

TIMARU



DISTRICT COUNCIL
Te Kaunihera ā-Rohe
o Te Tihi o Maru



YOUR PLAN OUR FUTURE
TIMARU DISTRICT PLAN REVIEW

Notable Trees S.32

May 2022



YOUR PLAN OUR FUTURE
TIMARU DISTRICT PLAN REVIEW
LAND USE PLAN

TIMARU DISTRICT COUNCIL
Section 32 Report
Notable Trees Chapter

May 2022

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1 Notable Trees

1.1 Introduction

This topic is specific to Notable Trees, which are significant trees in the district that are identified and listed within Schedule 5 of the Proposed District Plan– Schedule of Notable Trees. Council uses the Standard Tree Evaluation Method (STEM) to measure significance, which is determined on a range of factors including size, position, the presence of other trees, occurrence of the species, the role in the particular location, useful life expectancy, form, scientific value, historic value, cultural value, functional value, ecological value, and street landscape value. Notable Trees are typically mature trees with notable structural form and health. Small and less prominent trees can be significant if a tree scores well on a number of the criteria, or when a tree commemorates a notable person or significant event.

Notable Trees are identified and listed in a schedule for protection. The protection of Notable Trees has benefit to the community in relation to maintaining connection to memorable events and notable citizens, as well as maintaining notable examples of trees that contribute to the amenity of the district, and the natural environment of the district.

This report provides an evaluation under section 32 of the RMA of the provisions in the proposed District Plan that relate to notable trees, taking into account the provisions in the operative District Plan in relation to protection of significant trees, preliminary community feedback, and the statutory and policy context relevant to the topic.

1.2 Community / Stakeholder / Iwi Engagement

Consultation on the subject of significant trees occurred in November 2016 via discussion documents, on which the public made submissions. The relevant discussion document is 'Issue 5 - Landscape and Natural Character¹', with sub-heading named 'significant trees'. Significant trees are now named 'Notable Trees', consistent with the term used in the National Planning Standards.

The discussion document identified the following options:

- (a) Retaining the current District Plan provisions; or
- (b) amending the District Plan to remove protection for significant trees in rural areas and in Council reserves; and/or
- (c) to include the protection of significant trees on private land identified by the community; and/or
- (d) Amend the rules controlling pruning and removal of significant trees so resource consent is not required where trees are dead, diseased or dangerous.

1.2.1 Feedback on options

There was discussion about removing significant tree protection from the District Plan and specifically removal of trees from the schedule if they were in rural areas and/or on Council reserves. The feedback from the community included both support for and opposition to the removal of the protection of significant trees in rural areas and Council reserves. The Environmental Services Committee determined that it would retain the significant trees currently identified in the District Plan.

¹ <https://www.timaru.govt.nz/services/planning/district-plan/district-plan-review/discussion-documents>

General public support for enabling the pruning and removal of dead, diseased or dangerous trees without requiring resource consent, arose from the discussion document. The Environmental Services Committee determined that it would be appropriate to simplify and streamline pruning and removal processes where possible.

Public consultation via the discussion document resulted in general support for the protection of newly identified significant trees on private land.

1.2.2 Nomination of new trees to the schedule

The Council requested nominations for new significant trees from the public. Nominations were open from 24 May 2018 until 4 July 2018. For each of the trees nominated, a landowners approval was required. Nominations were not accepted for assessment, without a landowners approval. Thirty-three nominations were assessed and 22 have a STEM score of more than 125. In total, 22 new items are recommended for inclusion in the Schedule for Notable trees in the District Plan.

The selected method for acceptance of trees to the schedule is discussed in the foregoing under the problem definition heading.

1.2.3 Drafting of the District Plan

Draft provisions were workshopped with the Council Parks and recreation unit staff on 26 September 2018. The consensus was that provisions should:

- (a) Use the 'Root protection area' definition and method adopted by Christchurch City Council; and
- (b) To align provisions with the needs of network utility operations to maintain infrastructure, while encouraging the protection of notable trees when planning and installing new infrastructure; and
- (c) To rely on the RMA 'emergency work' provisions for removal of dangerous trees to avoid suggesting to the public that they could remove trees due to an emergency and then apply for retrospective resource consent to legalise a trees removal.

Draft provisions were workshopped by the Technical Working Group (TWG) consisting of staff from various departments at Timaru District Council, planning staff from Environment Canterbury, and a representative from Aoraki Environmental Consultancy on behalf of Te Rūnanga o Arowhenua and Te Rūnanga Ngai tahu. The meetings were held on 5 and 12 November 2018.

Draft provisions were workshopped with the Environmental Services Committee on 20 November 2018. These later underwent a peer review and legal review before being presented to Environmental Services Committee for adoption into the Draft Plan in August 2020.

1.2.4 Feedback on the Draft District Plan

In October 2020, Timaru District Council released a Draft District Plan for public feedback. The feedback is summarised below and staff worked through the individual feedback points to help inform the preparation of the Proposed District Plan and more assessments and surveys of the notable or requested notable trees were made.

- General support for the approach to identify and protect notable trees;
- The appropriateness of the STEM assessment process for groups of trees was questioned;
- It was requested that P2 be amended to require that indigenous fauna and the trees valued as habitat, should be assessed by a qualified ecologist, and any recommendations be included in site management plan;
- In relation to R3, any proposal for maintenance in the root zone must be subject to an ecological assessment by a suitably qualified person and incorporated into a site management plan;

- General support of the trees within the Schedule, but a variety of other trees or groups of trees were put forward to be included within the Schedule. The list provided was comprehensive, and is too long to appear here, however, it has been considered by staff.

1.3 Strategic directions

The strategic directions of relevance to this topic are:

SD-O2 The Natural and Historic Environment

The district's natural and historic environment is managed so that:

- the health and wellbeing of the community are recognised as being linked to the natural environment;
- an integrated management approach is adopted that recognises that all parts of the environment are interdependent;
- the natural character of the coastal environment, wetlands and waterbodies is preserved and protected from inappropriate subdivision, use, and development;
- important landscapes and features are protected from inappropriate subdivision, use, and development;
- significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values recognised, protected and where appropriate, enhanced;
- the life-supporting capacity of ecosystems and resources is safeguarded for future generations;
- the important contribution of historic heritage to the district's character and identity is recognised, and significant heritage and its values are protected from inappropriate subdivision, use, and development.

Strategic direction - Objective 2: 'The natural and historic environment' is the most relevant to Notable trees; sub-clauses (iv) and (vi) are of particular relevance.

Sub-clauses (iv) and (vi) are given effect to by identifying Notable trees that are significant to the district and listing them in a schedule. Provisions to manage scheduled trees are then contained in the Notable tree chapter. Significance is determined by the STEM score of the tree or if the tree commemorates a notable historical event or person it is included in the schedule regardless of STEM score.

Dr Ann McEwan, the Council's appointed heritage consultant for the drafting the District Plan was asked if any tree should be included in the Historic heritage schedules, and in particular whether the 'Lovelock Oak' at Timaru Boys High School is a potential historic heritage item. The answer is that the Historic heritage schedules protect buildings and structures, but not trees. Trees are an element of historic heritage but inclusion for protection should be in the Notable tree chapter. Dr McEwan's work included production of a Historic Overview for the District, and that work did uncover monuments of historic heritage significance. However, no monument associated with any tree was considered significant enough to merit protection as an item of historic heritage.

The 'Lovelock Oak' is a notable tree and is in the Operative District Plan significant tree schedule. The monument beneath the tree references that the tree was planted from an oak sapling gifted by Adolf Hitler in recognition of Jack Lovelock, a gold medal winner at the 1936 Olympics in Berlin who attended Timaru Boys High School as a student. The monument is not a significant or remarkable structure, and the tree does not score highly. Nevertheless, the monument records a significant event and a person notable to the district's history, and for those reasons the tree is notable. The protection of a tree such as the 'Lovelock Oak' can contribute to recognition of the district's character and identity and therefore it merits protection, consistent with the strategic direction.

1.4 Problem definition

1.4.1 The efficiency and effectiveness of the Operative District Plan

Part B, Chapters 2 and 11(a) provide the objective and policy framework in the operative District Plan for the management of significant trees.

Chapter 2 is named 'natural environment' and the provisions are general in nature and not directive about how significant trees is managed. Chapter 11(a) named 'amenity values' is directive.

11A – Amenity Values

Objectives:

- (1) Achievement of greater amenity by improving the quality of tree planting on private and publicly owned land.*
- (2) Protection of notable trees and other vegetation of cultural and historical value.*
- (3) Increased areas of local native species.*

Policies:

- (1) To recognise heritage values and the cultural importance of significant trees in the district.*

Rules:

Excerpt from Operative District Plan

"6.13.2 RULES FOR SIGNIFICANT TREES

6.13.2.1 PERMITTED ACTIVITY

The following is a permitted activity subject to complying with all the Performance Standards for the zone and other General Rules:

- (1) The trimming and pruning of any tree should be in accordance with recognised horticultural practice so as to attain an appropriate shape and form for that particular species.*

6.13.2.2 DISCRETIONARY ACTIVITIES

The following are discretionary activities subject to complying with the other General Rules:

- (1) Trimming, pruning, or removal of any tree included in the Schedule of Significant Trees accompanying the Planning Maps and not provided for as a permitted activity under 6.13.2.1.*
- (2) Any paving, excavation, or construction within 10 metres of the base of any tree included in the Schedule of Significant Trees accompanying the Planning Maps.*

NOTE: When considering applications for discretionary activities regard shall be had to the Performance Standards for the zone".

Only the second objective is relevant to the Notable tree chapter of the proposed District Plan. Objectives (1) and (3) are matters addressed elsewhere in the proposed District Plan, in relation to the amenity of zones and more specifically in District-wide chapters such as Ecosystems and indigenous biodiversity chapter.

The policy response to significant trees in the operative District Plan is to recognise the heritage values and cultural importance of significant trees in the district. Trees in the operative District Plan schedule were assessed using the Royal New Zealand Institute of Horticulture's (RNZIH) criteria, which gives emphasis to horticultural features above heritage and cultural values. Therefore, the ranking of trees in the operative schedule does not align well with the policy for significant trees.

1.4.2 Notable Tree chapter and form of schedule

The Operative District Plan protects trees in a schedule and the Committee direction after the discussion document consultation phase was to continue to protect trees in a schedule. It was also resolved to call for nominations of new trees to the schedule.

The methodology used to select trees for the schedule is explained under the heading:

- Issue 1 – Selection of trees to protect.
-

Paragraph 16 of the district-wide Matters Standard in the National Planning Standards (NPS) sets out requirements for a Notable trees schedule. These include:

- a) Identification of individual trees or groups of trees; and
- b) provisions to manage trees or groups of trees; and
- c) Schedule with descriptions of the tree(s) including species type.

Section 76 (4A and 4B) of the RMA, which applies to the urban environment is more prescriptive than paragraph 16 of the NPS. Those sections of the RMA require that trees protected by rules be listed in a schedule, by species, street address and legal description. Those minimum requirements are adhered to in the format of the Notable tree schedule.

1.4.4 Issues identified

Issue 1

Identify trees

Assessment of the operative District Plan schedule

Trees already protected in the operative District Plan are deemed to remain significant to the district because those trees including commemorative trees were tested through submissions, hearings and an appeal process.

- The trees on the operative District Plan schedule were assessed using the Royal New Zealand Institute of Horticulture's (RNZIH) criteria. In the intervening years RNZIH and the New Zealand Arboricultural Association both adopted the Standard Tree Evaluation Method (STEM). STEM is now the common standard, used by most territorial authorities in the country.
- Inclusion of a tree in the schedule, under the RNZIH criteria, required a score of 1,000 points to be regarded as significant. By testing existing and newly submitted trees the Council's Parks and Recreation staff determined that a STEM score of 125 points equates to a RNZIH score of 1,000 points. The legacy assessment reports for scheduled trees include an adjusted STEM score.
- The commemorative trees on the operative District Plan schedule often scored less than 1,000 on the RNZIH criteria (equivalent to 125 for STEM) and this is perhaps because the RNZIH criteria give more weight to horticultural values compared to cultural and heritage values. Those trees are deemed notable because they honour the memory of important people and events.
- The trees in the operative District Plan schedule were assessed from the road or other public place and photographs taken, by the Council's Parks and Recreation staff in 2019, to check that the trees remained in the environment. If they remained, they were deemed to continue to be worthy of protection. The historic assessment reports were digitised and formatted in a standard form, with photographs to identify the trees.
- Further site visits were undertaken between July and August 2020 to determine the GPS coordinates for each tree to map the trees on the proposed District Plan Notable tree schedule (including old and new trees).

Copies of the Notable Tree Assessments made by the Council and its representatives are available on the Council's website. Each tree is listed and the STEM assessment outlined².

² <https://www.timaru.govt.nz/pdp-supporting-info>

A covering report which explains the STEM method (see below) in more detail and an overview of the approach is available³.

Assessment of the new items to the District Plan schedule

Public notice was given of Council's intention to review significant trees. Twenty submissions were received, contributing 61 nominations, of which 32 nominations were evaluated. The other 29 tree nominations were culled prior to assessment, either because landowner approvals were not granted, or because the nominated trees were weed species. The Parks and recreation department of Council managed the vetting and assessment of nominations. One more tree was nominated after the submission deadline, and this was assessed to have a STEM score greater than 125, bringing the total number of nominations assessed to 33, with 22 recommended items for inclusion in the Schedule.

The STEM evaluation involves scoring a tree on a range of factors including size, position, the presence of other trees, occurrence of the species, the role in the particular location, useful life expectancy, form, scientific value, historic value, cultural value, functional value, ecological value, and street landscape value. STEM is widely accepted and therefore it is not considered efficient to use an alternative methodology. STEM scores a tree between 0 and 540 points. The maximum score is highly unlikely to occur and scores above 270 are exceptional.

Selected STEM Threshold in relation to other territorial authorities

- The New Zealand Tree Register, which is an online resource supported by the New Zealand Arboricultural Association and the Royal New Zealand Institute of Horticulture lists STEM score thresholds used by different Councils. The range of score threshold is 87 to 160.
- Queenstown Lakes District Council has adopted a 120 point threshold and Dunedin City Council a 140 point threshold.
- A score of 125 aligns with the mid-point along the range of STEM score thresholds adopted by territorial authorities in New Zealand.

The range in STEM scores for the 33 nominations assessed was 78 to 204.

Issue 2

Maintenance of trees

Maintenance of trees including pruning and trimming is of benefit to the health and well-being of the tree, provided the pruning and trimming is not excessive. Excessive pruning could adversely impact health and the form and shapeliness of the tree, compromising the values that contribute toward significance. The problem is enabling maintenance by the landowners to limit cost, while requiring supervision by an expert (qualified arborist) to avoid excessive pruning.

Issue 3

Dead, diseased, or dangerous trees

Dead, diseased or dangerous trees were identified as a problem, during the discussion document consultation. The issues are slightly different for each type, as follows:

Dead and diseased trees

- If a tree is dead, it will no longer be making a significant contribution to the amenity of the environment.

³ <https://www.timaru.govt.nz/pdp-supporting-info>

- The ability to determine if a tree is dead is not possessed by the whole public, and could require an independent expert assessment.
- Diseased trees ought to be identified by landowners and treated by a suitably qualified person.
- Dead and diseased trees can pose a health and safety risk.
- The number of suitable qualified experts is limited.

In summary, the problem of dead and diseased trees is protecting trees, while allowing removal in targeted situations.

Dangerous trees

- The RMA enables the removal of dangerous trees, as an 'emergency work' under Sections 330 and 331 of the RMA. For example a tree can be removed by the Council, a network utility operator or requiring authority, or a lifeline utility, if a tree is deemed likely to cause loss of life, injury, or serious damage to property.
- The term network utility operator is defined in the NPS as having the same meaning as that of Section 166 of the RMA, and the term 'requiring authority' is described in Section 166 of the RMA as well.
- Lifeline utility is a service defined under Schedule one of the Civil Defence Emergency Management Act 2002. It includes providers of essential infrastructure.
- If a tree is removed as an 'emergency work' then Section 330A of the RMA requires a retrospective resource consent to be applied for. The operative District Plan is silent on the activity status for such applications and therefore they must be processed as discretionary activities, consistent with Section 87B of the RMA.
- Implicit to the enabling RMA provisions for 'emergency work' is the assumption that the power to remove trees without first obtaining a resource consent is limited to select entities that have responsibility for essential infrastructure. It would be contrary to the RMA, for the District Plan to widen to the general public the power to remove a tree as an 'emergency work'.

In summary, the problem of streamlining process to remove dangerous trees is limited, because the 'emergency work' provisions of the RMA solve the problem. Provisions could however provide guidance for retrospective resource consent applications, while not implying that the public has the same powers to remove a tree without first obtaining resource consent.

Issue 4

Response appropriate to the risk of activity

Sometimes activity and development need to occur in proximity to trees. Not allowing infrastructure, earthworks, buildings, and structures (including signs and fences) would not be good resource management, if the adverse effects can be managed, or when the infrastructure is of critical importance to the community of Timaru District and Canterbury Region.

Variable effects

The potential adverse effects on trees are variable and do require a case-by-case assessment. The values of each tree also vary. The STEM assessment reports are a resource for evaluating the degree of adverse effect in relation to a proposal. The benefits to the community of '*critical infrastructure*', as an example, may exceed the value of keeping a notable tree. Nonetheless, in many circumstances a proposal can be designed to avoid, minimise or at least mitigate adverse effects such that the significance of a notable tree can be maintained.

Spatial extent of effects

The spatial area around which a tree should be protected depends on a number of variables. The risk to a tree depends on the nature of the activity, which requires a case-by-case assessment. Also, every tree is different in terms of species, size and the environment where it exists. To manage the risk the operative District Plan applies rules to anywhere within 10

metres of a scheduled tree. The 10-metre threshold does not take into consideration species type, which affects size of limbs and the radial extent of root. A more effective approach could be to align the size of the tree to spatial extent of control. The 'Root protection area' is assessed later in this report to be an effective alternative to the 10-metre threshold. 'Root-protection area' defines the extent of a tree, including its roots and the tree height and width.

Proximity to transmission lines

The National Environmental Standards for Electricity Transmission Activities 2009 (NES-ETA) sets the maximum activity status for trimming, felling and removing a scheduled tree as a restricted discretionary activity. No tree on the schedule is known to be located beneath or near an electricity transmission activity, and therefore no action is required. Nevertheless, the activity status afforded under the NES-ETA provides a useful context for the determining activity status for 'critical infrastructure', in relation to notable trees. In the NES-ETA, restricted discretionary activity status applies to when a tree located within a specified 'natural area'. Restricted activity status is justifiable on the basis that a tree is included in the Schedule for Notable trees.

Critical infrastructure

The Canterbury Regional Policy Statement (CRPS) defines 'critical infrastructure' as 'infrastructure that is necessary to provide services which, if interrupted, would have a serious effect on the communities within the Region or a wider population, and which would require immediate reinstatement. This includes any structures that support, protect or form part of critical infrastructure term and the policy'. The definition includes a list of the qualifying types of infrastructure. The definition is used in reference to natural hazard management where there are risks to life and property. It is considered that the policy framework for notable trees should be no more severe than the framework applied to the protection of life in relation to natural hazards. Using the term 'critical infrastructure' in the Notable tree provisions would assist to giving effect to National Policy Statements that concern infrastructure. The term is more helpful than the term 'infrastructure', which could include private drainage, while 'critical infrastructure' is broad enough to include all 'network utility operators' and therefore capture entities that have a right to remove trees as an 'emergency work'.

1.4.6 Other District Plan approaches

The table below sets out an overview of the way that a range of second-generation District Plans in the South Island address matters relevant to Notable trees.

Plan	Description of Approach
<i>Ashburton District Plan</i> Second generation plan Operative 2017 Ashburton District Council	The Ashburton District Plan bundles tree protection with historic heritage provisions for building and structures, which does not align with the NPS. Maintenance trimming of protected trees is permitted if the branches cut is less than 50mm diameter. Trimming by non-mechanical means requires a resource consent. An area within 10m of the base of a tree is protected, as does the Timaru operative District Plan.
<i>Proposed Queenstown Lakes District Plan</i> Second generation plan Proposed 2018	The Protected Trees chapter is part of a proposed plan for which a hearing decision was issued in April 2020. The Plan was drafted before the NPS was gazetted and hence the name of the chapter does not align with the NPS. It protects significant trees and has emphasis on protecting trees that contribute to

Queenstown Lakes District Council	historic character. Minor trimming of trees is permitted if undertaken by the Council or an authorised agent. The Council or an authorised agent can also remove dead, diseased, or damaged trees, as a permitted activity. The root protection area (named zone) is protected for all scheduled trees.
<i>Christchurch District Plan</i> Second generation plan Operative 2017 Christchurch City Council	The Significant and other trees chapter was drafted before the NPS and hence the name does not align with the NPS. The provisions use a 50mm diameter threshold like the Ashburton District Plan but in addition limits maintenance to bottom third of the tree to limit long-term harm to form and shapeliness. The provisions include definitions for 'technician arborist' and 'works arborist' and a certification rule to permit removal of dead and dying trees when supervised by a suitably qualified person who fits the relevant definition. Provisions define 'root protection area', which is an evolution of the term and method 'dripline' used in Dunedin.
<i>Proposed Selwyn District Plan</i> <i>Notified in 2020</i>	In line with the National Planning Standards, the PDP contains a standalone chapter called notable trees. The trees are of significance within the district as they contribute to amenity values and provide links to biodiversity and historic values. The trees listed are commonly old and are often associated with historic sites or have been planted to commemorate key events in the district's history. The purpose of identifying notable trees and groups of notable trees is to protect them from damage or destruction. The STEM method of assessment was used to identify the notable trees. The provisions contain one objective, 4 policies and variety of numerous rules.

1.5 Statutory and Planning Context

District plans are part of a hierarchy of RMA policy and planning instruments. The RMA prescribes how district plans are to align with other instruments, and this is summarised in the table below.

Statutory document	Alignment requirement for Proposed District Plan	Comment
NZCPS	Give effect to	Implement according to the applicable policy statement's intentions.
NPS/NES		
CRPS		
Regional Coastal Environment Plan	Not be inconsistent with	Are the provisions of the Proposed DP compatible with the provisions of these higher order documents?
Canterbury Land and Water Plan		Do the provisions alter the essential nature or character of what the higher order documents allow or provide for?

Specific management plans and strategies prepared under other legislation	Have regard to	Give genuine attention and thought to a need for consistency with the provisions of adjacent territorial authorities.
Ashburton District Plan Waimate District Plan Westland District Plan Mackenzie District Plan	Have regard to the extent to which there is a need for consistency	The district boundaries are defined by rivers and mountains (including Department of Conservation land). In those environments the Notable tree provisions are not anticipated to be relevant because no tree in those areas is identified in the Notable tree schedule. Regardless, the Natural Features and Landscapes, Ecosystems and Indigenous biodiversity and the Natural character chapters address vegetation (including trees) at the district boundaries of rivers that adjoin Waimate, Mackenzie and Ashburton, and the outstanding natural landscapes that adjoin Mackenzie, Westland and Ashburton District Councils.
Iwi Management Plan of Kati Huirapa Te Whakatau Kaupapa Ngai Tahu Resource Management Strategy for the Canterbury Region	Take into account	Address the matter and record

1.5.1 Resource Management Act

The key provisions of the Resource Management Act of direct relevance to this chapter include:

Section 6 – Matters on national importance

- Section 6 of the RMA lists matters of national importance that must be recognised and provided for. In relation to the sub-clauses, those of potential relevance are discussed:
 - i. Section 6(b) would only be relevant if a tree was considered an ‘outstanding natural feature’ but no tree in Timaru District meets the criteria of ‘outstanding’ but if it did protection would be provided in the Natural features and landscapes chapter of the proposed District Plan.
 - ii. Section 6(c) applies to significant indigenous vegetation, which if it did require protection would be provided in the Ecosystems and indigenous biodiversity chapter of the proposed District Plan.
 - iii. Section 6(f) applies to historic heritage, which is addressed in the Historic heritage chapter of the proposed District Plan under the section heading of Historical and Cultural Values; the Notable trees chapter is under the same heading because that is a mandatory requirement of the NPS. Notable trees are a part of the district’s historic heritage particularly if they commemorate events and persons significant to the district.

Section 7 – Other matters

- Section 7 of the RMA identifies matters that governing bodies shall have particular regard to. This includes amenity values, which is relevant to notable trees. Notable trees can make a significant contribution to the amenity of the district.

Section 31 – Functions of territorial authorities

- Section 31 of the RMA outlines the functions of territorial authorities under the Act. This includes the establishment of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources.

Section 76 – District rules

- The management of trees within urban environments is specifically addressed by clauses 4A-D of Section 76 of the RMA. In particular, clause 4A outlines when felling, trimming, damaging or removing a tree on one urban environment allotment can be controlled. Clause 4B outlines when felling, trimming, damaging or removing a tree on two or more urban environment allotments can be controlled. Clause 4C defines ‘group of trees’ and ‘urban environment allotment’. Clause 4D clarifies when clauses 4A and 4B apply. These clauses restrict the way in which trees in urban environments may be treated by rules in a district plan.
- There is no particular section of the RMA that addresses trees in a rural or non-urban environment. However, Sections 31 and 76 of the RMA provide territorial authorities a broad ambit to create rules to manage natural and physical resources, which includes trees.

Section 330 – Emergency works

- Section 330 of the RMA permits emergency works if carried out by a local authority, ‘network utility operator’, or lifeline utility and if immediate preventive or remedial measures are required to avoid sudden damage, injury or death.
- Section 330A requires the party who undertook the works to advise the consenting authority within seven days of the works. If the effects of the works are ongoing, then within 20 days of advising the consenting authority, the relevant party must apply for a retrospective resource consent, if the works would otherwise contravene any of sections 9, 12, 13, 14 or 15 of the RMA.
- Section 330B applies if a state of emergency or transition period is notified under the Civil Defence Emergency Act 2002. Sections 9, 12, 13, 14 and 15 do not apply to any activity undertaken by a person exercising emergency powers under that Act to remove the cause of, or mitigate, the emergency. As under Section 330A, the consent authority must be informed within seven days, and a retrospective consent must be applied for, if required, within 20 working days of the consent authority being informed. If any protected trees pose an immediate and significant threat to persons, or relevant property or utilities, these sections of the RMA allow for immediate removal of the threat with retrospective consent to follow.

1.5.2 National Policy Statements

A territorial authority must prepare and change its district plan in accordance with national policy statements. The proposed District Plan must give effect to National Policy Statements. The following National Policy Statements are potentially relevant Notable trees:

National Policy Statements	Relevance
National Policy Statement for Renewable Electricity Generation 2011	To give effect to the NPS-REG 2011, the potential effects of electricity generation on a scheduled tree can be considered within the ambit of defined term ‘critical infrastructure’,

National Policy Statements	Relevance
	which would allow the importance of electricity generation to be given consideration.
National Policy Statement for Electricity Transmission 2008	The policies do not restrict the ability to have Notable tree provisions and none of the trees on the Notable tree schedule are known to be within a transmission corridor. Regardless to give effect to NPS-ET 2008, electricity transmission can be considered within the ambit of 'critical infrastructure' within the Notable tree provisions.
New Zealand National Coastal Policy Statement 2010	None of the trees on the Notable tree schedule are known to be within the Coastal Environment. Regardless, any potential effect on vegetation including trees is captured by the Coastal Environment chapter of the proposed District Plan.

1.5.3 National Environment Standards

A territorial authority must prepare and change its district plan in accordance with any regulations. The following National Environmental Standards are regulations and are of relevance to Notable trees.

National environment standard	Relevance
National Environmental Standards for Electricity Transmission Activities 2009	The NES-ETA sets out instances when trimming, felling or removing any tree in relation to an existing transmission line is a permitted activity, or when resource consent is required as a controlled, or restricted discretionary activity.
National Environmental Standards for Telecommunication Facilities 2016	The NES-TF Section 44 and 45 relate to management of trees and vegetation. Essentially, the NES-TF contains clauses which ensure that district rules are complied with in terms of works within the drip line of a tree (that term is similar in meaning to 'Root-protection area') in a road reserve or any tree identified as significant in a district plan.

1.5.4 National Planning Standards

A territorial authority must prepare and change its district plan in accordance with any regulations, which includes the National Planning Standards (NPS). If a District Plan: Identifies individual trees or groups of trees; has provisions to manage trees or groups of trees; has a schedule or schedules of individual trees and groups of trees, then those must be in a chapter named 'Notable trees'.

The schedules must include a description of the tree(s) including the species of the tree(s). Schedules may be contained in the Plan as an appendix, referenced in the provisions.

1.5.5 Canterbury Regional Policy Statement 2013

The CRPS contains a number of objectives and policies related to protecting and managing indigenous biodiversity, outstanding natural features, the character of the district, and items of significant historic heritage or cultural heritage, which may include significant trees. However, there is no directive to protect trees. The defined term 'critical infrastructure' is considered helpful for the reasons already mentioned in relation to natural hazards and infrastructure.

1.5.6 Other relevant documents

The other relevant documents for this topic include:

Document	Relevance
Local Government Act 2002	<ul style="list-style-type: none">• The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities.• This was relevant to consultation process for nomination of significant trees undertaken.
Electricity (Hazards from Trees) Regulations 2003	These regulations help promote safety and maintain electricity supply by governing, among other things, the trimming of trees near power lines.

2 Approach to Evaluation

Section 32(1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must, if practicable, quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

The proposed provisions for Notable trees have been assessed in accordance with the following issues:

Issue 1

Identify trees:

The operative District Plan has a schedule of significant trees and those formed the foundation for making a schedule of Notable trees for the proposed District Plan. Nominations were called for new trees to be added to the schedule. A process was needed to determine which trees should be in the schedule.

Issue 2

Maintenance:

The problem is enabling maintenance of notable trees by the landowners to limit cost, while requiring supervision by an expert (qualified arborist) to avoid excessive pruning.

Issue 3:

Dead, diseased or dangerous trees:

The problem of dead and diseased trees is formulating provisions to protect Notable trees while allowing removal in targeted situations.

Issue 4:

Response appropriate to risk of activity:

Sometimes activity and development need to occur in proximity to trees. Not allowing Infrastructure, earthworks, buildings, and structures (including signs and fences) would not be good resource management, if the adverse effects can be managed, or when the infrastructure is of critical importance to the community of Timaru District and Canterbury Region.

These issues are summarised into one heading: **Protection of Notable trees.**

2.1 Scale and significance

The table below sets out the scale and significance of the issues related to Notable trees chapter, in terms of Council’s statutory obligations, who may be affected by any proposed changes to the management regime, the type of effects that may occur and where in the district is mostly likely to be affected by the proposed changes to the District Plan. This will inform the nature and extent of the analysis of the proposed provisions for Notable trees chapter.

Protection of Notable trees		
Reasons for change in policy	District Plan Review Review of operative District Plan schedule and nominations of new trees	Medium
Relevant Statutory Considerations / Drivers	Part 2 and in particular sections 6(f), 7 and 76 (4A-D) of RMA. National Policy Statement for Renewable Electricity Generation 2011 National Policy Statement for Electricity Transmission 2008 New Zealand National Coastal Policy Statement 2010 National Environmental Standards for Electricity Transmission Activities 2009 National Environmental Standards for Telecommunication Facilities 2016 National Planning Standards 2019 (NPS)	Medium
Degree of shift from status quo required	A small shift is required to format to align with the NPS and to give consideration to the importance of ‘critical infrastructure’ to give effect to national policy statements, national environmental standards and the CRPS.	Low/medium

Who and how many will be affected?	Landowners, of trees nominated as additions to the schedule. Extent of impact is mitigated by only accepting nominations when the landowner provided their approval.	Low
Degree of impact on, or interest from iwi / Maori	Te Runanga o Arowhenua and Te Runanga o Ngai Tahu have a low level of interest in the issue.	Low
When will affects occur?	Provisions will limit development potential	Medium
Geographic scale of impacts / issue	District-wide with specific effects on landowners.	Medium
Type of effect(s)	Add cost to development for present and future landowners.	Medium/High
Degree of policy risk, implementation risk, or uncertainty	The Environmental Services Committee set the direction that no nominated trees would be included in the schedule without a landowner's approval. There are no instances of new trees being in the schedule without a landowner's approval.	Low
Overall Assessment of Scale and Significance		Medium

2.2 Approach to managing Notable Trees

The objective and policy framework are intended to achieve the objective of identification of Notable trees and then protection of those trees.

Proposed Objective

TREES-O1 Notable Trees

The significant values of notable trees are identified and protected.

TREES-P1 Identify Notable Trees

Identify notable trees that are significant within the Timaru district in SCHED6A – Schedule of Notable Individual Trees or SCHED6B – Schedule of Notable Groups of Trees.

TREES-P2 Maintenance of Notable Trees

Enable the minor pruning and trimming of branches where the works will:

1. retain or improve the health of the notable tree; and
2. allow the regular maintenance of the notable tree; and

Control any other maintenance works to ensure that the works will:

3. maintain the health, form and shape of the tree; and
4. be supervised or undertaken by a qualified arborist.

TREES-P3 New activity and development within root protection of Notable Trees

Only allow new activity and development within the root protection area of a notable tree where:

1. it is demonstrated that the new activity/development will not be detrimental to the long-term health and significance of the tree, as described in SCHED6A – Schedule of Notable Individual Trees or SCHED6B – Schedule of Notable Groups of Trees; and
2. there is a functional need for the development to occur within the root protection area and there are no other alternative locations available; or
3. the activity or development is necessary to maintain critical infrastructure.

TREES-P4 Removal of Notable Trees

Only allow the removal of a notable tree where:

- i. the notable tree is an imminent threat to the safety of people and property; or
- ii. it is necessary to maintain critical infrastructure and the relocation of the tree is not possible; or
- iii. it is dead, or is in terminal decline as assessed by a qualified arborist.

- Policy is intended to provide clear direction on when and how landowners can modify notable trees (pruning) and when supervision by an expert (qualified arborist) is more desirable.
- Policy is intended to give clear direction on how new activity and development in proximity to notable trees will be managed inclusive of giving recognition to the importance of maintaining ‘critical infrastructure’.
- Policy is intended to give clear direction on when a notable tree can be removed, which allows direction on granting retrospective consent for emergency works; allows for recognition of ‘critical infrastructure’ but leaves the door open to consideration of relocation when possible; and the issue of dead and dying trees is managed by requiring an assessment by a ‘qualified arborist’.

2.3 Changes in management approach

The below table summarises the differences between the management approach of the operative District Plan versus the preferred approach for the proposed District Plan.

Operative Plan	Proposed Plan
Policy is not directive on how the objectives will be achieved.	Policies are directive. Those are summarised in the section above.
Projection is by rules	Application of rules is informed by the policy framework. The rules are summarised as follows:
<ul style="list-style-type: none"> • Permitted Activity: <i>‘The trimming and pruning of any tree should be in accordance with recognised horticultural practice so as to attain an appropriate shape and form for that particular species’.</i> 	<ul style="list-style-type: none"> • The threshold for what a landowner can do without supervision (permitted activity) borrows from the approach taken by Ashburton District Council. • A certification approach similar to that used by Christchurch City Council is not preferred because the number of applications anticipated is low, which would not justify administering a

	<p>certification process. Instead a controlled activity rule is preferred to capture the few occasions when the permitted activity threshold is not met and the <i>'maintenance'</i> is undertaken by a <i>'qualified arborist'</i> with no topping or removal of more than a third of foliage. The rule requirements are intended to signal the desired approach, beyond which comprehensive matters of discretion apply to assessment as a restricted discretionary activity.</p>
<ul style="list-style-type: none"> Discretionary Activity: <i>'Trimming, pruning, or removal of any tree included in the Schedule of Significant Trees accompanying the Planning Maps and not provided for as a permitted activity under 6.13.2.1'</i> (which is quoted in the above bullet point). 	<ul style="list-style-type: none"> The preferred approach is restricted discretionary for removal when a <i>'qualified arborist'</i> provides a report (the only rule requirement) but the matters of discretion in combination with the policies only allow for approval in limited circumstances. When the rule requirements are not met the default is discretionary activity.
<ul style="list-style-type: none"> Discretionary Activity <i>'Any paving, excavation, or construction within 10 metres of the base of any tree included in the Schedule of Significant Trees accompanying the Planning Maps'</i>. 	<ul style="list-style-type: none"> The defined term <i>'root protection area'</i> is considered more targeted, and the definition is similar to that used by Christchurch City Council. The preferred approach is restricted discretionary when rule requirements are met, and the rule requirements are targeted to development and activity that could be appropriate, which is assessed in relation to directive matters of discretion. When the rule requirements are not met the default is discretionary activity.

2.4 Quantification of Costs and Benefits

Quantification of costs and benefits have not been identified for Notable trees chapter. This is because the impacts of actions or inactions on notable trees are difficult to value in monetary terms, and it is considered inappropriate to try to do so.

2.5 Choice of Evaluation Method

It is proposed to assess the preferred option against a status quo option. The options will be assessed using a cost-benefit analysis (but without monetary quantification) for the reason stated above.

3 Evaluation of Objective

3.1 Proposed objectives

This section of the report evaluates objectives in relation appropriateness to achieve the purpose of the Act.

Option 1: Status quo:

- **Protection of notable trees and other vegetation of cultural and historical value.**

The above objective does not express an end state and therefore the extent of achievement cannot be determined. This does not align with best practice plan drafting. To fix that it could be rephrased as ‘Notable trees... are protected’.

The meaning of ‘other vegetation of cultural and historical value’ is unclear but could be expressed in the policies. However, the operative District Plan has only one relevant policy to do such. The policy reads as: ‘To recognise heritage values and the cultural importance of significant trees in the district’. However, that policy does not respond to all the issues identified in this report; the reasons are summarised in the Objectives – Evaluation Table in the next section.

Option 2: Include the following proposed objective:

- **The significant values of Notable trees are identified and protected.**

This objective covers all the identified issues. Achievement would mean protection of identified trees.

3.2 Objectives - Evaluation Table

The table below sets out how the proposed objective set out above achieve the purpose of the Act.

Category	Criteria	Comments
Relevance	Directed to addressing a resource management issue	Option 1: Achieves. Reference to ‘other vegetation of cultural and historic value’ blurs the focus by straying into issues addressed elsewhere in the proposed District Plan.
		Option 2: Achieves The objective seeks to protect identified notable trees, and that captures each of the identified resource management issues.
	Focused on achieving the purpose of the Act	Option 1: Achieves.
		Option 2: Achieves The objective addresses s6 (f), s7 and section s76 (4A-D) of the RMA and therefore is fully consistent with Part 2 of the RMA.
	Assists a council to carry out its statutory functions	Option 1: Achieves.
		Option 2: Achieves

		The objective directly addresses s31 of the RMA.
	Within scope of higher-level documents	Option 1: Achieves.
		Option 2: Achieves The CRPS does not prevent tree protection.
Feasibility	Acceptable level of uncertainty and risk	Option 1: Degree of uncertainty It is uncertain to what extent achievement can be determined due to the grammatical phrasing of the objective.
		Option 2: Achieves There is a low level of uncertainty because it is clear that notable trees will be identified in a schedule and policies will aim to achieve protection.
	Realistically able to be achieved within council's powers, skills and resources	Option 1: Degree of uncertainty. Previously (before the District Plan Review), the assessment reports were handwritten, and few photographs kept, and none of this information was digitised.
		Option 2: Achieves The assessment reports provide sufficient guidance for Council staff to achieve the objective. Achievement can be measured by counting trees lost, observing changes in the form of trees with the photographs in the assessment reports, and assessment of resource consent applications will be informed by the reports, which will also be available to the public, which will provide useful knowledge to encourage achievement of the objective.
Acceptability	Consistent with identified iwi/Māori and community outcomes	Option 1: Degree of uncertainty The objective and policy framework are silent on the matter.
		Option 2: Achieves No issues were raised during the Technical Working Group meetings or at Environmental Services Committee workshops, which involved Iwi representatives.
		Option 1:

	Will not result in unjustifiably high costs on the community or parts of the community	<p>High uncertainty The objective is broad in meaning, which is not explained in the policy. The permitted activity rule required a subjective assessment of what ‘recognised horticultural practice’ meant. Taken together the uncertainty could lead to cost, if a landowner sought expert advice, or the uncertainty could encourage non-compliant activity which would undermine achieving the objective.</p>
		<p>Option 2: Achieves The additions to the schedule required landowner’s approval, and therefore landowners accepted the potential cost. The provisions provide greater certainty as to what a landowner can do without permission, while enabling maintenance beyond that with supervision by a ‘<i>qualified arborist</i>’, which is a defined term. The provisions also include clear guidance on how resource consent applications will be considered, including rule requirements for targeted potentially acceptable activities and/or development within the ‘<i>root protection area</i>’.</p>
Overall evaluation		
<ul style="list-style-type: none"> Option 2 (the preferred option) achieves the purpose of the RMA and does so more effectively than option 1 (the status quo). 		

4 Identification of Options

Option 1 – Status quo

The operative District Plan objective is less precise in meaning compared to Option 1, and the policy framework does not address all the resource management issues identified in this report and is therefore less effective than Option 2.

Option 2 – Preferred option

This option includes an objective that is clear in meaning and which can be achieved. In summary, notable trees are identified and then they are protected by provisions. The policies are directive and supported by rules with targeted rule requirements and supported by matters of control and discretion appropriate to the anticipated environment effects relevant to achieving the objective.

5 Evaluation of Options

The appropriateness of the two options is evaluated in terms of benefit and cost in table form:

5.1 Options - Evaluation table

OPTION 1 <i>Status-quo</i>			
Benefits Environmental	Economic	Social	Cultural
<p>Medium Trees in the schedule would continue to be protected, but the current permitted activity rule is uncertain in meaning. For example, it uses an undefined term, 'recognised horticultural practice' as a standard in the permitted activity rule. The rule provides insufficient certainty and is therefore not effective at enabling regular maintenance, while limiting harm to tree health and form.</p>	<p>Low The economic benefits are low because an applicant is given insufficient guidance as to what can be done by themselves as of right without the cost of seeking advice.</p>	<p>Medium Trees on the schedule would continue to contribute to a sense of place.</p>	<p>Medium Trees on the schedule would continue to contribute to maintaining the memory of past events.</p>
Costs Environmental	Economic	Social	Cultural
<p>High The provisions are not specific, whereby compliance is difficult to measure. There is a high potential for trees to be excessively pruned, or trimmed without resource consent, resulting in adverse effects on the amenity values and survivability of the trees</p>	<p>Medium The existing provisions are uncertain in meaning, which could result in cost if advice is sought either from an expert or using Council staff time. Maintaining trees has a cost in terms of labour, whether protected in the District Plan, or not. Protecting trees can limit the development opportunities available to landowners.</p>	<p>Low The community may be dissatisfied with the outcomes achieved by existing provisions</p>	<p>Low The community may be dissatisfied with the outcomes achieved by existing provisions</p>

Efficiency	This option would not address the issues identified and the uncertainty of degree of pruning permitted is an unresolved problem
Effectiveness	The uncertainty regarding maintenance means that regular maintenance of benefit to tree health will be put off, while excessive pruning uncontrolled. Monitoring of effectiveness will be difficult to measure.
Strategic Direction(s)	This option would achieve the strategic directions.
Overall Appropriateness of Option 1	This option is not the most appropriate option as it does not address the issues identified.

OPTION 2

Provisions to address the problem definitions

Benefits Environmental	Economic	Social	Cultural
<p>High Trees of significance to the district identified and protected by provisions that address each of the identified resource management issues. The permitted activity rule for maintenance would encourage regular pruning, but not excessive pruning to avoid needing a resource consent. There would be a clear process for managing dead and diseased trees. The <i>'Root-protection area'</i> method is more targeted to the potential effects on a tree, and the provisions are directive about the need for methods to avoid, minimise, or mitigate effects when planning development occurring in</p>	<p>Low The greater certainty of option 2 about what landowners can do without permission will result in some economic benefit but that benefit is tempered by the possibility that the uncertain meaning of the operative District Plan permitted activity rule results in a low level of maintenance by landowners. In summary, ineffectiveness of the status quo might result in low cost, and against that benchmark option 2 might increase cost</p>	<p>Medium More effective provisions will produce better outcomes</p>	<p>Medium More effective provisions will produce better outcomes</p>

proximity to protected trees			
Costs			
Environmental	Economic	Social	Cultural
<p>Low Trees will be better maintained by landowners. Applicants will be encouraged to get arborist input in the design of development within the 'root protection area' of a notable tree.</p>	<p>Medium The majority of regular maintenance can be achieved by landowners without need of resource consent because the threshold for permitted activities is intended to achieve that. Maintaining trees has a cost in terms of labour, whether protected in the District Plan, or not. Protecting trees can limit the development opportunities available to landowners. Requiring the input of experts (qualified arborist) would add some cost. However, the operative District Plan requires resource consents and assessment in relation to best practice horticultural practices, which could also require expert advice and therefore the costs between options are the same. If there is a difference it is because Option 2 is more effective, which would result in greater use of expert advice at a higher cost</p>	<p>Medium The costs involved in planning development when occurring in the 'root protection area' should not change because the intention is similar to the status quo. However, since the provisions are more directive, they are expected to be more effective, resulting in more use of qualified arborists in the design of development</p>	<p>Low The cultural costs will not increase.</p>
Efficiency	This option addresses the issues identified through consultation with the public, and with stakeholders.		
Effectiveness	The provisions provide clarity about what is assessed and what is expected, and this greater direction will result in landowners undertaking more regular maintenance, and when development has the potential to adversely affect a notable tree it will more likely be designed or planned with the input of a qualified arborist than has been the case previously,		

	and this means that tree health and form is more likely to be maintained, and notable trees protected.
Strategic Direction(s)	This option would achieve the strategic directions.
Overall Appropriateness of Option 2	This option is the most appropriate option because it will be effective and efficient in addressing the issues identified.

5.2 Risk of Acting or Not Acting

Where there is uncertain or insufficient information, an evaluation of the risk of acting or not acting is important. In this case there is little uncertainty about the issues, and the preferred option is based on examples used recently by other territorial authorities and therefore the risk of acting is considered low. The risk of not acting is high because Option 1 – Status quo would mean continuing with provisions that are uncertain in meaning, and application, and which are therefore ineffective.

It is therefore concluded that there is a low risk in acting in the proposed manner, with the replacement provisions.

6 Preferred Option

This evaluation has been undertaken in accordance with Section 32 of the RMA in order to identify the need for, benefits and costs, and the appropriateness of the proposal in having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA. The evaluation demonstrates that Option 1 is the most appropriate option as:

- The approach will address the issues identified through consultation with the public and with stakeholders in providing clarity about when and how trees can be maintained and removed.
- The provisions are more directive and will encourage more regular maintenance by landowners within a permitted activity threshold that will safeguard the health and form of notable trees.
- When development has the potential to adversely affect a notable tree it will more likely be designed or planned with the input of a qualified arborist than has been the case previously, and this means that tree health and form is more likely to be maintained, and notable trees protected.

Overall, it is considered that the set of preferred provisions is appropriate given the benefits outweigh the costs, and these will more effectively achieve the objective of protecting notable trees, when compared to the status quo. The risks of acting are also clearly identifiable and limited in extent.