

Network Outcomes Contract Governance & Management Group Clarification

Reference Number:	NOCC no.2
Subject Title:	OPM 80 Vegetation within the Clear Vegetation free zone (Long term defect repair)
Issue Date:	23 rd November 2016
Clarification Purpose	Clarification is provided to ensure the NOC is being interpreted consistently. The clarification does not remove or supersede the Network Outcomes Contract documentation.

SUBJECT

OPM 80 Type 3 Control has three types of defects; the issue is in relation to Vegetation within the clear vegetation free zone. The issue is a large culturally sensitive tree. The tree is identified as a defect by OPM80, being within the Type 3 6m vegetation clear zone. The tree does not breach the contract standard (<15% of area per audit section). While the tree may pose a safety hazard in terms of the defect being overhanging branch into the clear zone, the defect does not warrant immediate action as a safety hazard.

Section 2.3.3 of the Maintenance specification states that “the contractor shall rectify all defects identified in any compliance report within 12 months, regardless of whether or not compliance with the contract standard is being achieved. The standard of rectification shall be a permanent repair at a minimum, in accordance with best practice or the applicable Principals specification”. Appendix 2.4, process map 3.6.1 also refers.

However, there are a number of situations where it is not possible or desirable to rectify the defect raised.

Removal of the envelope breach in this case is not then appropriate but the contractor would also not meet the intent of section 2.3.3 at the end of 12 months.

RESPONSE

It is the Principal’s intent that all defects identified are rectified within 12 months. However, the contract allows for a number of OPM exclusions, these include;

- exclusions on current year and year 1 pavement rehabilitation sites,
- Recurring hazards which have formation and pavement risk exclusions.

In respect to the specific issue around a culturally sensitive tree, the Principal is committed to protecting and enhancing the natural, cultural and built environment within the road reserve. As such a list of Sensitive Vegetation Areas is provided for in Appendix 4.5 including Table 4.5.2 schedule of protected trees.

The Contractor is required to ensure schedules are updated on a regular basis and as such may result in changes to how the Contractor delivers the levels of service. For example, no spray zones have an impact on the delivery of vegetation maintenance.

Provided the relevant schedules are kept current the Contractor is then able to reasonably demonstrate why a defect or non-compliance should not be accorded to a specified site or length of network similar to that of recurring hazards or future pavement rehabilitation sites.

On this basis the issue identified in respect to OPM 80 can be considered excluded provided the relevant schedule has been updated and accepted by the Agency. That is the tree has now been included in the culturally sensitive tree register. To this end the defect or non-compliance can be removed as it has now met the Principal's applicable specification.

Implication of not Addressing a Defect – In the instance where a defect is not justified for exemption and has not been addressed within the 12 months, the Maintenance Contract Manager should address this through the issuing of a Principal non-compliance. The non-compliance will remain in effect each month until such time those defects have been addressed. The Principal's non-compliance applies to the OPM, not the individual defect and as such is separately recorded with a duration which will always be one. i.e. a standing PNC of 5 in this instance. (5 x 1).