost sharing arrangements do not apply to the formation of an accessway from a site directly to a state highway, as this is an essential prerequisite for any development fronting a state highway and the developer must meet all associated costs.

There may also be no element of cost sharing in situations where the works are needed only because of the proposed development and there are no associated benefits to the state highway network. In these situations Transit is likely to require the developer to meet all mitigation costs.

Quantifying - matters to consider

When cost sharing is being assessed, there are a number of matters to consider in coming to an appropriate quantification of amounts. These include:

1. the proportion of the traffic or traffic growth on the state highway and local road intersection (where relevant) that will be generated by the development;
2. whether the development significantly advances the need for an existing state highway project or generates new or amended projects;
3. the real costs in terms of processes, land acquisition and physical works to meet Transit's requirements to mitigate the adverse effects on the state highway assessed for the time at which the work will be constructed; and
4. any wider implications for the transport network.

5.3 – Cost sharing

Quantifying - dealing with inflation and interest

The amount of a developer's contribution will need to be sufficient to meet the developer's share of the estimated costs of the works (including process and land acquisition costs) at the time when the works are forecast to be built:

1. if the contribution will be provided by the deposit of money into Transit's public trust facility: the contribution will generally be the developer's share of the estimated costs of the works at present, based on the assumption that the facility interest rate is equivalent to the Construction Cost Index (CCI) rate. When that assumption is not valid an alternative approach will be needed, along the lines of that set out below for bonds and bank guarantees; or
2. if the contribution will be secured by a bond or a bank guarantee: the contribution will generally be the developer's share of the current estimated cost of the works inflated by the average annual movement in the CCI over the last three years, for the number of years until the forecast completion date of the works. This can be done either by grossing up the bond amount at the beginning or by incremental increases in the bond.

Negotiating - principles

The following principles will generally apply when negotiating a cost sharing arrangement:

1. arrangements will generally be negotiated between all relevant parties, which may include Transit, developers, local authorities and other stakeholders.
2. Transit will take a proactive role in organising and facilitating negotiations and will encourage Land Transport NZ to participate in negotiations where relevant.
3. the RMA will often exert some influence on the process of achieving cost sharing agreements, but they may be agreed outside the RMA.
4. if mitigation is not possible or is unable to be agreed upon and the adverse transport effects are potentially significant, Transit may seek that the consent application or plan change be declined by the local authority.

Negotiating – involvement of stakeholders

Negotiating cost sharing arrangements with developers and local authorities typically occurs in the spirit of cooperation to achieve better outcomes. Due to the voluntary nature of the process and often limited timeframes, Transit proactively seeks negotiated outcomes that involve all relevant stakeholders. This may include the developer, the local authority, other transport providers and other developers and landowners who may directly benefit. If significant contributions of money are sought, Transit will encourage Land Transport NZ to participate in the negotiations.

5.3 – Cost sharing

Negotiating - criteria

Some general criteria for negotiations that Transit will seek to apply are:

1. to negotiate in good faith with all parties, including advising that, at a minimum, Transit's General Management Team will need to approve any agreement;
2. to require developers to mitigate only the effects of a development to the situation prior to the development occurring or, if Transit considers it appropriate to undertake works itself that would improve the state highway network to a greater degree (e.g. to avoid the construction of interim solutions that would need to be replaced by long term solutions in a relatively short period of time), to seek an equitable contribution from the developer to those works;
3. it may often be preferable from Transit's perspective to have developers undertake works, especially if the developer is undertaking 100% of the necessary works (although in those circumstances Transit will still retain control over design and construction standards and operations on the existing state highway);
4. to be cautious over cumulative effects or when there is difficulty in identifying the adverse effects of a development, as contributions in these circumstances are often for smaller amounts that can have inefficiently high transaction costs and risks;
5. to ensure all risks (especially those relating to cost and property issues) are identified and managed in the resulting agreement;
6. when setting a time period during which the contribution can be called on, to assess the likely construction date of the proposed works and generally allow a margin of 2 to 3 years;
7. to negotiate if a practical and economically justified solution is available within a reasonable timeframe but not to seek a cost sharing arrangement where this is not the case; and
8. negotiations and agreements about money should be inclusive of GST for both the costs of any works (i.e. estimate plus GST) and the amount of any monetary contributions.

Failure to agree

If mitigation is not possible or not able to be agreed despite Transit's best endeavours to reach agreement and the adverse effects on the state highway are potentially significant, Transit may seek that any RMA authorisation required for the development be declined on the grounds that the adverse effects cannot be appropriately avoided, remedied or mitigated.

5.3 – Cost sharing

Security - principles

The following principles apply to securing a cost sharing agreement:

1. all agreements are to be secured in writing;
2. all agreements will be different; while there are some critical clauses, there is no standard agreement. Example agreements are contained in Appendix 5E;
3. as a minimum, approval is required from Transit's General Management Team for all cost sharing agreements;
4. an appropriate form of financial assurance is essential to secure future performance. Bonds provided by a registered bank, similar bank guarantees and/or monies held on trust at Transit's facility with the Public Trust Office are Transit's accepted methods of securing agreements, in some cases backed up by encumbrances and caveats to secure the registration of those encumbrances; and
5. guarantees or undertakings from parent companies, company directors or shareholders are not acceptable methods of securing agreements and solicitors trust accounts are not acceptable for the holding of monies.

Agreement content

A cost sharing agreement should set out:

1. the amount of any monetary contribution, the extent of any contribution of physical works and/or the amount of land that is to be vested in the Crown/local authority. Generally Transit will avoid agreements under which a developer or other party agrees to contribute a certain percentage of the costs of the works as these increase the potential for uncertainty and disputes;
2. the event that will trigger Transit issuing an invoice for the contribution (being the developer's share of the actual cost up to the amount being held on deposit), the implementation of physical works and/or the provision of land;
3. an acknowledgement by the parties that the commitments under the agreement do not impose any obligation on Transit to pursue the required state highway upgrade(s) in any different manner or in accordance with any timetable different from those which it would have pursued if those commitments had not been entered into and/or the developer contribution had not been made;
4. how adjustments are to be made to ensure the true cost in a forward year is included. CPI indexation or the Construction Cost Index will often be inappropriate and it will usually be better to estimate the likely cost of construction as at the likely construction date.
5. Where money is involved, it should be stated that any interest follows the capital (e.g. to Transit or back to the developer);
6. how risks are to be allocated, especially those involving costs and property matters;
7. requirements for an appropriate form of financial assurance, e.g. a bond, to secure the agreement in the event of default by the developer;
8. what happens if the development does not proceed as planned (including delays) or if the developer disposes of their interest in the development;
9. what happens if Transit changes its view on what works are needed and in particular whether the contribution is still payable if Transit alters its position about the nature of the necessary works (e.g. adding traffic signals rather than a roundabout); and
10. conditions to terminate any agreement and release monies held on trust.

5.3 – Cost sharing

Example agreements are set out in Appendix 5E. These are indicative only and each matter will need its own specific agreement.

Agreements for works

When Transit allows works to be carried out in a state highway corridor by a developer it will obtain:

- a written agreement with the developer specifying the works to be done, the standards to be achieved and the timeframe by which those works are to be completed;
- an appropriate form of financial assurance, e.g. a bond, to secure the agreement in the event of default by the developer;
- a means of legally binding any successor to the developer to comply with the agreement (if appropriate), e.g. encumbrances and caveats to secure the registration of encumbrances; and
- provision for meeting Transit's costs in supervising the works and for Transit control over the design and construction of the works.

In some situations it may be appropriate for the parties to agree to also seek the imposition of a resource consent or designation condition or plan change provision requiring the physical works to be undertaken. Generally this is not necessary but if it is pursued care must be taken to ensure the wording of the agreement and the condition are identical in all material respects.

Securing contributions for works

Bonds to secure a contribution of physical works should be provided as an unconditional agreement to pay Transit upon demand and issued by a registered bank or other financial institution acceptable to Transit. Transit has developed a form of document that is acceptable to the major banks and protects Transit's interests. This is set out in Appendix 5E.

The bond should be provided at the time of the agreement. However, if that is not the case, Transit should register an encumbrance on the title to the relevant land title(s) obliging the landowner (or future owners) to provide the bond. Caveats can be used to protect Transit's position until the encumbrance is in place.

The amount of a bond required to secure a works contribution will vary depending on the circumstances and needs to be determined on a case-by-case basis. As general guidance:

- if the works are likely to be completed within 2 years the amount of any bond should be the estimated cost of the works plus 20% for contingencies and the uncertainties of the estimation process;
 - if the works are likely to be completed within 2 to 5 years the amount of the bond should be the estimated cost of the works plus 20% for contingencies and the uncertainties of estimating plus approximately 10% a year to allow for inflation; and
 - if the works are likely to be more than 5 years out a more complex agreement is likely to be required which could, for example, include a mechanism for 'topping up' the amount of the bond.
-

5.3 – Cost sharing

Provision of a bond as a resource consent condition	<p>A resource consent condition imposed by a local authority can also require the provision of a bond. Such bonds can be registered against the title to the land that is the subject of the consent and bind subsequent owners. Any such consent condition can also provide that the liability of the developer is not limited to the amount of the bond. However, the disadvantage of such bonds is that they can often be varied or released by agreement between the consent holder and the local authority without Transit knowing or being consulted</p>
Encumbrances	<p>In some cases, where there are on-going obligations under the agreement (e.g. a maintenance period or an obligation to pay a monetary contribution into Transit's Public Trust Office facility at some future time) the registration of an encumbrance on the relevant title(s) is appropriate to secure compliance with those obligations by current and future owners of the land. Encumbrances are also a useful way of ensuring that future owners have notice of the commitment. Appendix 5E sub-section 3 contains an example encumbrance for the circumstances where a Transit objection to a development has been withdraw before payment of a contribution. This will need modification to meet the needs of other agreements or circumstances.</p>
Where money is to be paid to	<p>Transit requires all monies to be paid to the interest bearing deposit facility that Transit has established with the Public Trust Office (the facility details are in the example agreements in Appendix 5E).</p>
Terms for holding money	<p>The essential terms on which money is to be held under a cost sharing arrangement must include:</p> <ul style="list-style-type: none">• that the monies will be held until some precondition(s) has (or have) been met that is/are not totally within Transit's control;• that the money must be paid to Transit once Transit certifies that the preconditions have been met;• that the money is not to be released to the developer without Transit's written consent;• that there is no right to withhold the money if there is any dispute between Transit and the developer on any matter; and• that any rights of set off have to be negated.
Developer contributions register	<p>All agreements, payments and bonds must be entered onto Transit's developer contributions register.</p>
Completion of arrangements	<p>Of great importance is following through and where necessary enforcing cost sharing agreements. This will include completing and executing documentation, executing and registering encumbrances and caveats where required and fulfilling all other obligations under the agreement.</p>

5.4 Third Party Issues

In addition to the matters below, Transit has a number of bylaws to control issues such as roadside vendors, roadside car sales and other operational matters. These are listed in the State Highway Control Manual SM012.

5.4.1 Advertising Signs

5.4.1.1 Introduction and issues

Official and unofficial signs

Signs help to convey a large amount of information to users of the state highway network, from signs conveying information about speed restrictions, hazards, directions and highway services (“official” signs) to advertising signs promoting goods, services, events, attractions and community benefit information (“unofficial” signs).

Because of the requirement to maintain a high level of traffic safety and efficiency on state highways, official signs are carefully designed and cause little or no problems in terms of driver distraction.

The potential effects on traffic safety, particularly driver distraction, created by unofficial signs is the key reason Transit seeks to control and influence the size, location, content and appearance of signs on or visible from a state highway.

Potential safety hazards of signs

Signs that are difficult to read can create a safety hazard. This is particularly so in high-speed environments (70km/h and above) when a driver’s ability to take in multiple pieces of information is greatly diminished.

In addition, a proliferation of signs beside a road can reduce their effectiveness and create visual clutter. Signs should ideally form an integral component of a state highway and not detract from it.

Poorly located signs can reduce visibility at intersections and bends. Unofficial signs placed in locations where they compete with or mimic official signs or traffic signals or are reflectorised can confuse drivers.

Poorly erected or maintained signs can present a safety hazard to road users if they fall or are blown onto the carriageway.

Amenity

Transit invests considerable amounts of time and money into landscaping and urban design treatments to integrate state highways into the local environment and improve visual quality. This integration can be compromised by inappropriate signage visible from the state highway.

5.4 – Third party issues

Signs within the state highway road reserve

All advertising signs within the state highway road reserve are controlled by Transit through Bylaw 2003/13⁶. Bylaw 2003/13 expressly prohibits advertising and other unofficial signs on motorways. On state highways advertising signs are generally not considered to be appropriate within any part of the state highway road reserve because of safety, amenity and operational reasons.

Some types of advertising signs may be permitted, usually where they are for community events and the signs are temporary and there is no practical alternative location. These signs may also require resource consent from the territorial authority. Further policy and information on signs within the state highway reserve can be found in the State Highway Control Manual.

Advertising signs outside the state highway road reserve

Advertising signs on land outside the state highway road reserve are generally subject to controls administered by territorial authorities. This may be either district plan rules or through local authority bylaws made under the LGA. Where the sign is visible from a state highway, Transit often has input into proposals to erect advertising signs as an affected party under the RMA. Transit's primary concern with signs visible from the state highway network is to avoid, remedy or mitigate the creation of risks to the safety of road users.

However, if a local authority chooses to control signs by creating bylaws under the LGA, Transit may not have a formal ability to influence decision making.

⁶ On sections of state highway where the speed limit is 50km/h or lower this control only extends to the edge of the curb; controls beyond the curb lie with the relevant TLA.

5.4 – Third party issues

5.4.1.2	<p>Policy on unofficial signs</p> <p><i>Transit will give effect to the Integrated Planning Policy by implementing this supporting policy:</i></p>
Signs within the state highway road reserve	<p>Transit will:</p> <ul style="list-style-type: none"> • generally not allow commercial advertising signs to be erected or maintained within the state highway reserve except where a state highway has a posted speed limit of 50km/h or below when Transit may allow commercial advertising signs to be erected on areas other than the carriageway or curb; • assess proposals to erect signs within the state highway reserve in accordance with the State Highway Control Manual; • require the removal of old, poorly maintained, inadequately secured or redundant signs that may present a safety hazard to state highway users; • consider proposals to erect and/or maintain temporary community signs within the state highway reserve at sites where no practical alternative exists and where traffic safety is not compromised on a case-by-case basis; and • not allow advertising on official signs or support structures.
Signs outside the state highway road reserve	<p>Transit will:</p> <ul style="list-style-type: none"> • advocate for prevention of the erection of signs outside but visible from the state highway that may adversely affect traffic safety; • advocate for appropriate structural construction standards for signs in the vicinity of a state highway that are equivalent to those required for official signage; and • encourage the removal or replacement of old, poorly maintained, inadequately secured or redundant signs located outside but visible from the state highway.
Amenity	<p>Control of the amenity effects of signage outside the state highway road reserve is primarily a local authority function. Transit will generally only seek to become involved in managing such amenity effects when state highway landscaping or other urban design outcomes may be compromised.</p>

5.4.1.3

Methods

5.4.1.3.1

Method 1 – Bylaw control

Bylaws

Transit seeks to avoid the adverse effects that signs can have on the safe and efficient operation of the state highway network through the application of controls on the location, number, size and design of signs through Bylaw 2003/13 (including any future updates) and the methods outlined in the State Highway Control Manual.

5.4 – Third party issues

5.4.1.3.2

Method 2 – Provisions in RMA plans

RMA plans

Transit will work with local authorities by advocating the inclusion of policies and rules in district plans and regional coastal plans to control signs that may impact adversely on the state highway. Transit will advocate for signs to be controlled through RMA plans (rather than through bylaws under the LGA) and will seek the inclusion of objectives, policies and rules that:

- specify minimum performance standards for signs including criteria in accordance with:
 - clause 4.7 and 13.7(c) of the Land Transport NZ Traffic Control Devices Rule;
 - Land Transport NZ Road Traffic Standard 7: Advertising Signs and Road Safety: Design and Location Guidelines (RTS7);
 - AS/NZS 1170 (Structural Integrity of Signs) or Road Safety Manufacturers' Association Compliance Standard for Traffic Signs;
 - traffic safety requirements, including requirements to protect vehicular and pedestrian safety and prevent the imitation of official traffic signs or the obscuring of views of intersections or curves.
- identify Transit as an affected party where the sign is visible from the state highway and either the above performance standards are not met or where the state highway speed limit is 70km/h or above.

Suggested objectives, policies and rules are contained in Appendix 4B.

5.4.1.3.3

Method 3 – Education

Education

Transit will be proactive in informing territorial authorities, developers, land owners and the wider public of the need to control signs that are visible from a state highway to minimise any adverse effects on the safe and efficient operation of the state highway.

To achieve this Transit will provide information that outlines Transit's position in relation to the placement and design of various types of signage. This may include brochures, manuals, information on Transit's website or other opportunities as they arise.

5.4.2

Lighting

5.4.2.1

Introduction and issues

Context

Night-time lighting can help to promote security and personal safety, advertise commercial enterprises, permit outdoor working and sports activities and highlight features of interest. However, if poorly designed, installed or maintained, artificial lighting can create adverse safety effects on road users. It can also affect the character and amenity of areas.

5.4 – Third party issues

Effects of lighting

The effects of lighting are influenced by many factors including the type and orientation of lighting used. Poorly designed, installed or maintained lighting can create safety hazards for motorists, cyclists and pedestrians by:

- misleading the driver as to the road alignment;
- shining directly at drivers;
- obscuring road signs or markings; or
- distracting a driver's attention.

Bright light distraction may sometimes be an issue for the construction period of a development.

Inappropriate lighting can also distract from the features of special areas such as night time views of lakes or mountains.

Reflections

Inappropriate building design or materials can also reflect light in a manner that may result in adverse effects on safety. The use of highly reflective building surfaces, such as glass, in positions where they are likely to reflect car headlights can cause driver distraction and confusion.

Confusion caused by adjacent roads or railway lines

In some situations the lights of vehicles on roads or accessways joining or running parallel to a state highway can dazzle or cause confusion to state highway traffic. The same situation can also arise when a rail corridor runs parallel to a state highway. Careful design or screening can reduce this hazard.

State highway lighting

Guidance on Transit's management of state highway lighting is contained in the State Highway Control Manual and Geometric Design Manual. Consideration also needs to be paid to ensuring lighting is consistent with Transit's commitment to the New Zealand Urban Design Protocol and in particular that it complements the surrounding environment while also being functional.

5.4.2.2

Lighting policy

Transit will give effect to the Integrated Planning Policy by implementing this supporting policy:

Transit will manage artificial lighting potentially affecting state highways so that driver distraction and confusion is minimised.

5.4 – Third party issues

5.4.2.3

Methods

5.4.2.3.1

Method 1 – Provisions in RMA plans

RMA plans

Transit will advocate for the inclusion of objectives, policies and rules in district plans and regional coastal plans that:

- ensure permanent or temporary artificial lighting is designed, installed and maintained in accordance with AS/NZS 1158 (Lighting For Roads and Public Spaces) and AS 4282 (Control of the Obtrusive Effects of Outdoor Lighting);
- control the illumination and lighting of advertising, in accordance with the recommended maximums for light intensity as contained in the Land Transport NZ Road Traffic Standard 7: Advertising Signs and Road Safety: Design and Location Guidelines (RTS7); and
- identify Transit as an affected party in respect of any applications for resource consent for activities in the vicinity of state highways that do not comply with the above performance standards.

Suggested objectives, policies and rules are contained in Appendix 4B.

5.4.2.3.2

Method 2 – Education

Education

Transit will provide information to local authorities, developers, landowners and the wider public that outlines Transit's position in relation to the design, installation and maintenance of various types of lighting. This may include brochures, manuals, information on Transit's website or other opportunities as they arise.

5.4.2.3.3

Method 3 – Screening

Screening

Transit will prevent glare from headlights of vehicles on roads joining or running parallel to state highways that is creating a safety hazard through the use of earth mounds, planting, walls or landscaping within the local road or state highway reserve. Guidance on these matters can be found in Transit's Guidelines for Highway Landscaping.

5.4 – Third party issues

5.4.3 Vegetation

5.4.3.1 Introduction and issues

Context

Vegetation such as trees, shrubs and other planting on land in the vicinity of a state highway can have beneficial effects on the state highway. Vegetation adds to the amenity value of state highways and assists in defining the alignment of the road. It also assists in erosion control, slope stabilisation and sediment runoff prevention.

However, vegetation can also have adverse effects on state highway infrastructure and road users, for example where it obstructs sight lines for drivers on the road, obscures official signs, reduces the effect of road lighting, or shades the road resulting in icing. These effects can be greater in rural areas where traffic speeds are higher. Control of the location and type of vegetation can reduce these effects. Consideration must also be given to subsequent growth and the need for maintenance.

Accident damage

Vegetation in state highway “clear zones” that is not “frangible” (refer Glossary in Appendix 1) can increase the risk of damage and injury arising from a collision.

Damage to road formation

Damage to the road or services in the road reserve can result from falling trees and branches, tree roots under the pavement or tree roots impeding drainage.

Guidelines for State Highway Landscaping

Transit sets out its guidelines for planting within the state highway reserve in its Guidelines for Highway Landscaping, which address issues such as safety, biodiversity, visual quality and maximising value. Transit undertakes planting on the road reserve in accordance with these Guidelines. The Guidelines are also a useful tool for landowners, occupiers and developers when considering planting in the vicinity of state highways.

Reactive controls

The TNZA (s55), Public Works Act 1981 (s133 and s135) and Local Government Act 1974 (s355) give Transit and local authorities the authority to control existing vegetation. However, such provisions are remedial rather than preventative.

Proactive RMA controls

RMA plan provisions can provide an opportunity for these matters to be addressed in a proactive way so as to avoid, remedy or mitigate the adverse effects of vegetation on a road.

5.4 – Third party issues

5.4.3.2	Vegetation policy <i>Transit will give effect to the Integrated Planning Policy by implementing this supporting policy:</i>
	Transit will: <ul style="list-style-type: none">• undertake landscaping and planting within the state highway road reserve in accordance with the Guidelines for Highway Landscaping;• seek to control the planting, growth and maintenance of vegetation in the vicinity of state highways to maintain safety standards including:<ul style="list-style-type: none">- adequate visibility and clearance at accessways and road intersections;- the visibility of official signs; and- minimising vegetation as an accident hazard;• control vegetation that is damaging road formation or roadside structures or impeding drainage;• encourage vegetation planting, control and removal that enhances the operation and aesthetics of the state highway environment and does not compromise safety; and• manage planting of vegetation on land in the vicinity of state highways in frost-prone areas to reduce the incidence of winter ice on those state highways.

5.4.3.3 **Methods**

5.4.3.3.1 **Method 1 – Provisions in RMA plans**

RMA plans

Transit will advocate for the inclusion of objectives, policies and rules in district plans, regional coastal plans and, where appropriate, other regional plans that:

- restrict vegetation planting and impose requirements on the maintenance of vegetation where such vegetation may:
 - restrict driver visibility and sight-lines;
 - cause unreasonable shading to state highways in frost and snow-prone areas;
 - introduce non-frangible vegetation or structures into clear zones;
 - cause damage to the state highway pavement or structures; or
 - impede drainage or damage drainage devices; and
- identify Transit as an affected party in respect of any applications for resource consents for activities in the vicinity of state highways where the above performance standards are not met.

Suggested objectives, policies and rules are contained in Appendix 4B.

5.4 – Third party issues

5.4.3.3.2

Method 2 – Education and advocacy

Education and advocacy

Transit will provide local authorities, landowners or occupiers in the vicinity of state highways and developers with information on the adverse effects of vegetation on the state highway by:

- contributing to regional council plant pest management strategies;
 - contributing to codes of practice for forestry companies and the arboriculture industry, particularly in respect of tree felling and trimming adjacent to state highways;
 - advising landowners, occupiers and developers directly where appropriate;
 - contributing to local authority documents and strategies; and
 - developing processes for addressing any effects on state highways arising from vegetation that has protected status either under a plan or a statute with territorial authorities, regional councils and the Department of Conservation.
-

5.4.3.3.3

Method 3 – Use statutory powers

Statutory powers

Where a landowner/occupier does not voluntarily manage vegetation that conflicts with this policy, Transit may use its legislative powers, including those in the Public Works Act 1981, TNZA, Local Government Act 1974 and the RMA to seek to avoid, remedy, or mitigate any adverse effects on the state highway.
