

**Mayor and Councillors
COUNCIL**

11 AUGUST 2015

Meeting Status: **Public**

Purpose of Report: For Decision

PROPOSED DISTRICT PLAN – POTENTIAL URBAN TREE VARIATION

PURPOSE OF REPORT

- 1 This report explains the implications of changes that were made to the RMA after the proposed District Plan (**PDP**) was publicly notified in 2012 that affect urban tree protection rules. The report also summarises the issues and concerns raised in recent consultation with potentially-affected landowners and the wider community about urban tree protection rules and presents options to respond to those issues and to the RMA requirements. The report has been prepared to meet the requirements of section 32 of the RMA.
- 2 The report recommends a preferred option to be promulgated as proposed Variation No. 1 to the PDP.

DELEGATION

- 3 This report is to Council and therefore there is no issue of delegation.

BACKGROUND

Blanket Urban Tree Protection Rules

- 4 The PDP includes rules that prevent the trimming or modification (and, by definition, the removal or destruction) of *locally indigenous vegetation*, including trees, within the urban environment that is:
 - a) within an ecological site (identified in PDP Schedule 3.1);
 - b) listed as a key indigenous tree species (in PDP Schedule 3.2); or
 - c) a rare and threatened vegetation species (in PDP Schedule 3.3).
- 5 The relevant rules are 3A.1.2 and 3A.1.4 on pages 3-26 and 3-27 of the PDP.
- 6 These rules fall into the category of 'blanket rules'. That is, they apply throughout the urban environment to the broad categories listed in (a) to (c) above. A 2013 amendment to section 76 of the RMA requires that if a district plan contains rules that restrict the felling, trimming, damaging or removal of a tree or trees in the urban environment, it must:
 - a) describe the tree(s); and
 - b) specifically identify the allotment(s) by street address or legal description.
- 7 The operative and PDP rules pertaining to 'heritage trees' and 'notable trees' relate to lists of site-specific items that do comply with the new RMA requirements.

- 8 The other Operative District Plan (ODP) and Proposed District Plan (PDP) tree protection rules are 'blanket rules', restricting indigenous vegetation including trees, and do not comply with the new RMA requirements.
- 9 The 2013 RMA amendments are concerned with 'trees' rather than 'vegetation'.
- 10 The PDP contains other rules that restrict and control the trimming and modification of indigenous vegetation and trees in non-urban environments. However, the sole focus of this report is on the implications of RMA amendments that affect only the urban environment. The rules relating to non-urban environments will be addressed in the course of reporting on submissions that were made to those rules through the PDP hearing process. Notwithstanding this alignment of all tree rules where legal scope allows in the Proposed District Plan is desirable.

Timeframe for action and immediate legal effect of variation

- 11 The 2013 amending legislation introduced a new Schedule 12 to the RMA which clarifies (clause 4) that existing district plan tree protection rules will lapse on 4 September 2015 unless they comply with the new requirements for site-specific description.
- 12 If the Council wishes to have any rules controlling the trimming and modification of indigenous trees in the urban environment, without having a period of lapsed rules, a variation to the PDP will have to be publicly notified before 4 September 2015.
- 13 The 2013 amending legislation states that, if a variation that proposes compliant urban tree protection rules is publicly notified before 4 September 2015, those proposed rules will have immediate legal effect from 4 September 2015. They would not become 'operative' – they will still need to be run through the submission and hearing process of the variation. However, it means that activities would have to comply with any rules proposed by the variation and non-compliance would trigger the need for a resource consent from the date of public notification and replacing the operative rules from 4 September.

The operative district plan tree protection rule

- 14 The Operative District Plan contains a permitted activity standard under the heading 'Native Vegetation' that is replicated through most urban zones. The 'Native Vegetation' standard controls the disturbance, removal, damage or destruction ('modification') of *naturally occurring indigenous vegetation*. The wording of the standard is complex but has been interpreted by the Council historically as (amongst other requirements):
 - a) Requiring a resource consent for the removal of naturally occurring indigenous trees that have either 4m or taller height or have 95cm trunk circumference measured at a point no higher than 1.4m above the ground; and
 - b) Permitting limited modification of naturally occurring indigenous vegetation. That includes modification of trees that does not involve complete removal. Modification is, for this purpose, limited to:
 - i. removal of broken branches, deadwood or diseased vegetation;

- ii. removal of branches which do not form part of the main structure of the tree, that are interfering with or overhanging buildings, but only up to a maximum of one metre or the closest branch junction point beyond that distance from the external walls or roof of that building;
 - iii. removal of branches which do not form part of the main structure of the tree to maintain access along existing vehicle access ways.
- c) Controlling only naturally occurring indigenous trees and vegetation that have not been deliberately planted by humans.
- 15 The 'Native Vegetation' standard is a 'blanket rule' and the individual trees and properties to which it applies are not specifically identified in the DP. For the reasons explained above, that is only an issue for the urban environment in terms of the 2013 RMA amendments.
- 16 The 'Native Vegetation' standard also controls activities affecting trees listed in the Heritage Register.
- 17 Opinions vary, as to whether the Operative District Plan 'Native Vegetation' rule is widely understood. The project team met recently with a group of local arborists and arboricultural contractors and it appeared that they have a good working knowledge of how the rule is supposed to work. Feedback received during the recent consultation exercise indicates that the rule is not widely understood by the general community.

The RMA changes

- 18 The 2013 RMA amendment follows an earlier similar amendment made in 2009. The 2009 amendment was silent on whether the site-specific listing could be achieved by simply identifying the tree(s) using symbols on a map. Auckland Council sought and obtained an Environment Court declaration in 2011 (decision 2011 NZEnvC129) which clarified that District Plan rules could restrict the felling, trimming, damaging or removal of tree(s) by reference to broad categories shown on a map. For example, 'exotic trees over (x) metres high in a defined District Plan zone'.
- 19 The 2013 RMA amendments remove the ambiguity and make it clear that, if a district plan includes rules that restrict the felling, trimming, damaging or removal of tree(s) in the urban environment it must include the site-specific description referred to above.

The meaning of 'urban environment'

- 20 The 2013 RMA requirements relating to site-specific description of tree(s) subject to district plan rules applies only to the urban environment and defines an 'urban environment allotment' as an allotment:
- a) that is no greater than 4,000m²; and
 - b) that is connected to a reticulated water supply system and a reticulated sewerage system; and
 - c) on which there is a building used for industrial or commercial purposes or as a dwellinghouse; and
 - d) that is not a reserve within the meaning of the Reserves Act 1977.

- 21 The expression does not have the same meaning as perhaps the ordinary meaning of 'urban environment' and does not mean land within the urban zones of the Operative District Plan and Proposed District Plan.
- 22 The PDP, however, adopts the above wording as its definition of 'urban environment' specifically and only in relation to trees:

'Urban Environment in relation to trees means the same as in section 76 (4C) of the Resource Management Act 1991'.¹

Councils 2010 urban tree survey

- 23 In response to the 2009 RMA amendments, Council staff commissioned a survey of trees in the 'urban environment'. The survey, undertaken during 2009 and 2010, sought to identify mature, locally indigenous trees in Otaki, Waikanae, Waikanae Beach, Paraparaumu and Raumati that met the 'urban environment allotment' definition. The survey therefore did not include the non-reticulated townships (Paekakariki, Te Horo, Te Horo Beach, Peka Peka). The survey also identified notable exotic trees or native trees from outside the Kāpiti ecological districts which the survey team thought might be candidates for inclusion in the operative DP heritage register.
- 24 The survey report states that it was *'designed as an internal document to assist with the follow up use of the data collected, and is not intended for publication or public display'*². Accordingly, the report and the spreadsheet of identified trees included within it have remained a source document rather than a published publicly available report.
- 25 The survey report explains that all surveyed trees were assessed for height, trunk circumference (measured at a point no higher than 1.4m above ground) and were given a biodiversity value out of 10 (with 10 being the highest). All locally indigenous native trees having either height over 4m or trunk circumference over 95cm were assigned a biodiversity value of at least 5. The report notes that, beyond this baseline value, the biodiversity value assessed varies for different species *'with higher values being assigned to older, rarer, more regionally significant, and trees which are a part of a more productive environment. For example a large Kohekohe tree growing in a stand of diverse virgin forest will score a biodiversity value of 10.'*³ The report notes that the most important measurement of a tree, when considering the biodiversity value, is the circumference at 1.4m above ground because this is the most accurate assumption of the tree age (and hence maturity).
- 26 The data base of survey findings records:
- A unique identifier number for each 'tree point' (noting that some 'tree points' represent stands of multiple trees)
 - Species (botanical name and common name)
 - Whether the species is locally indigenous within the Kāpiti Coast District
 - Street address on which the tree(s) grow

¹ The reference in the PDP definition is to section 76 (4B) but the correct RMA reference is 76 (4C)

² Preface, page 4 of the KCDC Tree Survey 2009-10 Final Report

³ Page 7 of the KCDC Tree Survey 2009-10 Final Report ('Data Collection')

- Whether the tree(s) is/are 'endemic' (i.e. from the local ecological district), or 'native' (being native species from outside the local ecological district) or exotic (imported to New Zealand)
 - Whether the tree(s) is/are naturally-occurring or planted by humans (noting that, if it was not possible to be determinative on site, the default of 'naturally occurring' was used)
 - Date of the survey
 - Height of the tree above ground estimated to the nearest 0.5 metres
 - Trunk circumference at 1.4m above ground estimated to the nearest 5cm (and measured along the trunk rather than vertically where the tree was leaning at an angle)
 - An assessment of the health of the tree
 - A description of the type of ground cover surrounding the tree(s)
 - Whether the tree(s) occur as an isolated tree or as part of a stand or group or part of an area of vegetation
 - Whether the tree(s) was/were exposed or surrounded by other vegetation
 - A brief note of apparent risks to the tree(s) (such as being close to structures, close to power lines)
 - Biodiversity value which reflects the age and maturity of the tree, growing position and rarity of the species. (Maximum score of 10)
 - In the case of exotic trees, a value to indicate its merit as a 'notable' tree for consideration for the heritage register.
 - GPS location (noting that, where access to the base of the tree was not achievable, a GPS off-set function was used to estimate actual location – the project team has identified some errors in the exact location of some trees estimated in this way).
- 27 Council's consultant ecologists, Wildlands Ltd, have reviewed the methodology and the survey data base and consider that the data base provides a reasonably robust data set from which to develop any lists of trees for protection. In particular, Wildlands has reviewed the methodology for scoring "biodiversity" and has confirmed that it is generally appropriate, although some minor changes have been recommended.

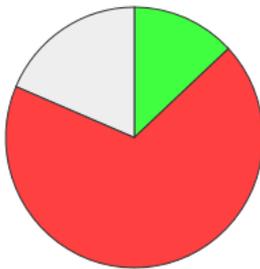
SIGNIFICANCE AND ENGAGEMENT

- 28 The Council's Significance and Engagement policy does not cover any engagement process that may be required under the Resource Management Act 1991, however, as endorsed by the Regulatory Management Committee at the 11 June 2015 briefing, the project team sent letters to owners of properties containing trees identified by the 2010 tree survey that fall within the scope of Schedules 3.1 and 3.2 – being:
- a) Ecological sites; and
 - b) Key indigenous tree species meeting the minimum height or trunk circumference thresholds specified in Schedule 3.2.

- 29 Wildlands ecologists undertook fieldwork to verify the presence of and biodiversity values of trees within ecological sites. The project team also wrote to PDP submitters whose submissions pertained to the urban tree protection provisions of the PDP. As required by the RMA, letters were also sent to the Minister of Conservation, Minister for the Environment, Greater Wellington Regional Council and adjoining territorial local authorities alerting them to the Council's work on urban trees⁴. The project team has also advised iwi through Council's ART forum and further consultation with iwi through iwi authorities is planned. The project team also held a workshop with local arborists and arboricultural contractors.
- 30 Approximately 6,200 letters were sent to the owners and occupiers of land containing trees within the scope of Schedules 3.1 and 3.2. The Council received over 400 inquiries in response to the letters sent. At the time of writing this report, 199 feedback forms had been received providing comments on the PDP urban tree provisions and on draft amendments to those provisions. Interestingly, 69 of the 199 feedback forms (38%) were from people who had not received letters but are interested in the issue of urban tree protection. Therefore, approximately 130 feedback forms resulted from sending over 6,200 letters.
- 31 The letters sent to landowners and occupiers did not identify precisely which trees had been identified by the 2010 tree survey. That would have been a mammoth and impracticable task in the time available. So the most common inquiry was, understandably, '*what trees are you talking about on my property?*'. Property specific information from the tree survey data base was sent to all inquirers which, in some cases, generated further inquiries or discussion. The project team found that a large number of people were reluctant to provide email addresses for correspondence. In the short time available for the consultation, this meant that many inquiries had to be followed up by telephone. The telephone conversations yielded useful information about people's attitudes to trees and district plan rules about trees.
- 32 The feedback form was attached to a discussion document that set out the current PDP rules and mooted some draft amendments to those. A full analysis of the feedback received is provided in Attachment 1 to this report.
- 33 The discussion document explained that the PDP standards do not allow any trimming of locally indigenous vegetation that is identified for protection. The feedback form attached to that discussion document asked '*Do you support the protection of the indigenous trees on your property?*'. 162 of the 199 respondents answered the question and 84% of them said 'no'. A small number of respondents said 'yes' (26 or 16% of those who answered that question).

⁴ Clause 3 Schedule 1 to the RMA

Do you support the protection of the indigenous trees on your property?



Question responses: **162 (81.41%)**

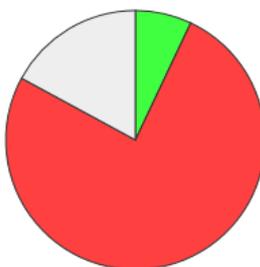
	% Total	% Answer	Count
Yes	13.07%	16.05%	26
No	68.34%	83.95%	136
[No Response]	18.59%	--	37
Total	100.00%	100.00%	199

34 The top 5 reasons respondents gave for opposing the protection of indigenous trees on private property were:

- a. *The trees on the property were planted by the respondent(s) or previous owners and owners should be able to decide how to manage planted trees themselves;*
- b. *Landowners should have the freedom to make decisions about and manage their own properties – the proposed rules are an undue invasion of private property rights;*
- c. *The proposed rules will discourage people from planting native trees in the future (and may already have done so);*
- d. *As trees grow larger they shade outdoor areas, houses, neighbours, vegetable gardens and create cold and damp houses (putting people’s health and wellbeing at risk) as well as shading outdoor areas and preventing other beneficial trees and plants from growing;*
- e. *Trees outgrow their situation, get too big and can become dangerous with overhanging branches.*

35 The feedback form explained that the PDP rules do not permit any trimming of locally indigenous vegetation where that is within an *ecological site*, is a *key indigenous tree species* or a *rare and threatened species*. The feedback form stated that resource consent is required in these situations and asked ‘*Is this approach appropriate?*’. 165 of the 199 respondents answered the question and 91.5% of them said ‘no’. Only 14 (8.5%) said ‘yes’.

Resource consent is required in the above situations – is this approach appropriate?



Question responses: **165 (82.91%)**

	% Total	% Answer	Count
Yes	7.04%	8.48%	14
No	75.88%	91.52%	151
[No Response]	17.09%	--	34
Total	100.00%	100.00%	199

36 The top 5 reasons respondents gave for opposing this approach were:

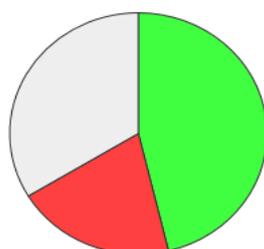
- a. *A resource consent process is time-consuming and costly, creates uncertainty for landowners- it is too much bureaucracy just for trimming*

trees for legitimate reasons (e.g. to reduce shading and improve living conditions) and is just a tax on landowners;

- b. Trees are not public property – on private property, landowners should have sole rights to control trees;
- c. The threshold for triggering resource consent is too restrictive;
- d. The respondent agreed that there is a need to protect significant indigenous trees, but not all trees are significant (for example, isolated individual trees are not necessarily significant). Some of the trees on the 'key indigenous tree species' list (like Taupata and Ngaio) seed and grow prolifically. Respondents agreed that trees within ecological sites and rare and threatened species are significant and some iconic large old remnant specimens – but not necessarily others;
- e. Landowners should be able to plant and look after trees on private property without interference from Council.

37 The feedback form also asked whether the three categories (ecological sites, key indigenous tree species and rare and threatened species) represent significant trees. The responses are shown below. Of the people who answered the question, 67% to 69% consider ecological sites and rare and threatened species to be significant. A much lesser number (33%) consider key indigenous tree species to be significant.

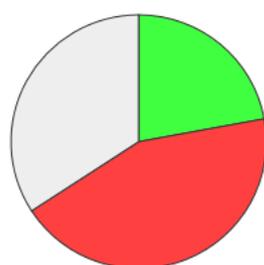
Ecological Sites



Question responses: **132 (66.33%)**

	% Total	% Answer	Count
Yes	46.23%	69.70%	92
No	20.10%	30.30%	40
[No Response]	33.67%	--	67
Total	100.00%	100.00%	199

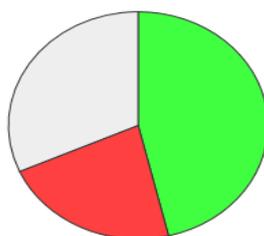
Key Indigenous Tree Species



Question responses: **131 (65.83%)**

	% Total	% Answer	Count
Yes	22.11%	33.59%	44
No	43.72%	66.41%	87
[No Response]	34.17%	--	68
Total	100.00%	100.00%	199

Rare & Threatened Species

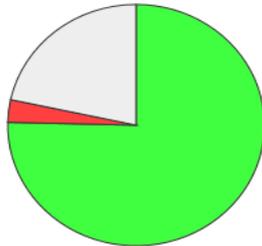


Question responses: **136 (68.34%)**

	% Total	% Answer	Count
Yes	46.23%	67.65%	92
No	22.11%	32.35%	44
[No Response]	31.66%	--	63
Total	100.00%	100.00%	199

38 The feedback form then asked ‘Should the rules permit some trimming of indigenous trees in protected areas?’. 156 of the 199 respondents answered this question and 150 of them (96%) said ‘yes’. Only 6 said ‘no’.

Should the rules permit some trimming of indigenous trees in protected areas?



Question responses: **156 (78.39%)**

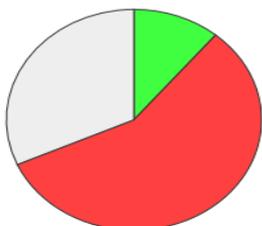
	% Total	% Answer	Count
Yes	75.38%	96.15%	150
No	3.02%	3.85%	6
[No Response]	21.61%	--	43
Total	100.00%	100.00%	199

39 The feedback form asked ‘how much trimming should be permitted to allow reasonable use of private property?’ The most common responses were that:

- a. It should be up to individual landowners to decide;
- b. Landowners, including neighbours, should be able to cut back horizontal growth and trim tree height to improve living conditions in urban areas;
- c. Landowners should be able to trim or completely remove trees at their sole discretion;
- d. The rules need to allow trimming sufficient to prevent shading and allow sunlight in, to open up views and enable vehicle and pedestrian access;
- e. There is a need to trim trees to avoid creating a risk to life or damaging property.
- f. The proposed distances from walls etc mooted by the draft rule amendments are insufficient to allow reasonable use of private property and need to be further relaxed;

40 The feedback form referred to (and was attached to) some working draft amendments to the PDP rules that mooted changes to permit limited trimming of trees in the three categories of protection (the limits being similar to those in the operative DP). The feedback form asked ‘Would the working draft amendments allow reasonable use of private property?’. 136 of the 199 respondents answered this question and 83% of them said ‘no’. Twenty-two people said that the limited provision would allow reasonable use.

Council is considering changes to proposed Rule 3A.1.2 – view working draft PDP rule amendments: Would the working draft amendments allow reasonable use of private property?



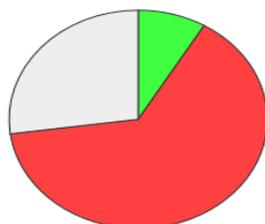
Question responses: **136 (68.34%)**

	% Total	% Answer	Count
Yes	11.06%	16.18%	22
No	57.29%	83.82%	114
[No Response]	31.66%	--	63
Total	100.00%	100.00%	199

41 The feedback form then explained that the working draft rule amendments would require a resource consent for any damage or modification to indigenous trees identified for protection where that work extends beyond the mooted limits and

asked 'Is this a reasonable approach?'. 145 of the 199 respondents answered this question and 128 of them (88%) said 'no'. Seventeen people said it was a reasonable approach.

The working draft rules require a resource consent for any damage or modification to indigenous trees identified for protection where that work extends beyond the limits of Rule 3A.1.2. Is this a reasonable approach?



Question responses: 145 (72.86%)			
	% Total	% Answer	Count
Yes	8.54%	11.72%	17
No	64.32%	88.28%	128
[No Response]	27.14%	--	54
Total	100.00%	100.00%	199

- 42 The main reasons respondents gave for why they consider this is not a reasonable approach on private property were:
- Resource consents are costly and time-consuming for the ordinary person;*
 - It is ridiculous to have to get a resource consent just for trimming – too much bureaucracy.*
- 43 The feedback form invited respondents to add general comments and the following summarises the issues typically raised:
- There is a need to identify which specific trees on which properties are to be protected;*
 - Council should be encouraging people to plant trees, not discouraging them with rules;*
 - The proposed rules are not appropriate in an urban area – protection is appropriate for some particularly important species – but is difficult to achieve on small residential sections;*
 - Council should discuss tree protection with landowners on a case-by-case basis.*
- 44 The feedback form also invited respondents to suggest other things that the Council should be doing instead of in addition to rules to protect significant indigenous trees. The following suggestions were made:
- Council should plant more indigenous trees on public land – or should stick to planting and managing indigenous trees on public land;*
 - Education and encouragement and the provision of advice would produce better outcomes than widespread rules;*
 - Council should protect slow-growing remnant species like Tawa, Pukatea, Totara, Nikau, Rata, Maire, Kauri, Rimu, Kowhai, Kahikatea as well as Pohutukawa and Ngaio;*
 - There is no need to protect prolific and fast-growing species like Cabbage Trees, Kanuka, Mahoe, Karaka, Akeake, Taupata, Ngaio.*
- 45 The following conclusions can be drawn from the feedback:

- a) There is very little support for the PDP rules that would require resource consent for any trimming or removal of protected indigenous trees;
- b) There is very little support for continuation of the operative DP limited provision for trimming and requiring consent for removal of indigenous trees (particularly applied to the large number of indigenous trees proposed by Schedule 3.2);
- c) Most people want to be able to manage existing indigenous trees on their own properties so that they can avoid nuisance shading, damage to buildings and blocking of pedestrian and vehicle access around their properties;
- d) People want to be able to manage existing indigenous trees on their own properties without having the expense and fuss of obtaining a resource consent;
- e) Many people stated that they were unaware of the operative DP rules limiting tree trimming and removal and were candid that, unaware, they have removed trees that the 2010 database had identified. In other words, the rules have made no difference for some people;
- f) Many people care (some passionately) about indigenous trees, have successfully planted many indigenous trees and are eager to 'do the right thing' by way of planting appropriate species;
- g) Rules that unduly limit people's ability to manage planted trees fail to acknowledge the good efforts of many people in planting indigenous trees;
- h) If the PDP rules limit people managing indigenous trees on private land to the extent currently proposed, people will be discouraged from planting indigenous trees and may adopt a negative attitude to indigenous trees and to the notion of protection of even inarguably large and significant indigenous trees;
- i) Most people agree that there are some particularly important large and slow-growing remnant indigenous trees, including trees in ecological sites, that need to be protected by rules.

ISSUE AND OPTIONS

Challenges identified by the project team

46 The 'urban tree variation' started out as a simple exercise of listing tree details to meet the 2013 RMA requirements – based on the assumption that the PDP approach, publicly notified in 2012, was sound. However, the project team has identified a number of challenges, having investigated the basis for the 2012 PDP rules and having talked with interested people during the early engagement phase and considered the consultation feedback. Those challenges are that:

- a) The PDP rules rely on section 6 (c) of the RMA which obliges all persons exercising functions and powers under the RMA, as a matter of national importance, to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The obligation is explicitly in relation to *areas* of significant indigenous vegetation. It does not in itself provide a mandate to protect isolated individual indigenous trees. Many of the trees that fall within the scope of PDP Schedule 3.2 are:

- Isolated individual trees (not parts of *areas* of significant indigenous vegetation);
 - Not areas of *significant* indigenous vegetation (many have biodiversity values of 5 which does not necessarily mean they are significant);
 - Not significant habits of indigenous fauna.
- b) The Schedule 3.2 lists of key indigenous tree species includes species that are commonplace and capable of regeneration without a great deal of assistance (e.g. Taupata, Ngaio, Cabbage Trees, Manuka). These species cannot be said to be in decline and many of the isolated individual trees identified in the 2010 tree survey data base cannot be said to have significant biodiversity value.
- c) Schedule 3.2 also excludes some species that have local biodiversity significance (e.g. totara and northern rata in the salt zone).
- d) Schedule 3.2 lists key indigenous tree species, and different minimum height and trunk circumference thresholds for those species, in four different 'ecological domains' within the district. The 'ecological domains' were explored, pre-2012, as a means of describing the different ecological conditions that prevail in different parts of the district that underlay the original vegetation cover. The key indigenous trees are those considered to be physically or numerically important components of the canopy of representative pre-clearance native vegetation in the area as well as threatened or at-risk species. The source document that recommended the 'ecological domains' approach (the 'Handford' report⁵) stated that *'there is a need to allow for some degree of buffering on the boundaries [of the ecological domains] to reflect the fact that 'hard edges' generally do not exist in natural vegetation distribution. A buffer of possibly 100-200m either side of the boundary is suggested as a starting point'*. The boundaries between ecological domains were not intended to be presented as sharp lines – but that is how they have been applied in the PDP maps. Some perverse outcomes result from that. For example, a species that may be considered to be 'key' and therefore protected in the 'salt' eco-domain would be protected from removal and from any trimming. The same species on an adjoining allotment, just beyond the 'salt' eco-domain, would not be protected and could be felled. That outcome was not intended by the source document, is not reasonable and cannot be substantiated.
- e) There is no explicit policy support in the PDP for the protection of isolated individual indigenous trees. Most references are to 'areas', 'ecosystems' and 'habitats'.
- f) The PDP rules are much more stringent than the operative DP rules. Whereas the operative DP rules permit limited trimming, the PDP rules permit no modification, trimming or removal of trees identified for protection. The Handford report recommended⁶ limited provision for trimming but this was, for whatever reason, not adopted.

⁵ *Protection of Locally Native Trees in Kapiti Coast Urban Areas* (P A Handford & Associates October 2011) – see page 15

⁶ Handford report - page 17

- g) The Handford report recommended⁷ that any size thresholds adopted should be expressed as height and trunk diameter. Schedule 3.2 is ambiguous and Rule 3A.1.4 which restricts modification of indigenous vegetation in the non-urban environment refers to either trunk diameter or height⁸. This potentially captures more trees than were intended by the Handford report.
- h) The Handford report was concerned with the protection of key remnant species from original indigenous vegetation areas⁹ – not planted trees. The PDP rules apply to both planted and naturally-established indigenous species. It is not clear why that approach was adopted contrary to both the current ODP approach and the clear recommendation of the Handford report.
- i) There is potential for perverse outcomes resulting from a PDP regime that is highly restrictive. As indicated by consultation feedback, people may seek to keep trees trimmed to below the Schedule 3.2 height thresholds to allow them to be removed. People may remove indigenous trees that haven't yet reached the Schedule 3.2 height thresholds to avoid being caught by future rules. People may be discouraged from planting locally-important indigenous trees for fear of being caught in future by unduly restrictive DP rules that prevent reasonable use of their private land.

47 It has become clear that a complete review of the PDP approach to protecting indigenous trees in the urban environment is warranted. Accordingly, the following evaluation addresses the Council's functions and duties in respect of maintaining indigenous biodiversity and the questions that must be addressed before adopting any DP approach.

RMA function and duties in relation to indigenous biodiversity

48 The purpose of the RMA is to promote the sustainable management of natural and physical resources. That means '*managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while –*

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.'*

⁷ Handford report - paragraph 2, page 16

⁸ Leaving aside the difficulty that the Handford report was explicitly concerned only with provisions for the urban environment.

⁹ Handford report - section 4.2.2 page 14

- 49 Environment has a broad meaning and includes:
- a) *ecosystems and their constituent parts, including people and communities; and*
 - b) *all natural and physical resources; and*
 - c) *amenity values; and*
 - d) *the social, economic, aesthetic, and cultural conditions which affect the matters state din paragraphs (a) to (c) or which are affected by those matters.'*
- 50 Section 6 (c) of the RMA requires that, in achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for (as a matter of national importance):
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna'*
- 51 As earlier noted, the focus of section 6 (c) is 'areas'.
- 52 The functions of territorial authorities for the purpose of giving effect to the RMA are set out in section 31 and include:
- (b) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –*
 - i.
 - ii. ...
 - iii. *the maintenance of indigenous biological diversity.'*
- 53 'Biological diversity' is defined by the RMA as *'the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems'*.
- 54 'Effect' is defined under the RMA as including:
- a) *any positive or adverse effect; and*
 - b) *any temporary or permanent effect; and*
 - c) *any past, present, or future effect; and*
 - d) *any cumulative effect which arises over time or in combination with other effects –*
- Regardless of the scale, intensity, duration, or frequency of the effect, and also includes -*
- e) *any potential effect of high probability; and*
 - f) *any potential effect of low probability which has a high potential impact.'*
- 55 This definition is relevant to the function of maintaining indigenous biodiversity and suggests that a risk management approach is appropriate. For example, in the context of this urban tree variation, it begs the questions:

- *‘What are the risks to remnant indigenous trees in the urban environment?’*
- *‘What are the consequences for indigenous biodiversity of the felling and removal of large remnant trees or rare remnant trees?’*
- *‘What are the consequences for indigenous biodiversity of the felling and removal of less mature or less significant remnant trees?’*

Hierarchy of RMA plans

56 The PDP must give effect to¹⁰:

- any national policy statement (there is currently none in relation to indigenous biodiversity – there was a draft but it has not progressed)
- the NZ Coastal Policy Statement 2010 (which applies to the coastal environment being a broader area than simply the coastal marine area)
- the Wellington Regional Policy Statement.

57 The PDP must not be inconsistent with any regional plan¹¹ that contains objectives, policies, and methods for maintaining indigenous biological diversity.

NZ Coastal Policy Statement

58 Much of the urban area of the Kāpiti Coast district is within the coastal environment¹². The particularly relevant objectives and policies of the NZCPS are:

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand’s indigenous coastal flora and fauna;...*

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;...*

Policy 6 Activities in the coastal environment

¹⁰ Section 75 (3) of the RMA

¹¹ Sections 75 (4) and 31 (1) of the RMA

¹² As mapped on the PDP maps

In relation to the coastal environment:

- (a) ...
- (b) *consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;*
- (c)
- (j) *where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.*

Policy 11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- (a) *avoid adverse effects of activities on:*
 - i. *indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
 - ii. *taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
 - iii. *indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
 - iv. *habitats of indigenous species and where the species are at the limit of their natural range, or are naturally rare;*
 - v. *areas containing nationally significant examples of indigenous community types; and*
 - vi. *areas set aside for full or partial protection of indigenous biological diversity under other legislation.*
- (b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
 - i. *areas of predominantly indigenous vegetation in the coastal environment;*
 - ii. *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
 - iii. *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
 - iv. *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
 - v. *habitats, including areas and routes, important to migratory species; and*

- vi. *ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

Regional Policy Statement

59 Objective 16 of the 2013 RPS is:

'Indigenous ecosystems and habitats with significant biodiversity values are maintained and restored to a healthy functioning state.'

60 Policy 23 requires that:

'District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria:

- (a) *Representativeness: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in a district or in the region, and:*
 - i. *Are no longer common-place (less than about 30% remaining); or*
 - ii. *Are poorly represented in existing protected areas (less than about 20% legally protected).*
- (b) *Rarity: the ecosystem or habitat has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.*
- (c) *Diversity: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area.*
- (d) *Ecological context of an area: the ecosystem or habitat"*
 - i. *Enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or*
 - ii. *Provides seasonal or core habitat for protected or threatened indigenous species.*
- (e) *Tangata whenua values: the ecosystem of habitat contains characteristics of special spiritual, historical or cultural significance to tangata whenua, identified in accordance with tikanga Māori'*

61 We note that Policy 23 was included, amongst other criteria, in Policy 3.11 of the PDP (criteria for identification of significant biodiversity) but that amendments are proposed in the SEV to align it more accurately with the RPS.

62 The explanation to Policy 23 states that GWRC and district councils *'will need to engage directly with land owners and work collaboratively with them to identify areas, undertake field evaluation, and assess significance. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.'*

63 Policy 24 requires that:

District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant biodiversity values from inappropriate subdivision, use and development.

64 The question is, then, what constitutes inappropriate and appropriate subdivision, use and development in respect of the biodiversity values of significant trees within indigenous ecosystems and within habitats that have significant biodiversity values.

65 Policies 23 and 24 focus on *areas* and *habitats*. The concern is not with individual isolated trees – unless these form part of an ecosystem or habitat that is itself significant.

Regional Plans

66 There is no regional plan addressing solely indigenous biological diversity. However, the objectives and policies of the current regional plans do address, in parts, the maintenance of terrestrial indigenous biodiversity.

Values of trees in the urban environment

67 Large or old indigenous trees are remnants of previously more extensive forests. On the lowland areas of the Kāpiti Coast approximately 2% to 5% of the original extent of forest types remains. This severe loss of forest increases the importance of isolated trees or groups of trees, including those in urban environments. Large old trees represent some last vestiges of these forest types and are also important contributors to the genetic diversity within the species in the district.

68 Some of the tree species within the urban area are nationally rare species (e.g. At Risk - Declining species: *Kunzea amathicola*, At Risk – Relict species: *Streblus banksia*) or provide habitat for nationally rare species (e.g. At Risk - Naturally Uncommon dwarf mistletoe *Korthalsella salicornioides*, At Risk - Declining Wellington green gecko *Naultinus punctatus*).

69 Large old trees are often the core trees in linkages and stepping stone habitat between ecological sites, and between the coast (and Kapiti Island) and inland areas of the District, also between rivers, lakes and wetlands. Linkage and stepping stone habitat allows and encourages the flow of species and propagules between locations including relatively isolated locations. Linkages and stepping stone habitats;

(a) assist in maintaining genetic diversity;

(b) reduce the risk of a major adverse event affecting an entire population;

(c) assist with retaining more elements of a fully functioning ecosystem since these can move more easily across the landscape;

(d) allow for better species distribution from core areas e.g. halo effect - areas with good mammal pest control build up numbers of indigenous species and as the habitat fills up these species move out in to surrounding areas

70 The functioning of these large old trees and the linkages and stepping stone habitat is supported and buffered by younger trees and shrubs, and this can

sometimes include non-local tree species. If the surrounding vegetation is removed then this could compromise the health of the large old trees.

- 71 Trees provide habitat for a whole suite of species, from soil micro-organisms and fungi associated with the roots and other micro-organisms and fungi on other parts of the tree, to invertebrates, lizards, birds and epiphytic plant species. Large old trees may provide nesting and roosting holes for hole nesting birds such as morepork, kingfisher, kakariri, kaka, and long-tailed bats (bats have been seen in Waikanae and may be more widespread in KCDC urban areas than realised). Younger and smaller trees are less likely to have suitable holes for these species. Areas retaining large old trees are also important reservoirs of soil microbes and fungi with specialized associations with particular tree species.
- 72 In addition, indigenous trees may have cultural value to tangata whenua and also provide aesthetic and general environmental benefits (e.g. contributing to an overall green and attractive townscape, supporting bird life, sheltering from strong winds, capturing rain water) that contribute positively to the amenity values of the district's urban environments.
- 73 In Waikanae and Otaki tracts of trees were deliberately preserved during colonial period, either by Maori owners or by conservation minded European settlers such as William Field and Henry Elder. Such old trees have historic heritage values and are already protected in the ODP and PDP as notable trees.
- 74 The pattern of the natural establishment of these trees and forests remnants is unique to Kāpiti due to the underlying soil types, climate and geological history; therefore the character they impart is unique, a point of difference for the district.
- 75 On the other side of the ledger, property owners generally expect to be able to manage trees on their private property in a manner of their choosing. This allows them to make their own decisions about the value of their trees and the need to trim or remove them for reasons of shade, damp, safety or effects on infrastructure or paving.

The resource management issue for urban trees

- 76 There is currently no RMA requirement to specify in district plans the significant resource management issues for the district. However, the only reasonable basis for advancing District Plan provisions is that they are necessary to respond to a genuine resource management issue.
- 77 The PDP states, amongst the explanatory text¹³ on page 2-5, that '*a major issue facing the Kāpiti Coast that needs to be addressed is biodiversity decline*'. The explanatory text focuses on ecosystems, biodiversity in a general sense, refers to Kāpiti Island and does not discuss any specific issues for biological diversity in urban environments.
- 78 In light of the NZCPS policies, the section 31 function (to maintain biological diversity) and the values associated with important remnant indigenous tree species, the project team considers that the relevant issues for significant indigenous trees within urban environments are:
 - *How to accommodate human urban activity without material irreversible loss of areas of significant indigenous vegetation; and*

¹³ Paragraph 4 on page 2- of the PDP (the original version, not the SEV)

- *How to consolidate and capitalise on the remnant indigenous biodiversity to arrest and reverse its decline.*

79 In light of the policy emphasis given to the importance of maintaining biological diversity in the RMA itself and in the higher-order statutory policy statements and plans, these issues are sufficiently significant locally to warrant attention through the District Plan. We turn now to address the alternative options to address these issues.

Section 32 evaluation requirements.

80 A variation to the PDP is considered to be an *'amending proposal'* for the purposes of section 32 of the RMA¹⁴. The PDP is an *'existing proposal'*.

81 Section 32 RMA requires that an evaluation report must be prepared for any amending proposal¹⁵. A section 32 evaluation report must¹⁶:

(a) *examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of this Act; and*

(b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by –*

i. *Identifying other reasonably practicable options for achieving the objectives; and*

ii. *Assessing the efficiency and effectiveness in achieving the objectives; and*

iii. *Summarising the reasons for deciding on the provisions; and*

(c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

82 The assessment of efficiency and effectiveness must¹⁷:

(a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –*

i. *Economic growth that are anticipated to be provided or reduced; and*

ii. *Employment that are anticipated to be provided for or reduced; and*

(b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*

¹⁴ Section 32 (3) (the urban tree variation it would amend a plan that is already proposed – the PDP)

¹⁵ The provisions of Schedule 1 apply to a variation as if it were a change (Clause 16A (2) of Schedule 1). It is therefore subject to Clause 2 of Schedule 1. A 'change' is defined in section 43AA of the RMA as including a change to a plan under clause 2 of Schedule 1. Section 32 (6) applies to any 'change' – therefore equally applies to any variation.

¹⁶ Section 32 (1) RMA

¹⁷ Section 32 (2) RMA

(c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

83 For an ‘*amending proposal*’, the examination under of whether the proposal is the most appropriate¹⁸ must relate to:

(a) *the provisions and objectives of the amending proposal; and*

(b) *the objectives of the existing proposal to the extent that those objectives:*

i. are relevant to the objectives of the amending proposal; and

ii. would remain if the amending proposal were to take effect.

84 The project team has, therefore, examined whether the PDP objective relating to the maintenance of biological diversity is appropriate for the urban environments.

85 For the purpose of developing and evaluating proposals to address the issues identified in paragraph 79 above, the following criteria (derived from section 32) have been applied:

(a) Is the objective the most appropriate way to achieve the purpose of the RMA?

(b) Will the proposed method achieve the PDP objective?

(c) Is the proposed method the most appropriate way to achieve the objective?

(d) What public benefits will result?

(e) What public & private costs will be created?

(f) What environmental outcomes will result (intended and unintended)?

(g) What is uncertain in terms of outcomes and what are the risks of not intervening?

(h) Will the proposed method be effective and can it be implemented and/or enforced?

(i) Will the proposed method be efficient?

The risk of biodiversity loss

86 Any public benefit of protecting the biodiversity values in urban areas needs to be placed in the context of an assessment of the risks of loss. The consultation feedback provides a valuable perspective on urban landowners attitudes towards large trees. It is considered that the majority of landowners who own large urban indigenous trees value them and care for them without the need for a regulated approach.

87 However, there will be exceptions to this. It is considered that the most significant risks arise from the following issues:

Firstly, Kapiti has had in place blanket indigenous tree protection for the last 15 years. There will clearly be some owners who would have removed trees had that rule not been in place and if the tree of concern is not protected by rules in

¹⁸ Under section 32 (1) (b) of the RMA

the future will immediately remove it. This can be expected to result in an initial flurry of tree removal which will then wane.

Secondly, there are many who have not been aware of the existing rules but because of the effects of a specific tree on their living conditions will ultimately decide that while they love it, it has “got too big and has to go”.

Thirdly, change of ownership of a property can often be a catalyst to a different approach to managing trees on the property and may trigger tree removal.

Benchmarking with other Council approaches

- 88 A benchmarking assessment was undertaken in September 2014 and this considered the approaches that other Councils were taking to this issue. Further recent enquiries have updated this understanding.
- 89 The assessment found that few Councils have sought to identify and protect individual species of trees beyond those in ecological sites and those evaluated as notable trees. The approach most commonly taken has been to review and expand the notable trees listing and review the scope of ecological sites within the urban areas.
- 90 However, it is important to note that:
- No other Councils in the region nor others considered in the benchmarking have similar long-standing operative district wide ‘blanket’ urban tree protection rules, although there is a history of similar rules in some parts of Auckland. Some Councils however, have specific urban zones where there has been a blanket type rule.
 - The Kapiti Coast district can also be distinguished from other local authorities in the region by having retained a significant number of mature remnant indigenous trees of significant size within the urban area. Notwithstanding that, the district’s urban areas lie within areas categorised as Acutely Threatened and Chronically Threatened.

Non-regulatory methods

- 91 The underlying scheme of section 32 of the RMA is that regulation should not be the first or only method adopted by councils. Rather, councils are required to consider whether other, non-regulatory, measures could as or more effectively address particular resource management issues.
- 92 The Council currently implements a number of non-regulatory measures to restore biological diversity on public land, to educate people about biological diversity and to assist landowners to retain and manage significant indigenous vegetation and trees.
- 93 While the focus is largely on rural biodiversity it includes:
- Heritage Fund subsidies for protective management of ecological sites, establishment of QE II covenants and maintenance of notable trees listed in DP.
 - Rates Relief for Conservation Purposes
 - Riparian Fund incentives to fence and restore riparian margins

- Biodiversity advisor provides free advice on pest control, restoration planting, stream and wetland management, fencing, covenants.
 - Support of 22 community care groups including technical advice, provision of eco-sourced plants and materials, and the services of two full-time Environmental Restoration officers.
 - Restoration planting using eco-sourced native plants in Council reserves.
 - Dune restoration programme
 - Biodiversity MOU with Greater Wellington to coordinate joint biodiversity management programme of top biodiversity sites in the district.
 - A Council Greener Neighbourhoods coordinator
 - Biodiversity information on the Council website, including downloadable guides and further information links
 - Free booklets on planting native plants distributed through libraries and Council offices
 - Active involvement with the Sustainable Home and Garden Show
- 94 Some of these initiatives do benefit urban trees such as the provision of free Biodiversity Officer advice and restoration projects and covenants and there is scope for expanding the programmes in urban areas. There was some helpful feedback from the consultation with landowners and the community that suggested there may be some merit in developing or expanding the some existing non-regulatory initiatives and introducing others.
- 95 It is considered that there is merit in developing an enhanced non regulatory package around urban trees and have recommended accordingly. This should be developed having regard to coordination with any planned new rural initiatives but should include consideration of:
- advice on best practice management of trees;
 - discounted fees and charges; and
 - financial assistance with maintaining protected urban trees
 - Council propagation of eco sourced locally indigenous seedling trees and subsidised sale to land owners

The objective

- 96 The relevant PDP objective is Objective 2.2:

'To improve indigenous biological diversity and ecological resilience through the:

- a) protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- b) restoration of the ecological integrity of important degraded environments and habitats;*
- c) enhancement of the health of terrestrial and aquatic ecosystems; and*
- d) enhancement of the mauri of waterbodies.'*

97 The objective goes further than the section 31 function of 'maintaining' biological diversity and seeks 'improvement'. However, given that the objective addresses multiple elements of ecology and biodiversity in urban as well as rural parts of the district, it is not proposed to alter it through this variation.

Options to meet the objective

98 The option of continuing with the current PDP approach is not a viable option. The provisions will lapse after 4 September 2015.

99 The following options are open to the Council:

Option 1: Allow the PDP urban environment tree protection rules to lapse without replacement and rely on the current suite of non-regulatory interventions implemented by the Council to maintain biological diversity.

Option 2: Allow the PDP urban environment tree protection rules to lapse without replacement and introduce additional non-regulatory measures to assist landowners to retain and manage significant indigenous trees on private land.

Option 3: Individually list and protect all of the trees from the 2010 data base that fall within the scope of Schedule 3.1 of the PDP (i.e. those within ecological sites – on the basis that these have been identified as areas of significant indigenous or habitats of significant indigenous fauna).

Option 4: Individually list and protect all of the trees from the 2010 data base that fall within the scope of Schedule 3.2 of the PDP (being key indigenous tree species – **including planted species** - meeting the minimum height/trunk circumference thresholds listed in Schedule 3.2). This is estimated to be approximately **10,600 trees**.

Option 5: Individually list and protect all of the trees from the 2010 data base that fall within the scope of Schedule 3.2 of the PDP (being key indigenous tree species – **not planted species** - meeting the minimum height/trunk circumference thresholds listed in Schedule 3.2). This is estimated to be approximately **7,600 trees**.

Option 6: Individually list and protect only the non-planted trees from the 2010 data base that have highest biodiversity value – being those that:

- are naturally occurring remnant trees (not planted trees); and
- are key indigenous species particularly at risk in the urban environment; and
- are species that are at risk of decline at a rate that exceeds the rate at which they can naturally regenerate (i.e. a reduced list of key indigenous tree species); and
- provide an important biodiversity function in buffering or connecting ecological sites containing associated trees; and
- have biodiversity values of 10 /10 and large trunk circumference (over 180cm)

This is estimated to be approximately **660 trees**.

Option 7: (Recommended) Individually list and protect only the non-planted trees from the 2010 data base that have high biodiversity value – being those that:

- are naturally occurring remnant trees (not planted trees); and
- are key indigenous species particularly at risk in the urban environment; and

- are species that are at risk of decline at a rate that exceeds the rate at which they can naturally regenerate; and
- provide an important biodiversity function in buffering or connecting ecological sites containing associated trees; and
- have biodiversity values of 8/10 or greater.

This is estimated to be approximately **2300 trees**.

Option 8: Adopt Option 3 to protect trees in ecological sites and separately evaluate the trees identified in Option 6 to determine whether they qualify as notable trees. This would include further consultation with those landowners and a separate variation adding agreed trees to the notable tree schedule in Chapter 10 of the PDP.

100 The refined tree list referred to in Options 6 and 7 would be limited to the following :

Kohekohe	Dysoxylum spectabile
Titoki	Alectryon excelsus
Totara	Podocarpus totara
Kahikatea	Dacrycarpus dacrydioides
Rimu	Dacrydium cupressinum
Rewarewa	Knightia excelsia
Tawa	Beilschmiedia tawa
Hinau	Elaeocarpus dentatus
Pukatea	Laurelia novaezealandiae
Northern Rata	Metrosiderous robusta
Miro	Prumnopitys ferruginea
Matai	Prumnopitys taxifolia
Nikau	Rhopalostylis sapida
Kaikomako	Pennantia corymbosa
Marbleleaf	Carpodetus serratus
Black beech	Fuscospora solandri
Milk Tree	Streblus banksia
Swamp maire	Syzygium maire
Coastal kanuka	Kunzea amathicola

Rule Options

101 The current rules in the PDP do not providing for any trimming or modification of protected trees without the need for a resource consent. We consider that this is unreasonable and cannot be defended in terms of Section 32.

- 102 In the consultation phase some draft rules for trimming were made available for comment. As a result of this consultation and discussions with Arborists, it has been determined that prescriptive rules are not the most effective and efficient way to proceed.
- 103 The New Zealand Arboricultural Association has a Best Practice Guideline on Amenity Tree Pruning which focuses on the health of the tree and safety. It is considered that requiring compliance with this guide for protected trees would enable trimming to be identified as a permitted activity in the Variation. Policy options, including permitted activity status where supported by expert advice, are still being considered for providing for removal and modification (including dead trees) beyond the guideline. It is considered that this guideline may be useful for owners of trees that are not protected through the PDP.
- 104 In order to incorporate this guideline by way of reference in the PDP is must be separately notified ahead of the variation and feedback considered. Arrangements have been made to action this immediately a Council decision has been made and feedback will be provided at the Council meeting that considers the detail of the variation on 27 August should Council elect to progress some form of variation.

Implications for non-reticulated townships

- 105 The survey provides no information about important indigenous trees in Paekakariki, Te Horo, Te Horo Beach and Peka Peka which do not fall within the definition of 'urban environment' because they are not reticulated.
- 106 These townships are not subject to Rules 3A.1.2 and 3A.1.4 for the 'urban environments' and are not captured by the 2013 RMA amendments requiring site-specific description of trees affected by rules. The non-reticulated townships are, however, subject to 'non-urban' rules 3A.1.3 (trimming indigenous vegetation including trees) and 3A.1.5 (modification of indigenous vegetation including trees). To the extent that those rules seek to protect areas of significant indigenous vegetation or areas of significant habitats of indigenous fauna, they have immediate legal effect.
- 107 The PDP hearing process will consider appropriate alignment of controls in these areas with other urban areas.

CONSIDERATIONS

- 108 The implications and merits of the above options are summarised in the following tables:

Option 1: Allow PDP urban environment tree protection rules to lapse and rely on current suite of non-regulatory methods to maintain biological diversity		
Will it achieve the objective?	No	Cannot be assured of protection of large remnant trees that have genuine biodiversity significance and are particularly at risk in the urban environment
Is it the <u>most appropriate</u> way to achieve the objective?	No	Does not meet the objective
What public benefits will result?	Low	Acknowledging that there are public benefits associated with the existing non-regulatory measures – although they may not necessarily be benefits in terms of retaining trees or maintaining significant biodiversity
What public costs will be incurred?	Neutral	The current non-regulatory methods are in already programmed/funded
What private costs?	Nil	
What environmental outcomes will result?	Potentially Adverse	May result in removal of some individual large remnant trees or groups of remnant trees that have genuine biodiversity significance with the risk of irreversible loss of some significant biodiversity and a failure to maintain biological diversity
What unintended outcomes?	Possibly Adverse	Adverse community response to the withdrawal of historical level of protection (particularly if significant trees are removed) and requests to reinstate or on-going engagement and dissatisfaction over the outcome
What is the risk of not intervening?	Potentially Adverse	As already noted above – potential irreversible loss of some remnant trees that have biodiversity significance and failure to maintain biological diversity
Will it be effective?	No	If it results in irreversible loss of some significant specimens having high biodiversity value
Can it be implemented and/or enforced?	Yes	No enforcement required
Will it be efficient?	No	Does not meet the objective

Option 2: Allow PDP urban environment tree protection rules to lapse and introduce additional non-regulatory methods to assist landowners retain and manage significant indigenous trees on private land		
Will it achieve the objective?	Partly	May result in retention/stewardship of some trees and planting of new species – depends on financial commitment to the measures. Will not necessarily arrest or reverse irreversible loss of particularly large remnant specimens that have important biodiversity value
Is it the <u>most appropriate</u> way to achieve the objective?	No	Useful in combination with other methods but not necessarily completely effective alone
What public benefits will result?	Low	Depending on funds allocated, may benefit small areas or relatively few individual trees that contribute public benefit in terms of biological diversity value (care would be needed to properly target the initiative)
What public costs will be incurred?	Depends	On ongoing funding allocation
What private costs?	Nil to Low	If implemented as a subsidy, private individuals would contribute therefore incur private cost
What environmental outcomes will result?	Positive	Potentially achieves ‘buy-in’ from affected landowners and support for ongoing retention and appropriate stewardship of significant trees
What unintended outcomes?	Potentially Adverse and Positive	Adverse if loss of significant individual or groups of trees with high biodiversity values. Positive if results enhanced community support for tree protection and enhanced planting of indigenous trees on private land
What is the risk of not intervening?	Potentially Adverse	As already noted above – potential irreversible loss of some remnant trees that have biodiversity significance and failure to maintain biological diversity
Will it be effective?	No	If it results in irreversible loss of some significant specimens having high biodiversity value
Can it be implemented and/or enforced?	Yes	No enforcement required
Will it be efficient?	No	Does not meet the objective

Option 3: Individually list and protect all trees from the 2010 data base that fall within the scope of Schedule 3.1 (within ecological sites)		
Will it achieve the objective?	Partly	Addresses the most significant areas of remnant biodiversity
Is it the <u>most appropriate</u> way to achieve the objective?	No	Does not address other significant biodiversity that is located near and supports the healthy functioning of the ecological sites by buffering or providing connections
What public benefits will result?	Low to Moderate	Protects the most significant remnant biodiversity
What public costs will be incurred?	Moderate	Costs of monitoring and enforcement of PDP rules
What private costs?	Moderate	Inhibits use and management and potentially the value of a limited extent of privately-owned urban land (depending on the exact nature of rules adopted). Also the costs of tree maintenance and any consents that may be required or enforcement action pursued
What environmental outcomes will result?	Positive	Could minimise removal of significant indigenous trees from ecologically important areas (may not completely prevent loss)
What unintended outcomes?	Potentially Adverse	Some people may respond by damaging trees or surrounding vegetation in ecological areas (although note that 69% of respondents considered ecological sites to represent significant indigenous trees)
What is the risk of not intervening?	Potentially Adverse	Some indigenous trees that have significant biodiversity value may be felled or damaged irreversibly reducing important biodiversity in a manner that cannot be replicated or regenerated elsewhere
Will it be effective?	Partly	Protects the most significant remnant biodiversity
Can it be implemented and/or enforced?	Yes	Depends on compliance commitment and the ability to monitor change on private land
Will it be efficient?	Potentially Yes	

Option 4: Individually list and protect all trees from the 2010 data base that fall within the scope of Schedule 3.2 (PDP list of key indigenous tree species (including planted trees))		
Will it achieve the objective?	Yes	
Is it the <u>most appropriate</u> way to achieve the objective?	No	The focus of Objective 2.2 is on protecting areas and Option 4 goes beyond this scope
What public benefits will result?	Moderate	Protects a range of biodiversity (consistent with s. 31 RMA function of 'maintaining biological diversity') but excludes some species that are significant in the district
What public costs will be incurred?	Moderate	Costs of monitoring and enforcement of PDP rules
What private costs?	Moderate	Inhibits use and management and potentially the value of a relatively large number of privately-owned urban properties (depending on the exact nature of rules adopted). Also the costs of tree maintenance and any consents that may be required or enforcement action pursued
What environmental outcomes will result?	Positive	May continue to minimise (if not prevent) removal of large numbers of existing indigenous trees
What unintended outcomes?	Potentially Adverse	Some people may respond by damaging trees or trimming existing larger trees down to below the size thresholds thus enabling ultimate felling/removal. Likely to discourage people from planting indigenous species. Community dissatisfaction with the extent of intervention on private land (as reflected in the feedback received)
What is the risk of not intervening?	Potentially Adverse	Some indigenous trees that have significant biodiversity value may be felled or damaged irreversibly reducing important biodiversity in a manner that cannot be replicated or regenerated elsewhere
Will it be effective?	Partly	May not protect some significant species that are not currently included in the Schedule 3.2 lists
Can it be implemented and/or enforced?	Potentially	It will be difficult to monitor and enforce over such a large body of trees and large extent private properties
Will it be efficient?	Potentially Yes	

Option 5: Individually list and protect only non-planted trees from the 2010 data base that fall within the scope of Schedule 3.2 (PDP list of key indigenous tree species)		
Will it achieve the objective?	Yes	
Is it the <u>most appropriate</u> way to achieve the objective?	No	The focus of Objective 2.2 is on protecting areas and Option 4 goes beyond this scope
What public benefits will result?	Moderate	Protects a range of biodiversity (consistent with s. 31 RMA function of 'maintaining biological diversity') but excludes some species that are significant in the district
What public costs will be incurred?	Moderate	Costs of monitoring and enforcement of PDP rules
What private costs?	Moderate	Inhibits use and management and potentially the value of a relatively large number of privately-owned urban properties (depending on the exact nature of rules adopted). Also the costs of tree maintenance and any consents that may be required or enforcement action pursued
What environmental outcomes will result?	Positive	May continue to minimise (if not prevent) removal of large numbers of existing indigenous trees
What unintended outcomes?	Potentially Adverse	Some people may respond by damaging trees or trimming existing larger trees down to below the size thresholds thus enabling ultimate felling/removal. May discourage people from planting beneficial indigenous species even if the rules do not target planted species.. Community dissatisfaction with the extent of intervention on private land (as reflected in the feedback received)
What is the risk of not intervening?	Potentially Adverse	Some indigenous trees that have significant biodiversity value may be felled or damaged irreversibly reducing important biodiversity in a manner that cannot be replicated or regenerated elsewhere
Will it be effective?	Partly	May not protect some significant species that are not currently included in the Schedule 3.2 lists
Can it be implemented and/or enforced?	Potentially	It will be difficult to monitor and enforce over such a large body of trees and large extent private properties
Will it be efficient?	Potentially Yes	

Option 6: Individually list and protect all trees from the 2010 data base that are within Schedule 3.1 ecological sites and, in addition, those that have highest biodiversity value (value 10/10 and 180cm trunk circumference – not planted species)		
Will it achieve the objective?	Partly	Addresses the most significant areas of remnant biodiversity
Is it the <u>most appropriate</u> way to achieve the objective?	No but potentially more appropriate than Option 3	Addresses the 'top-end' of trees within ecological sites as well as other significant biodiversity that is located nearby and supports the healthy functioning of the ecological sites
What public benefits will result?	Moderate	Protects the most significant remnant biodiversity
What public costs will be incurred?	Moderate	Costs of monitoring and enforcement of PDP rules
What private costs?	Moderate	Inhibits use and management and potentially the value of a limited extent of privately-owned urban land (depending on the exact nature of rules adopted). Also the costs of tree maintenance and any consents that may be required or enforcement action pursued
What environmental outcomes will result?	Positive	Could minimise removal of significant indigenous trees from ecologically important areas (may not completely prevent loss)
What unintended outcomes?	Potentially Adverse	Some people may respond by damaging trees to thwart the rules (although note that 69% of respondents considered ecological sites to represent significant indigenous trees). May discourage people from planting beneficial indigenous species even if the rules do not target planted species..
What is the risk of not intervening?	Potentially Adverse	Some indigenous trees that have significant biodiversity value may be felled or damaged irreversibly reducing important biodiversity in a manner that cannot be replicated or regenerated elsewhere
Will it be effective?	Partly	Protects the most significant remnant biodiversity
Can it be implemented and/or enforced?	Yes	Depends on compliance commitment and the ability to monitor change on private land
Will it be efficient?	Potentially Yes	

Option 7: Individually list and protect all trees from the 2010 data base that are within Schedule 3.1 ecological sites and, in addition, those that have high (but not highest) biodiversity (scoring 8/10 or higher)		
Will it achieve the objective?	Partly	Addresses a wider extent of areas of remnant trees having significant biodiversity value
Is it the <u>most appropriate</u> way to achieve the objective?	No but potentially more appropriate than Option 3	Addresses the 'top-end' of trees within ecological sites as well as other significant biodiversity that is located nearby and supports the healthy functioning of the ecological sites
What public benefits will result?	Moderate	Protects a wider extent of the most significant remnant biodiversity
What public costs will be incurred?	Moderate	Costs of monitoring and enforcement of PDP rules
What private costs?	Moderate	Inhibits use and management and potentially the value of a limited extent of privately-owned urban land (depending on the exact nature of rules adopted). Also the costs of tree maintenance and any consents that may be required or enforcement action pursued
What environmental outcomes will result?	Positive	Could minimise removal of significant indigenous trees from ecologically important areas (may not completely prevent loss)
What unintended outcomes?	Potentially Adverse	Some people may respond by damaging trees to thwart the rules (although note that 69% of respondents considered ecological sites to represent significant indigenous trees). May discourage people from planting beneficial indigenous species even if the rules do not target planted species.
What is the risk of not intervening?	Potentially Adverse	Some indigenous trees that have significant biodiversity value may be felled or damaged irreversibly reducing important biodiversity in a manner that cannot be replicated or regenerated elsewhere
Will it be effective?	Partly	Protects the most significant remnant biodiversity
Can it be implemented and/or enforced?	Yes	Depends on compliance commitment and the ability to monitor change on private land
Will it be efficient?	Potentially Yes	

Option 8: Adopt Option 3 to protect trees in ecological sites and separately evaluate the trees identified in Option 6 to determine whether they qualify as notable trees.		
Will it achieve the objective?	Partly	Addresses the most significant areas of remnant biodiversity but will leave a period when these trees will be unprotected.
Is it the <u>most appropriate</u> way to achieve the objective?	No - it trades off owner agreement with period of risk	Addresses the 'top-end' of trees within ecological sites as well as other significant biodiversity that is located nearby and supports the healthy functioning of the ecological sites. However it leaves a period of time when they are unprotected and given the policy of landowner approval to notable trees may not ultimately see all of these trees protected.
What public benefits will result?	Moderate	Likely to protect the most significant remnant biodiversity
What public costs will be incurred?	Moderate	Costs of monitoring and enforcement of PDP rules
What private costs?	Moderate	Inhibits use and management and potentially the value of a limited extent of privately-owned urban land (depending on the exact nature of rules adopted). Also the costs of tree maintenance and any consents that may be required or enforcement action pursued
What environmental outcomes will result?	Negative	Unlikely to prevent some loss of significant tree species in the short term.
What unintended outcomes?	Potentially Adverse	Some people may use the gap in protection to remove trees or not agree to being included to ensure opportunity to remove in the future.
What is the risk of not intervening?	Potentially Adverse	Some indigenous trees that have significant biodiversity value may be felled or damaged irreversibly reducing important biodiversity in a manner that cannot be replicated or regenerated elsewhere
Will it be effective?	Partly	Protects the most significant remnant biodiversity
Can it be implemented and/or enforced?	Yes	Depends on compliance commitment and the ability to monitor change on private land
Will it be efficient?	Potentially Yes	

CONCLUSION

109 The assessments above have concluded that reliance solely on non-regulatory measures alone is not sufficient to avoid the risk of irreversible loss of remnant trees with biodiversity significance (Options 1 and 2). Option 3 focusses on the existing ecological sites only and while this is recommended as part of the variation it similarly results in risk for significant species outside of ecological sites.

110 Options 4 and 5 are based on the PDP Schedule 3.2 and are not recommended for reasons set out earlier in this report. Options 6, 7 and 8 are the focus of recommended options and it is considered that the best section 32 performance arises from option 7 if private costs are reduced through the enhanced regulatory measures potentially identified.

111 The options have been ranked in terms of performance against the requirements of section 32 as follows:

<u>Ranking</u>	<u>Option</u>
1	Option 7: Trees in eco sites plus trees with biodiversity score of 8 or more. 2,300 trees
2	Option 6: Trees in eco sites plus trees with biodiversity score of 10 or 180 cm trunk. 660 trees
3	Option 8: Option 6 pursued through separate notable trees process
4	Option 3: Trees in eco sites only
5	Option 2: Enhanced non regulatory methods only
6	Option 1: Existing non regulatory methods only
7	Option 5: PDP approach excluding planted trees
8	Option 4: PDP approach

Next steps

112 If Council elects to progress a variation to the PDP the next step will be to compile the specific changes to the PDP and section 32 assessment report in accordance with the option selected. The approval of Council will be sought for public notification of the proposed variation at the Council meeting on 27 August.

RECOMMENDATIONS

113 That Council request staff to prepare a Variation to the Proposed District Plan relating to trees on urban allotments as defined in the Resource Management Act that:

- a. identifies and schedules trees on urban allotments that are within ecological sites in the Proposed District Plan;
- b. amends the rules relating to protected trees in urban areas, including notable trees, to enable trimming of trees in accordance with New Zealand Arboricultural Association Best Practice Guideline on Amenity Tree Pruning Version 3 April 2011 to be undertaken as a permitted activity.

114 That a schedule of additional individual or groups of trees be compiled that the amended rules shall also apply to. The schedule is to be based on trees assessed in the 2010 urban trees survey to have a biodiversity value of 8 or more and any additional trees that are more than 4 m high and have a girth at

1.4 m above ground level of more than 950 mm. These trees are to be limited to the species listed in Appendix 2. (Option 7)

115 That the proposal to incorporate New Zealand Arboricultural Association Best Practice Guideline on Amenity Tree Pruning Version 3 April 2011 be publicly notified for comment in accordance with Clause 43 of Part 3 of the First Schedule to the Resource Management Act 1991.

116 That a package of non-regulatory measures be developed for Councils future approval in relation to protected urban trees. This shall include consideration of :

- a. advice on best practice management of trees;
- b. discounted fees and charges; and
- c. financial assistance with maintaining protected urban trees

Report prepared by

Approved for submission

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ATTACHMENTS

Appendix 1 Issues and comments raised in feedback received

Appendix 2 Priority Tree Species

APPENDIX 1: ISSUES AND COMMENTS RAISED IN FEEDBACK RECEIVED

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
	Reasons why respondents oppose protection of indigenous trees on private property:			
1.	Landowners should have the freedom to make decisions about and manage their own properties – the proposed rules are an undue invasion of private property rights.	26	39	65
2.	The trees on the property were planted by the respondent or previous owners – and owners should be able to decide how to manage planted trees themselves.	31	16	47
3.	As trees grow larger, they shade outdoor areas, houses, neighbours, vegetable gardens and create cold and damp houses (putting people’s health at risk) and outdoor areas, and prevent other trees growing.	27	17	44
4.	It will discourage people from planting native trees.	25	17	42
5.	Trees outgrow their situation and get too big, become dangerous with overhanging branches.	21	9	30
6.	The draft UTV rules are simply undermining the intention of the RMA amendments re blanket tree rules.	7	13	20
7.	Respondent disputes that there are any naturally-occurring locally important indigenous trees on his/her property or does not consider the indigenous trees present to be significant.	16	2	18
8.	The proposed rules are too restrictive and will restrict future development of the property (and are therefore a cost) – will irritate and alienate the community.	12	4	16
9.	It will encourage people to trim the indigenous trees or damage/remove them so as to avoid the rules in future.	7	5	12
10.	The roots of large trees cause drainage issues.	7	3	10
11.	Concerned about the amount of ratepayers’ money being spent on this tree exercise when Council should be focusing on core business	8	2	10
12.	Get real – stop trying to protect all indigenous trees – and protect the very notable, significant and natural ecologically rare and threatened species and those on public land; scattered indigenous trees are not significant.	4	5	9
13.	Large, overhanging, trees become untidy in an urban setting and drop leaves (blocking guttering).	5	3	8
14.	Respondent supports protection of indigenous trees – just not the draconian measures proposed.	5	3	8
15.	Large trees get too close to overhead wires.	7	-	7

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
16.	Residential sections are now too small to accommodate large trees.	6	1	7
17.	Overgrown and large trees can prevent vehicle and pedestrian access onto properties and around houses.	4	1	5
18.	Many old indigenous trees are diseased and unstable (naturally) and need trimming or removal.	3	2	5
19.	Trees overhanging neighbouring sections also adversely affect other properties; and restrictions on trees on adjoining properties also affect neighbours.	-	5	5
20.	Indigenous trees close to houses are a fire hazard	1	2	3
21.	s. 6 (c) of the RMA does not mandate protection of scattered individual indigenous trees (its concern is with areas) and these should already have been identified as ecological sites.	-	3	3
22.	We have fed and pruned neglected species on our land for years – and don't wish to pay to maintain them as well.	-	1	1
23.	The 4-metre minimum threshold height for significance of trees should be reduced to 3m because many will never reach 4m but are nevertheless significant ecologically.	-	1	1
24.	Protection should be extended to all trees.	-	1	1
25.	Council is not acting in the best interests of landowners.	-	1	1

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
	Reasons why respondents oppose having to get resource consent for trimming or modification of indigenous trees in ecological sites, listed as key indigenous tree species or rare and threatened tree species:			
26.	Resource consent process is time-consuming and costly, creates uncertainty for landowners; is too much bureaucracy just for trimming trees for legitimate reasons (e.g. to reduce shading, improve living conditions) – it's just a tax on landowners	42	21	53
27.	Trees are not public property. On private property, landowners should have sole right to control trees.	26	12	38
28.	Should be able to plant and look after trees on private property without interference from Council.	11	20	31
29.	Respondent agrees there is a need to protect significant indigenous trees, but not <u>all</u> vegetation is significant (for example, trees within ecological sites and large, iconic, remnant indigenous trees are significant but isolated individual trees are not significant). Some of the trees on the 'key indigenous tree species' list (like Taupata) are virtual weeds – they seed and grow prolifically. Agree that ecological sites and rare and threatened species are significant – but not necessarily others.	13	18	31
30.	The threshold for triggering resource consent is too restrictive.	19	-	19
31.	Because of problems with shading, roots interfering with drainage, conflict with overhead wires, trees getting too big and untidy in an urban setting, the need to trim to open section up for security reasons. Seems to be at odds with Council's other sustainability goals.	7	-	7
32.	Should not need to get a resource consent where tree trimming or removal are necessary to avoid trees damaging buildings.	5	2	7
33.	Resource consents are counter-productive – there are other more effective methods to achieve protection; requiring resource consent penalises people for managing trees well.	2	4	6
34.	If consent is required, it should provide for multiple trimming occasions over several years rather than requiring a fresh consent every time someone wants to trim.	2	-	2
35.	Resource consents are inflexible – means people are unable to trim trees when they need to.	2	-	2
36.	Resource consent is OK if common sense is applied.	-	1	1
37.	Most people will not ask for consent before trimming trees.	-	1	1

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
	How much trimming of indigenous trees should be permitted?			
38.	It should be up to individual landowners to decide.	58	37	95
39.	Landowners including neighbours should be able to cut back horizontal growth and trim tree height to improve living conditions in urban areas.	46	36	82
40.	Landowners should be able to trim or completely remove trees at their sole discretion.	40	25	65
41.	Should be sufficient to prevent shading and allow sunlight to get in; to open up views; and enable access.	33	13	46
42.	The proposed distances from walls in the draft UTV rules are insufficient to allow for access around buildings and should be increased.	18	8	26
43.	Need to be able to trim so as to avoid trees creating a risk to life or damaging property.	17	7	24
44.	There should be a distinction between pre-existing remnant indigenous trees and planted indigenous trees; landowners should be able to trim and remove planted trees.	17	1	18
45.	Trimming should be allowed that doesn't adversely affect the tree's health; trimming to enhance tree health should be permitted.	10	4	14
46.	There are so many of some species regenerating naturally, with many seedlings spreading, that all trimming and thinning should be allowed.	9	3	12
47.	Native trees benefit from judicious pruning (e.g. Taupata).	6	4	10
48.	It is too difficult to specify fixed amounts in a rule because you can't anticipate all situations – it depends on the situation.	5	5	10
49.	It is not for Council to limit trimming activities on private property.	6	2	8
50.	Need to be able to manage diseased and damaged trees including culling diseased and dying trees.	4	3	7
51.	The respondent uses qualified arborists to trim trees on the property and considers that, if the work is done by a qualified arborist, it should be permitted.	4	-	4
52.	Should be determined by an independent arbiter before trimming takes place.	-	1	1
53.	There should be limits on removal of dead timber.	-	1	1
54.	There is a need to clear fence lines and for power lines and other utilities.	-	1	1

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
	Reasons why respondents oppose the requirement for resource consent for trimming or modification in excess of the limits proposed by the draft UTV rules:			
55.	Resource consents are costly and time-consuming for the ordinary person; it is ridiculous to have to get a resource consent just for trimming; too bureaucratic.	44	15	59
56.	It should be up to the landowner how much trimming or modification (even removal) – with no restrictions on private property.	14	20	34
57.	There are some trees (e.g. trees in ecological sites and large, iconic, remnant indigenous trees) that should be protected but not <u>all</u> trees warrant protection; only old specimens of certain species (and not all of the species on the 'key indigenous tree species' list); 4m height threshold is too low for fast-growing species.	13	8	21
58.	Should not have to get a resource consent to trim or remove planted trees.	5	3	8
59.	Home owners have to be able to live and work in an urban environment and need to be able to trim to address shading and allow sunlight so as to maintain quality of life.	7	-	7
60.	There is too much potential for third-party (neighbours') interference; will lead to disputes and litigation.	4	1	5
61.	With qualified arboricultural advice, the removal of dead or fatally diseased trees should be allowed.	3	1	4
62.	Resource consents are too onerous – particularly on small residential sections.	4	-	4
63.	Health and safety (of home owners) should override the need for consents.	3	-	3
64.	Fails to take into account other limitations on the development of properties – such as flood hazard. Tree restrictions compound other restrictions and limit the potential for urban development.	2	-	2

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
	Other comments:			
65.	There is a need to identify specifically which trees on individual properties are to be protected. Also some respondents complained that this was the first they had heard since 2010 about any significant trees identified by the 2010 survey which they consider is unacceptable. There were also concerns expressed that Council officers may have entered private property in 2010 without owners' consent.	17	2	19
66.	Council should discuss tree protection with land owners individually – and agree on protection on a case-by-case basis.	7	11	18
67.	Council should focus on its core business (flood protection, wastewater, roads, water supply).	7	8	15
68.	Council should be encouraging people to plant native trees – not discouraging them with rules.	10	5	15
69.	Let reasonable people make their own reasonable decisions; the default position should be to trust property owners – with appropriate light-handed regulation.	3	4	7
70.	Council needs to undertake a full evaluation of risks and benefits and costs – and take a balanced approach.	3	4	7
71.	Council should plant more trees – and it doesn't matter whether they are indigenous or exotic.	6	1	7
72.	Resource consents should be free or easy and simple to get – simplify the rules.	3	4	7
73.	Let the rules lapse in relation to scattered individual indigenous trees that are not in ecological sites, not rare and threatened and not notable (accepts rationale to protect within ecological sites); or let the rules lapse completely.	-	7	7
74.	The proposed rules are not appropriate in the urban area; protection is appropriate for some species – such as bush remnants – but not on small residential sections.	7	-	7
75.	The proposed rules will not encourage property owners to take responsibility for their native trees.	3	2	5
76.	Trees have a life cycle: they get bigger over time and eventually they die. The respondents are concerned about practicality and cost of monitoring over life of trees.	4	-	4
77.	Schedule 3.2 is ambiguous with respect to the height/circumference thresholds for different species.	-	4	4
78.	The indigenous trees are already existing – this demonstrates the lack of need for any rules that have immediate effect – let alone the disproportionate restrictions proposed. People have already demonstrated their commitment to keeping valued trees.	-	3	3
79.	Why isn't the Council as concerned about non-indigenous trees – they also have ecological value and add diversity.	3	-	3

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
80.	Trees before people? Put people before trees.	3	-	3
81.	The rules will make properties a liability rather than an asset – and harder to sell.	1	2	3
82.	The Council should take the opportunity to re-think the approach to tree protection completely.	1	2	3
83.	If the benefit is genuinely a public benefit, it should be paid for entirely by public funds – instead of creating under-investment in the trees of actual interest.	-	3	3
84.	Split the variation into two (trees that need immediate protection and those that don't) and delay the second part of the variation pending further work and discussion with landowners.	-	2	2
85.	Schedule 3.2 fails to protect notable trees that people actually treasure (e.g. large pohutukawa)	-	2	2
86.	The PDP rules need greater attention to detail – currently they are poorly drafted.	-	2	2
87.	The RMA intends that rules for tree protection will have immediate effect – this will compound all adverse issues highlighted.	-	2	2
88.	Exactly what is the environmental problem the Council is trying to address? What is the risk of not using rules?	-	2	2
89.	Are the proposed provisions enforceable?	-	2	2
90.	There are implications for the non-urban environments in the PDP – and a lack of alignment between the rules for similar living environments.	-	2	2
91.	Abandon use of the defined expression 'urban environment' – any rules should apply to PDP zones.	-	2	2
92.	Perhaps there should be a regulation controlling the maximum height of a tree growing close to a house (to ensure sunlight to the house).	2	-	2
93.	The draft rule amendments are heading in the right direction but need more relaxation of the rules.	2	-	2
94.	Some tree trimming by network utility companies has an adverse impact.	1	1	2
95.	The proposed rules are nothing more than a 'land grab' of private land.	1	-	1
96.	There are inconsistencies in the way the rules would apply – similar trees would be protected on one property but not on another.	1	-	1
97.	Identification of a site as an ecological site will lower the value of the property with no rates relief – the Council is welcome to negotiate the purchase of the property	1	-	1
98.	Consider impacts for neighbouring properties	-	1	1
99.	Focus instead on preventing high rise and excessive buildings.	-	1	1
100.	Significant trees are already captured as 'notable' or 'significant areas' under the PDP.	-	1	1
	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
	Other suggested approaches:			
101.	Council should plant more indigenous trees on parks and reserves and other public land to maintain district-wide biodiversity; Council should stick to planting and maintaining indigenous trees on public land.	22	13	35
102.	Education and encouragement and advice would produce better outcomes than rules.	11	6	17
103.	Encourage the community to plant indigenous trees (rather than penalising with rules).	6	-	6
104.	People make mistakes in plant choice – allow people to remove trees in inappropriate places and replace them with appropriate trees in appropriate places.	3	1	4
105.	Rates rebates or other incentives for indigenous species maintained by private land owners.	2	2	4
106.	Council should do the trimming at Council's expense if you want it done properly and trees really protected.	2	2	4
107.	Put photo ads in the local paper and on the web site showing what type of trees are to be protected – or label the trees in public parks so people can easily identify species.	3	-	3
108.	Please work <u>with us</u> and not against us.	1	2	3
109.	Team up with garden centres to provide discounts and encourage purchase of appropriate indigenous species.	1	2	3
110.	Protect trees such as: Tawa, Pukatea, Totara, Nikau, Myrtle, Rata, Maire, Ngaio, Kauri, Rimu, Pohutukawa, Banksia (in the sand zone), Norfolk Pines, Kowhai, Kahikatea, Kermadec Pohutukawa, slow-growing indigenous trees only.	Various		
111.	Do not protect: Pohutukawa, Cabbage Trees, Kanuka, Mahoe, Karaka, Akeake, Matipo, Taupata, Ngaio, Phoenix Palm, any trees not from Kapiti's ecological district, Corokia Cotoneaster, Manuka, Wharangī, Kaikomako.	Various		
112.	Council should do more to reduce the cat population and other pests.	2	-	2
113.	Provide free advice to landowners.	1	1	2
114.	Need clear identification of protected trees on LIMs.	1	1	2
115.	Increase the minimum lot size in designated urban areas if you really want to protect trees.	1	-	1
116.	Get rid of the power lines.	1	-	1
117.	Have workshops on tree pruning and tree trimming.	1	-	1
118.	Consider allowing offset provision to compensate for any trees lost (on different part of the property or on a different site).	1	-	1
119.	Keep a list of accredited arborists to be used to trim key trees and provide assistance with their training.	1	-	1
120.	Donate native trees and shrubs to any new dwelling.	1	-	1

	Comment:	From respondents who were sent letters:	From respondents not sent letters	Total Similar Comments:
121.	Provide opportunities for people to do 'walk-about' to learn about trees – to become informed.	-	1	1
122.	Create a well-established eco-system e.g. re-establishing karaka trees to feed kereru.	-	1	1
123.	Buy properties if Council really wants to protect the trees or negotiate a covenant.	-	1	1
124.	Leave the ODP rules as they are.	-	1	1

Appendix 2 Priority Tree Species

Kohekohe	<i>Dysoxylum spectabile</i>
Titoki	<i>Alectryon excelsus</i>
Totara	<i>Podocarpus totara</i>
Kahikatea	<i>Dacrycarpus dacrydioides</i>
Rimu	<i>Dacrydium cupressinum</i>
Rewarewa	<i>Knightia excelsia</i>
Tawa	<i>Beilschmiedia tawa</i>
Hinau	<i>Elaeocarpus dentatus</i>
Pukatea	<i>Laurelia novaezealandiae</i>
Northern Rata	<i>Metrosideros robusta</i>
Miro	<i>Prumnopitys ferruginea</i>
Matai	<i>Prumnopitys taxifolia</i>
Nikau	<i>Rhopalostylis sapida</i>
Kaikomako	<i>Pennantia corymbosa</i>
Marbleleaf	<i>Carpodetus serratus</i>
Black beech	<i>Fuscospora solandri</i>
Milk Tree	<i>Streblus banksia</i>
Swamp maire	<i>Syzygium maire</i>
Coastal kanuka	<i>Kunzea amathicola</i>