

**KAPITI COAST DISTRICT PLAN**  
**PROPOSED VARIATION NO1: URBAN TREES**  
**SECTION 32 ASSESSMENT REPORT**

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**1. INTRODUCTION**

- 1 The Kapiti Coast District Proposed District Plan (PDP) was publicly notified on 29 November 2012. In response to public concern about aspects of the Plan, the Council commissioned an Independent Review of the PDP in October 2013. As a result some provisions have been withdrawn Council officers have been engaging with submitters ahead of the hearings planned for 2016. As part of this process a Submitter Engagement Version of the PDP has been prepared and publicly released.
- 2 While there are some submissions to the PDP on certain urban tree matters, Proposed Variation 1, is being actioned at this time because of the provisions of the Resource Management Amendment Act 2013. This requires that Plans must specifically identify trees that are subject to rules in the plan where they are located on urban allotments. Existing rules that do not meet these requirements will lapse on 4 September 2015.
- 3 This report provides
  - A general description of the proposed variation
  - Detail of the background to urban tree protection rules in the Kapiti District Plans.
  - Detail of the consultation undertaken in preparing this variation and the feedback received.
  - Identification of options relating to ecological sites, rules for protected trees and whether and to what extent additional significant indigenous trees should be protected.
  - Assessment of the options in accordance with the requirements of section 32 of the Resource Management Act.

**2. GENERAL DESCRIPTION OF PROPOSED VARIATION 1**

- 4 Variation 1 concerns ecological sites identified in the PDP that overlap onto urban allotments and rules relating to significant indigenous vegetation as defined in Schedule 3.2 to the Plan.
- 5 The key features of the variation are:
  - The addition to schedule 3.1 of a description of trees on each urban allotment that is part of an ecological site.

- The addition of schedule 3.2 A identifying trees on specific urban properties that are to be subject to rules. As a consequence Schedule 3.2 is confined to rural areas and the not fully serviced areas of Paekakariki, Te Horo Beach and Peka Peka.
- Replacement of rule 3A.1.2 with a new rule that enables trimming of protected trees as long as it is undertaken by a qualified contractor and in accordance with the Arboricultural Association Best Practice Guideline on Amenity Tree Pruning which is incorporated by reference into the District Plan.
- The addition of a rule requiring resource consents classed as a controlled activity for removal of a dead tree or trimming beyond that permitted if supported by an arborists report.
- The addition of a rule requiring resource consent as a restricted discretionary activity for modification of a protected tree beyond that permitted by the trimming guide and for removal of any tree if not supported by an arborists report.
- The addition of a definition of “tree”, amendment to the definition of “trimming” and amendment to the definition of “modification of vegetation”.

### 3. BACKGROUND

#### 3.1 Blanket Urban Tree Protection Rules

- 6 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).
- 7 The relevant rules are 3A.1.2 and 3A.1.4 on pages 3-26 and 3-27 of the PDP.
- 8 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.
- 9 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.
- 10 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.
- 11 The 2013 RMA amendments are concerned with ‘trees’ rather than ‘vegetation’.
- 12 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.

### 3.2 Timeframe for action and immediate legal effect of variation

- 13 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.
- 14 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.
- 15 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.

### 3.3 The operative district plan tree protection rule

- 16 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.
- 17 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.
- 18 The 'Native Vegetation' standard also controls activities affecting trees listed in the Heritage Register.
- 19 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 be widely understood by the general community.

### 3.4 The RMA changes

- 20 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'.
- 21 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 in paragraph 5 above.

### 3.5 The meaning of 'urban environment'

- 22 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 4,000m<sup>2</sup>; 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.

- 23 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.

- 24 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'.<sup>1</sup>*

- 25 It is important to note that in terms of PDP rules, those relating to ecological sites have had immediate legal effect but those relating to key indigenous tree species have not. For the latter the ODP rules have continued alone. It has been explained above that the variation will have legal effect if notified before the 4<sup>th</sup> September but this is limited to application to the definition of urban environment. This means that any provisions that apply to a property within the serviced urban zones but greater 4000m<sup>2</sup> in area or without a dwelling on the property, is not subject to the new rules until there are decisions on submissions. This means that for these properties the provisions in the ODP will continue to apply. The ODP will also continue to apply to non reticulated towns of Paekakariki, Te Horo and Peka Peka and also to the rural zones.

### 3.6 Councils 2010 urban tree survey

- 26 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

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

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.

- 27 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*<sup>2</sup>. Accordingly, the report and the spreadsheet of identified trees included within it have remained a source document rather than a published publicly available report.
- 28 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.*<sup>3</sup> 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).
- 29 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
  - 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

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<sup>2</sup> Preface, page 4 of the KCDC Tree Survey 2009-10 Final Report

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

- 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).
- 30 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.

#### 4. CONSULTATION UNDERTAKEN

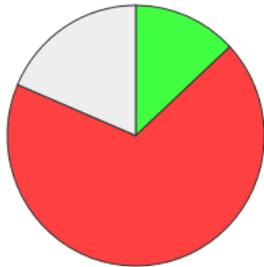
- 31 A programme of consultation has been undertaken as part of the development of this Variation. In particular, letters were sent to all owners of properties containing trees identified by the 2010 tree survey that fall within the scope of Schedules 3.1 and 3.2 – being:
- a) Ecological sites; and
  - b) Key indigenous tree species meeting the minimum height or trunk circumference thresholds specified in Schedule 3.2.
- 32 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 trees<sup>4</sup>. The project team has also advised iwi through Council's ART forum. The project team also held a workshop with local arborists and arboricultural contractors.
- 33 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. Almost 200 feedback forms were 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.
- 34 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.

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<sup>4</sup> Clause 3 Schedule 1 to the RMA

- 35 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.
- 36 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).

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
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

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

- 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;*
- 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;*
- The proposed rules will discourage people from planting native trees in the future (and may already have done so);*
- 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;*
- Trees outgrow their situation, get too big and can become dangerous with overhanging branches.*

- 38 The feedback form explained that the PDP rules do not permit any trimming of locally indigenous vegetation 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%)**

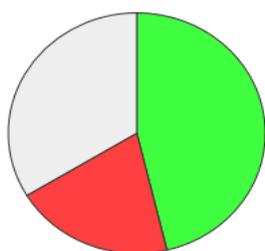
	% Total	% Answer	Count
Yes	7.04%	8.48%	14
No	75.88%	91.52%	151
[No Response]	17.09%	--	34
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

- 39 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 respondents 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.

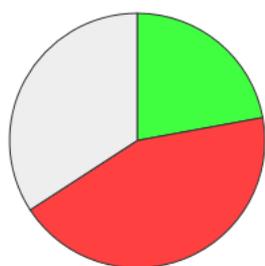
40 The feedback form also asked whether the three categories (ecological sites, key indigenous tree species and rare and threatened species) represent significant trees. The responses are shown below. Of the people who answered the question, 67% to 69% consider ecological sites and rare and threatened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

#### Ecological Sites



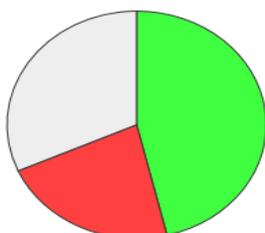
Question responses: <b>132 (66.33%)</b>			
	% Total	% Answer	Count
Yes	46.23%	69.70%	92
No	20.10%	30.30%	40
[No Response]	33.67%	--	67
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

#### Key Indigenous Tree Species



Question responses: <b>131 (65.83%)</b>			
	% Total	% Answer	Count
Yes	22.11%	33.59%	44
No	43.72%	66.41%	87
[No Response]	34.17%	--	68
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

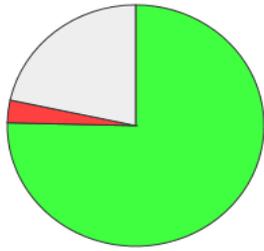
#### Rare & Threatened Species



Question responses: <b>136 (68.34%)</b>			
	% Total	% Answer	Count
Yes	46.23%	67.65%	92
No	22.11%	32.35%	44
[No Response]	31.66%	--	63
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

41 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%)**

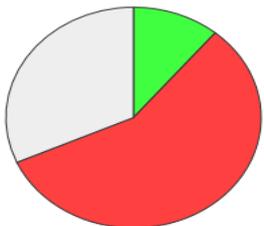
	% Total	% Answer	Count
Yes	75.38%	96.15%	150
No	3.02%	3.85%	6
[No Response]	21.61%	--	43
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

42 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;

43 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’. Interestingly, 22 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?

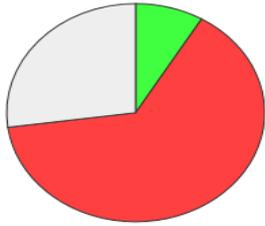


Question responses: **136 (68.34%)**

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

44 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’. Again, interestingly, 17 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
<b>Total</b>	<b>100.00%</b>	<b>100.00%</b>	<b>199</b>

- 45 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.*
- 46 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.*
- 47 The feedback form also invited respondents to suggest other things that the Council should be doing instead of, or, 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.*
- 48 The following conclusions can be drawn from the feedback:
- There is very little support for the PDP rules that would require resource consent for any trimming or removal of protected indigenous trees;
  - 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);
  - 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;
  - 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.

## 5. REVIEW OF THE PDP PROVISIONS

49 As part of the assessment of this variation the approach taken in the PDP has been critically reviewed and this has identified a number of issues as follows:

- 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 list 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 tree 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' report<sup>5</sup>) 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.

- 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 recommended<sup>6</sup> limited provision for trimming but this was not adopted.
- g) The Handford report recommended<sup>7</sup> 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 height<sup>8</sup>. 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 areas<sup>9</sup> – not planted trees. The PDP rules apply to both planted and naturally-established indigenous species. That approach is not consistent with the current ODP or the recommendations 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.

50 Given the issues above it is considered that a wider review of the PDP approach to protecting indigenous trees in the urban environment is required rather than simply a conversion of these provisions to identify specific trees. Accordingly, the following section 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.

## **6. RMA FUNCTIONS AND DUTIES IN RELATION TO INDIGENOUS BIODIVERSITY**

51 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*

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

<sup>6</sup> Handford report - page 17

<sup>7</sup> Handford report - paragraph 2, page 16

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

<sup>9</sup> Handford report - section 4.2.2 page 14

*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.'*

52 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 stated in paragraphs (a) to (c) or which are affected by those matters.'*

53 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'*

54 As earlier noted, the focus of section 6 (c) is 'areas'.

55 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 –*

*iii the maintenance of indigenous biological diversity.'*

56 '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'*.

57 '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.'*

58 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?'

## 6.1 Hierarchy of RMA plans

59 The PDP must give effect to<sup>10</sup>:

- 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.

60 The PDP must not be inconsistent with any regional plan<sup>11</sup> that contains objectives, policies, and methods for maintaining indigenous biological diversity.

## 6.2 NZ Coastal Policy Statement

61 Much of the urban area of the Kāpiti Coast district is within the coastal environment<sup>12</sup>. The particularly relevant objectives and policy elements 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**

*In relation to the coastal environment:*

*(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;*

*(j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.*

<sup>10</sup> Section 75 (3) of the RMA

<sup>11</sup> Sections 75 (4) and 31 (1) of the RMA

<sup>12</sup> As mapped on the PDP maps

### **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.

### **6.3 The Wellington Regional Policy Statement**

62 Objective 16 of the 2013 RPS is:

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

63 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“*

64 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.

65 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.’*

66 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.*

67 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.

68 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.

## **6.4 Regional Plans**

69 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.

## **7. VALUES OF TREES IN THE URBAN ENVIRONMENT**

70 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.

- 71 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*).
- 72 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
- 73 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.
- 74 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.
- 75 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.
- 76 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.
- 77 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.
- 78 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. These can be important issues themselves in terms of managing the adverse effects of trees on urban living amenity and ensuring a safe residential environment.

## 8. THE RESOURCE MANAGEMENT ISSUE FOR URBAN TREES

- 79 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.
- 80 The PDP states, amongst the explanatory text<sup>13</sup> 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.
- 81 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 relevant issues for significant indigenous trees within urban environments are considered to be:
- *How to accommodate human urban activity without material irreversible loss of areas of significant indigenous vegetation; and*
  - *How to consolidate and capitalise on the remnant indigenous biodiversity to arrest and reverse its decline.*
- 82 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.

## 9. ADDITIONAL CONSULTATION WITH IWI.

- 83 Section 6 (e) of the RMA obliges councils, in preparing plans and plan variations, to recognise and provide for the following (amongst other matters) as matters of national importance:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development*
- 84 Section 8 of the RMA requires that, in achieving the purpose of the Act, all persons exercising functions and powers under it in relation to managing the use, development, and protection of natural and physical resources shall take into account the principles of the Treaty of Waitangi (Te Tiriti of Waitangi).
- 85 Section 7 requires that all persons exercising functions and powers under the Act (again, in relation to managing the use, development, and protection of natural and physical resources) shall have particular regard to (amongst other matters):
- (a) kaitiakitanga:
    - (aa) the ethic of stewardship:
  - (c) the maintenance and enhancement of amenity values:
  - (d) intrinsic values of ecosystems:
  - (e) ...
  - (f) maintenance and enhancement of the quality of the environment:

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

(g) any finite characteristics of natural and physical resources:

86 In addition, one of the explicit functions of territorial local authorities under section 31 of the Act is the control of any actual or potential effects of the use, development, or protection of land including for the purpose of (iii) the maintenance indigenous biological diversity (amongst other functions).

87 The RMA does not include a definition of all of the concepts embraced by sections 6, 7 and 8.

88 The Council has sought, through the Tangata Whenua Working Party, to understand the relationship of Tangata Whenua and their culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga within the District. The report that resulted from Te Haerenga Whakamua provides an analysis of the social, environmental, economic, and cultural concerns of the District's three mana whenua. Importantly, it captures the specific issues that iwi are concerned with in relation to the future sustainability, growth and development of the Kāpiti environment.

89 Under the heading 'ART & Biodiversity', the Te Haerenga Whakamua report includes the following quoted statement:

*'...Māori communities do not value biodiversity for its potential to harness, unlock or unleash profit or to transform our economy and build economic prosperity; rather it is valued as being integral to who we are. Biological diversity is a critical factor in the survival of our cultural diversity and well-being as indigenous peoples.'*<sup>14</sup>

90 The report states that *'the decreasing indigenous biodiversity and taonga species within the Kāpiti Coast are important issues facing tangata whenua. ART members explained that their cultural health is dependent on "the ability to gather, prepare and share traditional food from the land, forests, sea, and streams." As a matter of cultural survival ART "support the full recognition of the need to preserve and restore the natural biodiversity of the area." The following proverb speaks to the importance of biodiversity to Māori identity:*

*'Kei raro i ngā tarataru, ko ngā tuhinga a ngā tūpuna'*  
(Beneath the herbs and plants are the writings of the ancestors).

91 The report continues: *'ART would like to see the utility of kaupapa Māori environmental indicators to "measure environmental health and biodiversity of the district – developed by tangata whenua with the assistance of Council.'*

92 The concern of tangata whenua about declining biological diversity was explicitly considered in the course of the urban tree variation project and is discussed in detail in the Wildlands report (page 8). The Te Haerenga Whakamua report records ART's desire to have an *'integration of biodiversity maintenance provisions into all aspects of planning policy'*. The four strands of Te Haerenga Whakamua propose a number of initiatives and tikanga to give expression to the values identified and to protect and manage biological diversity – including the following:

- Indigenous flora and fauna monitoring programmes and the inclusion of kaupapa Māori criteria when assessing flora and fauna sites and areas and in developing Māori environmental health monitoring indicators
- Education initiatives to incorporate Māori environmental values to ensure that the cultural significance of resources and localities is understood
- Greater emphasis should be placed on regulatory measures to ensure that development or economic imperatives are not able to override the need for biodiversity protection

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<sup>14</sup> Quoting Hutchings & Greensill, 2010 pages 286 -287

- Consideration of the effects of activities on indigenous biodiversity when assessing resource consent applications to ensure that adverse impacts are avoided
- An holistic and integrated planning to achieve biodiversity protection
- Advocacy for the establishment of indigenous ecological corridors from the Tararua Ranges to Kāpiti Island (to include a natural balance of trees and other plants)
- Measures to address stormwater and the management of riparian areas

93 Within the 'biodiversity' chapter, the report concludes by summarising a Māori world view in relation to the environment by reference to the following principles:

*'Humankind's contribution is to enhance and maintain the life support systems of Papatūānuku;*

*People should treat Papatūānuku with love and respect in recognition of her life-supporting function, her role in the creation of the natural world, and her place in our own whakapapa; and*

*We do not own Papatūānuku, but are recipients, and therefore stewards, of the natural environment.'*

94 This last principle above is interesting in light of the discussion at the 11 August 2015 Council meeting at which a broad spectrum of views and values was canvassed in relation to remnant indigenous trees on privately-owned land. Reflecting views held within the community, and as indicated by the feedback received from respondents to the recent community consultation, some see trees as private property over which Council should not impose any regulation. Others see trees as private property and consider that District Plan intervention could only be justified if there is a clear public good reason based on the demonstrable biodiversity significance of individual trees.

95 The Te Haurua Whakamua report defines 'taonga' as:

***'Taonga:***

*Definitions: An object or resource which is highly valued; items which are greatly reassured and respected; material and non-material elements, which shape a group's identity and status; treasure; property; a highly prized object.*

*Explanations: The term taonga describes things of value to tangata whenua and can refer to anything that contributes to the maintenance of a group's intellectual, physical and spiritual estate.*

*All natural resources – air, land and water – are taonga. Taonga are treasures, things highly prized and important to tangata whenua, derived from the gods and left by the ancestors to provide and sustain life.*

*Taonga include both tangible and intangible things such as tikanga (see 'tikanga'), te reo (see 'te reo'), and natural and physical resources, such as mahinga kai (food resources), mountains and rivers.*

***Taonga Tapu***

*Definitions: Things that are special in a cultural, historical and spiritual sense.*

*Explanations: The special qualities attached to such things impose some restrictions upon how we behave toward them.'*

96 As defined by the RMA, 'historic heritage' **means:**

*(a) those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*

*(i) archaeological:*

- (ii) *architectural*;
- (iii) *cultural*;
- (iv) *historic*;
- (v) *scientific*;
- (vi) *technological*; and
- (b) *includes—*
  - (i) *historic sites, structures, places, and areas*; and
  - (ii) *archaeological sites*; and
  - (iii) *sites of significance to Māori, including wāhi tapu*; and
  - (iv) *surroundings associated with the natural and physical resources*

- 97 The PDP has sought to address within Chapter 10 the policies and provisions relating to the management of particular sites, buildings and trees that are of significance because of their cultural, historic and waahi tapu associations. The PDP addresses biological diversity separately from historic heritage (in Chapter 3). The Te Haerenga Whakamua report similarly addresses historic heritage ('landscape, character and heritage') separately from biodiversity.
- 98 Discussions with each iwi have taken place regarding this variation. Ngā Hapū o Ōtaki, Te Āti Awa and Ngāti Toa Rangatira have advised that "whilst further consultation is expected with each iwi regarding this variation, their immediate concern is that the protection is maintained for indigenous tree species. Therefore, it is without prejudice that the three iwi support the proposed variation".
- 99 The Council will continue to work in partnership to understand the significance of trees to iwi and to determine whether there are trees that have cultural importance to tangata whenua and require protection under the PDP.
- 100 This work will include identification of culturally significant trees and the development of a package of non-regulatory measures both for this variation and the PDP as a whole.
- 101 It is noted that a report recommending the establishment of a Proposed District Plan Working Group involving the three iwi is scheduled for consideration at Te Whakaminenga o Kāpiti on 25 August, and the scope of the terms of reference for this Working Group includes the Urban Tree Variation.

## **10. SECTION 32 EVALUATION REQUIREMENTS.**

- 102 A variation to the PDP is considered to be an '*amending proposal*' for the purposes of section 32 of the RMA<sup>15</sup>. The PDP is an '*existing proposal*'.
- 103 Section 32 RMA requires that an evaluation report must be prepared for any amending proposal<sup>16</sup>. A section 32 evaluation report must<sup>17</sup>:
- (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 –*

<sup>15</sup> Section 32 (3) (the urban tree variation it would amend a plan that is already proposed – the PDP)

<sup>16</sup> 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.

<sup>17</sup> Section 32 (1) RMA

- 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.*

104 The assessment of efficiency and effectiveness must<sup>18</sup>:

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

105 For an ‘*amending proposal*’, the examination of whether the proposal is the most appropriate<sup>19</sup> 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.*

## **11 THE PDP OBJECTIVES AND POLICIES.**

106 Chapter 2 of the PDP sets out the objectives that the Plan is to achieve. These objectives will remain if the Variation was to take effect. However some changes may occur to these objectives through the decision making process on submissions.

107 Objective 2.2 is headed Ecology and biodiversity and states

- 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.*

108 Some minor changes to this objective have been suggested in the Submitter Engagement Version but they do not alter the fundamentals of the objective. This objective applies to the whole District and for urban areas needs to be interpreted alongside other objectives including Objective 2.3 on “Development management” which states

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<sup>18</sup> Section 32 (2) RMA

<sup>19</sup> Under section 32 (1) (b) of the RMA

*To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas which can be efficiently serviced and integrated with existing townships, delivering:*

*a) urban areas which maximise the efficient end use of energy and integration with necessary infrastructure;*

*b) a variety of living and working environments in a manner which reinforces the function and vitality of centres;*

*c) resilient communities where development does not result in an increase in risk to life or severity of damage to property from natural hazard events;*

*d) higher residential densities in appropriate areas, and avoidance of such development where it would adversely affect areas of special character or amenity;*

*e) sustainable settlements that are developed in a manner which preserves: natural processes including freshwater systems; areas characterised by productive soils, ecological and landscape importance; and other places of significant natural amenity; and*

*f) an adequate supply of housing and areas for business/employment to meet the needs of the district's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District.*

109 Similarly this variation does not propose to alter the policies in the PDP other than changes that are consequential. As with the objectives these may change through the decision making process on submissions. However, the hearing of submissions on this variation will be heard and considered at the same time as decisions on relevant objectives and policies and will ensure that this variation is able to be effectively integrated into the final form of the plan.

110 The relevant policies in the Natural Environment Section of the Plan are as follows:

*Policy 3.1 Ecosystem Services*

*Subdivision, land use and development shall be undertaken in a manner that ensures any adverse effects on ecosystem services are avoided or, where they cannot be avoided, are remedied or mitigated.*

*Policy 3.3 Protection*

*All new subdivision, land use or development in the District shall protect sensitive natural features, significant locally indigenous vegetation, lookout points, dominant ridgelines and dominant sand dunes and avoid significant adverse effects on these features, in accordance with the following principles:*

*a) development will be located away from mapped and scheduled features;*

*b) tāngata whenua will be consulted to ensure kaitiakitanga is maintained;*

*c) development form will be shaped by natural landforms and waterbodies, including coastal dunes, inter-dune wetlands, rivers and streams, coastal hills and escarpments; and*

*d) active management will be applied through environmental strategies to maintain the integrity of mapped and scheduled features.*

*Policy 3.8 Cumulative Effects*

*Subdivision and development will be designed and located to avoid further cumulative deterioration of sensitive natural features, indigenous vegetation, lookout points, dominant ridgelines and dominant sand dunes in the District.*

*Policy 3.12 Management Approach to Biodiversity Protection*

*Adverse effects from subdivision, use and development on significant indigenous vegetation and significant habitats of indigenous fauna including aquatic ecosystems will be minimised, including by:*

*a) avoiding the removal or significant modification of any significant locally indigenous vegetation, in particular avoiding disturbance of all indigenous vegetation within ecological sites;*

*b) managing land use activities resulting in increased sediment and contaminant levels of surface water, including storm water, to reduce the likelihood of aquatic ecosystems being detrimentally affected;*

*c) creating and maintaining appropriate buffer zones around and linkages between, areas of significant indigenous vegetation, significant habitats of indigenous fauna and around aquatic ecosystems to ensure that wider ecological processes are considered when making decisions about significant sites; and*

*d) preventing the introduction or spread of exotic weed species and pest animals (both terrestrial and aquatic).*

111 A minor consequential change to part (c ) in the policy above is proposed to provide greater clarity as follows:

*c) creating and maintaining appropriate buffer zones around and linkages between ecological sites, key indigenous vegetation and rare and threatened vegetation species, significant habitats of indigenous fauna and around aquatic ecosystems to ensure that wider ecological processes are considered when making decisions about applications for subdivision and land use consent;*

112 Objective 2.11 on character and amenity values is also relevant.

*To protect the unique character of the District's distinct communities so that residents and visitors enjoy:*

*a) relaxed, unique and distinct village identities and predominantly low-density residential environments characterised by the presence of mature vegetation, a variety of built forms, the retention of landforms and unique community identities;*

*b) vibrant, lively town centres supported by higher density residential and mixed use environments;*

*c) neighbourhood centres, village communities and employment areas characterised by high levels of amenity, accessibility and convenience;*

*d) productive and attractive rural areas, characterised by openness, natural landforms, areas and corridors of indigenous vegetation, and primary production activities; and*

*e) a high amenity interface between living and rural environments) and between potentially conflicting land uses.*

113 This objective recognises the value that mature vegetation in general contributes to urban character and amenity.

114 The section 32 assessment seeks to establish the most appropriate way to achieve these objectives and policies.

## **12 THE RISK OF BIODIVERSITY LOSS**

115 Any environmental 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. We 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.

116 However, there will be exceptions to this. We consider 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 the future will immediately remove it. This can be expected to result in an initial flurry of tree removal which will then wane.

Secondly tree loss often occurs when associated with development whether it be by infill subdivision and consequent earthworks and buildings or through building additions. However, where a resource consent is required, unless excluded through discretion restriction, it is likely to enable effects on high value trees to be considered.

117 Thirdly, 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”. As referred to earlier this may be for reasons of shade, damp, safety or effects on infrastructure or paving.

118 Fourthly, 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.

### **13 BENCHMARKING AND CONSISTENCY WITH OTHER COUNCIL APPROACHES**

119 Section 74(2)(c) of the RMA requires Council to consider the extent to which this proposal needs to be consistent with the plans or proposed plans of adjacent territorial authorities. While biodiversity does not have any specific relationship with territorial local authority boundaries it is not considered important for there to be any particular consistency with adjacent Councils. However, 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.

120 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.

121 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.

### **14 REASONABLY PRACTICABLE OPTIONS**

122 Section 32 requires the assessment of the efficiency and effectiveness of reasonably practicable options for achieving the Plan objective. Options can fit under the headings of regulatory methods, non regulatory methods and combinations of both.

123 Indeed, 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.

### **Existing Non-regulatory Methods**

124 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.

125 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

126 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.

127 There are therefore options based around an enhanced non regulatory package for high value urban trees. These option can be pursued in isolation or in combination with regulatory options and the optimal package will depend on those circumstances. This would also need to be developed having regard to coordination with any planned new rural initiatives but would 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

128 The Council has requested that a package of additional non regulatory measures be developed including consideration of the above. This work will be undertaken in parallel with this Variation and the wider PDP process and will be able to be taken into account in hearing submissions on the variation.

## **Regulatory Methods**

129 There are three key decision points that fall within the scope of this variation and require consideration of options under section 32. These relate to:

- specific ecological sites where they extend on to urban allotments,
- rules that apply for trimming modification and removal of identified trees (including notable trees) and:
- regulation of other significant indigenous trees and groups of trees

The regulatory methods involve the scope of trees that should be subject to rules and the nature of the rules that should be applied.

130 The current rules in the PDP do not provide 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.

131 In the consultation phase some draft rules for trimming were made available for comment. As a result of this consultation and discussions with Arborists we have reached the opinion that prescriptive rules are not the most effective and efficient way to proceed.

132 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. Removal and modification (including dead trees) beyond the guideline would still require a resource consent, but a controlled activity class of consent is being considered where removal is supported by expert advice. We also consider that this guideline may be useful for owners of trees that are not protected through the PDP.

133 In order to incorporate this guideline by way of reference in the PDP it 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.

## **The Options**

The reasonably practicable options for each key decision point are as follows:

### **1. Ecological Sites:**

- a) Do not schedule trees in ecological sites: the effect of this being that trees in ecological sites on urban allotments will not have regulatory protection and will rely on protection of other vegetation in the sites and non regulatory methods.
- b) Schedule trees within PDP ecological sites on urban allotments.

### **2. Rules for Management of Identified Trees**

- a) Do nothing: this would leave the rules as currently in the PDP and potentially subject to change through the PDP hearings.
- b) Provide a permitted activity rule for trimming identified trees (including notable trees) based on prescriptive rules eg separation from building etc. This option was the basis

of pre notification consultation with affected and interested parties. Modification and removal of identified trees to be a restricted discretionary class of consent.

- c) Provide a permitted activity rule for trimming identified trees (including notable trees) based on compliance with the NZ Arboricultural Association Best Practice Amenity Tree Pruning guideline. Removal of dead or unrecoverable trees to be a controlled activity consent if supported by an expert report. Any other modification to be restricted discretionary activity consent.
- d) Permitted activity for trimming without restricting standards.

### 3. Other Significant Indigenous Trees

- a) Allow PDP provisions to lapse and rely on existing non regulatory methods
- b) Allow PDP provisions to lapse and and introduce additional non-regulatory measures to assist landowners to retain and manage significant indigenous trees on private land.
- c) 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**.
- d) 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**.
- e) Individually list and protect only the non-planted trees from the 2010 data base that have high biodiversity value – being those that:
  - have biodiversity values of 8/10 or greater.
  - 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

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

- f) Individually list and protect only the non-planted trees from the 2010 data base that have higher biodiversity value – being those that:
  - have biodiversity values of 9 /10 or greater
  - 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

This is estimated to be approximately **1300 trees**.

g) 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**.

h) Separately evaluate the trees identified in Option e) above 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.

134 The refined tree list proposed for Options e) to h) are limited to the following :

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>

## The Implications for non-reticulated townships

135 It is important to stress that the townships of Paekakariki, Te Horo, Te Horo Beach and Peka Peka which do not fall within the definition of 'urban environment' because they are not reticulated.

136 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.

137 The 2010 survey did not include trees in these townships and therefore this constrains implementable options that would bring all urban zoned land (as opposed to urban allotments) into the cope of this variation. The PDP hearing process will however be able to consider appropriate alignment of controls in these areas with other urban areas.

## 15 SECTION 32 ASSESSMENTS

138 The section 32 assessments for each option in each key decision are summarised in the following tables:

### Ecological Sites

#### Option 1A: Do Not Schedule Trees In Ecological Sites and Rely on Non Regulatory Methods

What are the environmental benefits?	Low	May encourage owners to nurture and add planting to the site in the knowledge that when they get to a large size there is the option of trimming and / or removal
What are the environmental costs and risks?	High	Larger trees on ecosites could be removed as of right. Risk is high of some loss resulting in reduction in size and biodiversity value of the ecosite.
What are the social and cultural benefits?	Low	Ability of owners to manage the trees and have the option of responding to neighbour issues. Cultural benefits likely to be limited but ability to have hands on management may allow for promotion of rongoa species.
What are the social and cultural costs and risks?	High	Some risk of loss of landscape and urban amenity depending on site specific issues. Also potential for loss of culturally significant tree species.
What are the economic benefits?	Medium	A short period of boosted economic activity associated with management of trees on ecosites that are affecting potential of the site or shade, views etc. Also benefits of avoiding process costs of consents including seeking professional advice.
What are the economic costs and risks?	Low	Some risk of loss of future economic potential of biodiversity, amenity and quality of the District urban environments to residents and visitors. Difficult to quantify but not expected to be at a high level.
How efficient is implementation and enforcement?	Low	Risks can be mitigated to some degree by a non regulatory package of measures targeted at landowners of ecological sites. Cost of this package is uncertain but unless there is some legal ability to enforce it will have efficiency risks.
<b>Overall efficiency</b>	<b>Low</b>	
How effectively will it achieve the objective?	Low	There is a significant risk that the method will not achieve the PDP objectives
How effective is implementation and enforcement?	Low	There is a significant risk that reliance on non regulatory measures will not be effective.
<b>Overall effectiveness</b>	<b>Low</b>	

**Option 1B: Schedule trees within PDP ecological sites on urban allotments.**

What are the environmental benefits?	High	Ensures that areas of significant indigenous vegetation are fully subject to regulatory protection by identifying trees and groups of trees. Meets the requirement of section 6 and the RPS. Maintains the status quo in terms of the PDP.
What are the environmental costs and risks?	Low	Few costs and risks. But some parties may seek to avoid rules and may discourage additional native planting within these sites.
What are the social and cultural benefits?	Low	Provides certainty to communities and iwi that the biodiversity values of these sites are not at risk. Also ensures wider amenity and character of these remnant bush areas are retained. Maintains existing level of protection that community has generally supported.
What are the social and cultural costs and risks?	Low	Does not give landowners and neighbours flexibility to manage their properties as they see fit. Potential for some shading effects, effects on services depending on rules that apply. Some costs for owners associated with consents depending on rules and fees policy
What are the economic benefits?	Low	Short term few benefits however it will ensure that the long term economic potential of urban biodiversity on the most important sites is maintained.
What are the economic costs and risks?	Low	Some costs for owners associated with consents depending on rules and fees policy.
How efficient is implementation and enforcement?	High	Sites are defined and trees specified so there is certainty of application. This makes enforcement more efficient. Implementation is through a variation to the PDP which will address shortcomings of existing PDP approach.
<b>Overall efficiency</b>	<b>High</b>	
How effectively will it achieve the objective?	High	The method, depending on rules, will achieve the PDP objectives
How effective is implementation and enforcement?	Low	Effective with appropriate systems accepting that trees can be vulnerable to non compliance with rules.
<b>Overall effectiveness</b>	<b>High</b>	

139 The tables above demonstrate that on balance scheduling of trees within existing and proposed ecological sites in the Proposed District Plan maintains the ability to apply rules to protect the trees within these sites. The method provides certainty for landowners and the community and is capable of being both efficient and effective. It is, therefore, the most appropriate way to achieve the PDP objectives.

## Rules For Management Of Identified Trees

**Option 2A: Do nothing: this would leave the rules as currently in the PDP and potentially subject to change through the PDP hearings.**

What are the environmental benefits?	High	Currently in the PDP trimming vegetation within ecological sites requires a resource consent, while for other vegetation the ODP permits some urgent trimming including notable trees. This will continue to ensure that where trees are protected limited change can occur without consent with consequent environmental benefits depending on each case. There would remain some inconsistencies in the PDP which would be resolved through the hearing of submissions.
What are the environmental costs and risks?	Medium	It is considered that many have not been aware of existing rules and there has not been systematic monitoring of compliance. There are risks that if considered unreasonable or uncertain they will not be respected.
What are the social and cultural benefits?	Low	For some there is a social benefit of knowing trees cannot be significantly altered. There are also cultural benefits where the species are of cultural value.
What are the social and cultural costs and risks?	Medium	There is a material cost to preparing and resource consent and paying Council fees. The latter depending on Council fees currently proposed to be \$100 for a trimming consent.
What are the economic benefits?	Low	Ensures limited change, depending on scope of trees applied to, with long term potential economic benefit associated with this. Not able to be reliably quantified.
What are the economic costs and risks?	Low	Some costs associated with the scale of consent processing. However, on the record of number of consents processed over the last 10 years this is not a significant risk.
How efficient is implementation and enforcement?	Low	Rules are currently uncertain and therefore inefficient. They are also reasonably restrictive and are difficult to enforce. Cost of enforcement is also not expected to be efficient.
<b>Overall efficiency</b>	<b>Low</b>	
How effectively will it achieve the objective?	Low	The existing rules are confusing and therefore risk not being effective.
How effective is implementation and enforcement?	Low	The existing rules are not effective if ignored and if not enforced.
<b>Overall effectiveness</b>	<b>Low</b>	

**Option 2B: Provide a permitted activity rule for trimming identified trees (including notable trees) based on prescriptive rules eg separation from building etc. This option was the basis of pre notification consultation with affected and interested parties. Modification and removal of identified trees to be a restricted discretionary class of consent.**

What are the environmental benefits?	High	Ensures that any identified areas of significant indigenous vegetation are fully subject to regulatory protection by limiting scope of permitted trimming to essential requirements of safety, residential amenity, power lines etc.
What are the environmental costs and risks?	Medium	Some parties may seek to avoid rules and it may discourage additional native planting within these sites.
What are the social and cultural benefits?	Low	Rules need to be carefully drafted to avoid interpretive uncertainty and unintended outcomes that result in confusion for users. Provides certainty to communities and iwi that the biodiversity values of these sites are not at risk. Also ensures wider amenity and character of these remnant bush areas are retained.
What are the social and	Low	While it would enable a reasonable level of trimming, it does not give

cultural costs and risks?		landowners and neighbours flexibility to manage their properties as they see fit. Would remain some potential for some shading and other related effects on properties and neighbours. Some costs for owners associated with consents although current policy reduces consent fees for trimming to \$100.
What are the economic benefits?	Low	Short term few benefits however it will ensure that the long term economic potential of urban biodiversity is maintained.
What are the economic costs and risks?	Low	Some costs for owners associated with consents although current policy reduces consent fees for trimming to \$100.
How efficient is implementation and enforcement?	Low	Rules will not be able to deal with all situations without undue complexity. Monitoring and enforcement is likely to be inefficient.
<b>Overall efficiency</b>	<b>Medium</b>	
How effectively will it achieve the objective?	High	The method will achieve the PDP objectives unless there is a high degree of non compliance through not knowing or willingly avoiding.
How effective is implementation and enforcement?	Low	Effectiveness will depend on level of resource applied. However with competing demands for resources is unlikely to be effective.
<b>Overall effectiveness</b>	<b>Medium</b>	

**Option 2C: Provide a permitted activity rule for trimming identified trees (including notable trees) based on compliance with the NZ Arboricultural Association Best Practice Amenity Tree Pruning guideline. Removal of dead or unrecoverable trees to be a controlled activity consent if supported by an expert report. Any other modification to be restricted discretionary activity consent.**

What are the environmental benefits?	High	Ensures that trimming of protected trees is undertaken professionally and in accordance with best practice in terms of the health of the tree. Avoids prescriptive rules that may not always protect the health of the tree. Will be no disincentive to planting native trees. Also provides benefit that trees cant be removed without consent scrutiny.
What are the environmental costs and risks?	Low	Some risks that the guideline is not fully complied with ie trimming exceeds the guideline with adverse effects on biodiversity.
What are the social and cultural benefits?	Medium	Provides flexibility for landowners and neighbours to manage trees in accordance with the guideline. Provides certainty to communities and iwi that the biodiversity values of specified trees are not unduly at risk. Also ensures wider amenity and character of these remnant bush areas are retained.
What are the social and cultural costs and risks?	Low	Some risk that this flexible regime is abused. Consent would be required for modification beyond permitted trimming and removal with associated consent process costs and need for professional advice. Potential for discounted fees however expected cost to be in order of \$200-\$400 for expert advice and approx. \$500 - \$700 for Council consent fees. No process costs for permitted trimming but would need to be undertaken by qualified contractor.
What are the economic benefits?	Low	Some additional tree management work generated with less business risk for the contractor. Long term economic potential of urban biodiversity is largely maintained.
What are the economic costs and risks?	Low	Some costs for owners associated with consents as identified above however this remains low in economic terms.
How efficient is implementation and enforcement?	High	Implementation should be efficient however enforcement will need to focus on direct monitoring and relationships with contractors. Capable of being efficient.
<b>Overall efficiency</b>	<b>High</b>	
How effectively will it achieve the objective?	High	The method will achieve the PDP objectives although there is a small risk of exceeding guidelines without consent.
How effective is	Low	By limiting work to qualified contractors implementation and enforcement

implementation and enforcement?		should be effective.
<b>Overall effectiveness</b>	<b>High</b>	

**Option 2D: Permitted activity for trimming without restricting standards.**

What are the environmental benefits?	Medium	Removal of trees and modification beyond trimming is controlled through rules but with little clarity or certainty of application. Would still need some form of definition of trimming as currently in the ODP.
What are the environmental costs and risks?	Medium	Uncertainty over what level of trimming is permitted will lead to confusion and abuse with consequent environmental costs and risks. The uncertainty may lead to non compliance and it may discourage additional native planting within these sites.
What are the social and cultural benefits?	Low	Provides a regime of control but no certainty of application. Some trimming is enabled which will have social benefits compared to current PDP.
What are the social and cultural costs and risks?	Medium	While it would enable trimming, past experience suggests that the rules have been capable of avoidance with lack of clarity and uncertainty being a contributing factor. Does not provide community and iwi confidence that the biodiversity values of these sites are not at risk. Some costs for owners associated with consents although current policy reduces consent fees for trimming to \$100.
What are the economic benefits?	Low	No change expected.
What are the economic costs and risks?	Low	Some costs for owners associated with consents although current policy reduces consent fees for trimming to \$100.
How efficient is implementation and enforcement?	Low	Rules will not provide certainty and clarity and therefore are not efficient in terms of implementation or enforcement.
<b>Overall efficiency</b>	<b>Low</b>	
How effectively will it achieve the objective?	Medium	Achievement of the PDP objectives will be affected if there is a high degree of non compliance through not knowing or willingly avoiding.
How effective is implementation and enforcement?	Low	Lack of rule certainty will limit effectiveness and create enforcement challenges.
<b>Overall effectiveness</b>	<b>Low/ Medium</b>	

140 The tables above demonstrate that on balance Option 2C which would permit trimming of protected trees as long as it is in accordance with best practice is assessed to be the most efficient and effective option. The method provides flexibility for landowners to manage trimming of trees while providing certainty that this is undertaken having regard to the health and safety of the tree. It is, therefore, the most appropriate way to achieve the PDP objectives.

## Scheduling Other Significant Indigenous Trees

### Option 3A: Allow PDP provisions to lapse and rely on existing non regulatory methods

What are the environmental benefits?	Low	Relies on landowner choices to retain and management additional trees with biodiversity value which in many cases will have benefits. There are environmental 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 are the environmental costs and risks?	High	May result in removal of some individual large remnant trees or groups of remnant trees or groups of trees that have genuine biodiversity significance with the risk of irreversible loss of some significant biodiversity and a failure to maintain biological diversity.
What are the social and cultural benefits?	Medium	For individuals it enables them to manage their urban property as they see fit and may encourage additional planting of indigenous trees and trees with cultural value.
What are the social and cultural costs and risks?	Medium	Risk of 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 are the economic benefits?	Low	Additional tree management and tree removal work likely to be generated with less business risk for contractors. No consent process costs.
What are the economic costs and risks?	Low	Some risk to the long term economic potential of urban biodiversity.
How efficient is implementation and enforcement?	High	Implementation currently underway and no enforcement required.
<b>Overall efficiency</b>	<b>Low/ Medium</b>	
How effectively will it achieve the objective?	Low	Cannot be assured of protection of large remnant trees that have genuine biodiversity significance and are particularly at risk in the urban environment.
How effective is implementation and enforcement?	Low	Implementation wont be effective but no enforcement issues.
<b>Overall effectiveness</b>	<b>Low</b>	

### Option 3B: Allow PDP provisions to lapse and and introduce additional non-regulatory measures to assist landowners to retain and manage significant indigenous trees on private land.

What are the environmental benefits?	Low	May result in retention/stewardship of some trees and planting of new species – depends on financial commitment to the measures. 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 are the environmental costs and risks?	High	Will not necessarily arrest or reverse irreversible loss of particularly large remnant specimens that have important biodiversity value. Potential irreversible loss of some remnant trees that have biodiversity significance and failure to maintain biological diversity.
What are the social and cultural benefits?	Medium	Provides flexibility for landowners and neighbours to manage trees as they see fit. Potentially achieves ‘buy-in’ from affected landowners and support for ongoing retention and appropriate stewardship of significant trees.
What are the social and cultural costs and risks?	Low	Provides no certainty communities and iwi that the biodiversity values of specified trees are not unduly at risk.
What are the economic benefits?	Low	Some additional tree management and removal work generated with less business risk for contractors. No consent process costs.
What are the economic costs and risks?	Low	Some risk to long term economic potential of urban biodiversity.

costs and risks?		
How efficient is implementation and enforcement?	Low	Additional non regulatory measures to be developed and tested for efficiency. However on its own not likely to be efficient. No enforcement required.
<b>Overall efficiency</b>	<b>Low/ Medium</b>	
How effectively will it achieve the objective?	Low	Cannot be assured of protection of large remnant trees that have genuine biodiversity significance and are particularly at risk in the urban environment.
How effective is implementation and enforcement?	Low	Implementation wont be effective but no enforcement issues.
<b>Overall effectiveness</b>	<b>Low</b>	

**Option 3C: 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.**

What are the environmental benefits?	High	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. May continue to minimise (if not prevent) removal of large numbers of existing indigenous trees
What are the environmental costs and risks?	High	Risk that trees will be trimmed to below threshold height and discourage planting of additional specimens. Risks of non compliance resulting in 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.
What are the social and cultural benefits?	Medium	Provides community and iwi with wide ranging controls on existing and future indigenous vegetation.
What are the social and cultural costs and risks?	Medium	Community dissatisfaction with the extent of intervention on private land (as reflected in the feedback received). 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 are the economic benefits?	Low	Limited to the long term and largely unknown potential economic benefits of biodiversity.
What are the economic costs and risks?	Low	Consent costs identified already in rule options. Restrict some development, infill and intensification opportunities.
How efficient is implementation and enforcement?	Low	It will be difficult to monitor and enforce over such a large body of trees and large extent private properties.
<b>Overall efficiency</b>	<b>Medium</b>	
How effectively will it achieve the objective?	Medium	The focus of Objective 2.2 is on protecting areas and this option goes beyond this scope. May not protect some significant species that are not currently included in the Schedule 3.2 lists
How effective is implementation and enforcement?	Low	Unlikely to be effective.
<b>Overall effectiveness</b>	<b>Low/ Medium</b>	

**Option 3D: 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.**

What are the environmental benefits?	High	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. May continue to minimise (if not prevent) removal of large numbers of existing indigenous trees
What are the environmental costs and risks?	High/medium	May not protect some significant species that are not currently included in the Schedule 3.2 lists. Risk that trees will be trimmed to below threshold height and discourage planting of additional specimens. Risks of non compliance resulting in 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.
What are the social and cultural benefits?	Medium	Provides community and iwi with controls on naturally occurring indigenous vegetation. Recognises that owners should be able to choose how to manage trees that have been planted by humans.
What are the social and cultural costs and risks?	Medium/Low	Community dissatisfaction with the extent of intervention on private land (as reflected in the feedback received). 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 are the economic benefits?	Low	Limited to the long term and largely unknown potential economic benefits of biodiversity.
What are the economic costs and risks?	Low	Consent costs identified already in rule options. Restricts some development, infill and intensification opportunities.
How efficient is implementation and enforcement?	Low	It will be difficult to monitor and enforce over such a large body of trees and large extent private properties.
<b>Overall efficiency</b>	<b>Medium</b>	
How effectively will it achieve the objective?	Medium	May not protect some significant species that are not currently included in the Schedule 3.2 lists. The focus of Objective 2.2 is on protecting areas and this option goes beyond this scope.
How effective is implementation and enforcement?	Low	Unlikely to be effective.
<b>Overall effectiveness</b>	<b>Low/ Medium</b>	

**Option 3E: Individually list and protect only the non-planted trees from the 2010 data base that have high biodiversity value – being those that:**

- have biodiversity values of 8/10 or greater.
- are naturally occurring remnant trees (not planted trees); and
- are key indigenous 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.

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

What are the environmental benefits?	High	Protects the most important biodiversity (consistent with s. 31 RMA function of 'maintaining biological diversity') focusing on species that are not capable of regenerating themselves and that support the functioning of ecological sites.
What are the environmental costs and risks?	High/medium	Does not protect lesser value trees and species. Risk of discourage planting of additional specimens. Risks of non compliance resulting in 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.
What are the social and cultural benefits?	Medium	Protects the most significant remnant biodiversity while recognising that owners should be able to choose how to manage trees that have been planted by humans and those with lesser biodiversity values and capable of replacing themselves.
What are the social and cultural costs and risks?	Medium/Low	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 are the economic benefits?	Low	Likely to be some additional tree management activity given the priority being given to rules only for higher value trees and species. Specifying trees will give contractors business certainty.
What are the economic costs and risks?	Low	Consent costs identified already in rule options. Restricts some development, infill and intensification opportunities.
How efficient is implementation and enforcement?	High	Manageable number of trees to monitor and enforce but will still require commitment of resources.
<b>Overall efficiency</b>	<b>High</b>	
How effectively will it achieve the objective?	High	Addresses priority remnant trees having significant biodiversity value
How effective is implementation and enforcement?	High	Capable of being effective.
<b>Overall effectiveness</b>	<b>High</b>	

**Option 3F: Individually list and protect only the non-planted trees from the 2010 data base that have higher biodiversity value – being those that:**

- **have biodiversity values of 9 /10 or greater**
- **are naturally occurring remnant trees (not planted trees); and**
- **are key indigenous 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.**

**This is estimated to be approximately 1300 trees.**

What are the environmental benefits?	High	Protects the most important biodiversity (consistent with s. 31 RMA function of 'maintaining biological diversity') focusing on species that are not capable of regenerating themselves and that support the functioning of ecological sites. But to a lesser extent than Option 3E.
What are the environmental costs and risks?	Medium	Does not protect lesser value trees and species. Risks of non compliance resulting in 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.
What are the social and	Medium	Protects the highest priority significant remnant biodiversity while recognising

cultural benefits?		that owners should be able to choose how to manage trees that have been planted by humans and those with lesser biodiversity values and capable of replacing themselves.
What are the social and cultural costs and risks?	Medium/ Low	Inhibits use and management and potentially the value of a small number (approx. 400) of privately-owned urban land. Also the costs of tree maintenance and any consents that may be required or enforcement action pursued. May not protect all species of value to iwi.
What are the economic benefits?	Low	Likely to be some additional tree management activity given the priority being given to rules only for highest value trees and species. Specifying trees will give contractors business certainty. Opens up some development, infill and intensification opportunities not currently available.
What are the economic costs and risks?	Low	Consent costs identified already in rule options. Some risk it does not protect full long term economic potential of biodiversity.
How efficient is implementation and enforcement?	High	Manageable number of trees to monitor and enforce but will still require commitment of resources.
<b>Overall efficiency</b>	<b>High</b>	
How effectively will it achieve the objective?	High	Addresses higher priority remnant trees having significant biodiversity value
How effective is implementation and enforcement?	High	Capable of being effective.
<b>Overall effectiveness</b>	<b>High</b>	

**Option 3G: Individually list and protect only the non-planted trees from the 2010 data base that have highest biodiversity value – being those that:**

- **have biodiversity values of 10 /10 or greater**
- **are naturally occurring remnant trees (not planted trees); and**
- **are key indigenous species particularly at risk in the urban environment; and**
- **are key indigenous 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.**

**This is estimated to be approximately 760 trees.**

What are the environmental benefits?	High	Protects the largest and highest value trees focusing on species that are not capable of regenerating themselves and that support the functioning of ecological sites. But to a lesser extent than Option 3E and 3F.
What are the environmental costs and risks?	High	Only protect highest value trees and species. Leaves a significant number of 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.
What are the social and cultural benefits?	Medium	Protects the highest priority significant remnant biodiversity while recognising that owners should be able to choose how to manage all other trees.
What are the social and cultural costs and risks?	Medium/ Low	Inhibits use and management and potentially the value of a small number (approx. 250) of privately-owned urban land. Also the costs of tree maintenance and any consents that may be required or enforcement action pursued. Will not protect all species of value to iwi.
What are the economic benefits?	Medium	Likely to be some additional tree management activity given the priority being given to rules only for highest value trees and species. Specifying trees will give contractors business certainty. Opens up development, infill and

		intensification opportunities not currently available.
What are the economic costs and risks?	Low	Fewer trees means less potential for consent costs. Some risk it does not protect full long term economic potential of biodiversity.
How efficient is implementation and enforcement?	High	Very manageable number of trees to monitor and enforce.
<b>Overall efficiency</b>	<b>High</b>	
How effectively will it achieve the objective?	High/ Medium	Addresses higher priority remnant trees having highest biodiversity value but is not sufficiently broad based to ensure improvement of biodiversity.
How effective is implementation and enforcement?	High	Implementation and enforcement will be effective albeit for only the highest priority trees.
<b>Overall effectiveness</b>	<b>High/ Medium</b>	

**Option 3H: Separately evaluate the trees identified in Option 3G above 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.**

What are the environmental benefits?	Medium	Expected to ultimately protect the 750 largest and highest value trees focusing on species that are not capable of regenerating themselves and that support the functioning of ecological sites.
What are the environmental costs and risks?	High	Only protect highest value trees and species. Leaves a significant number of 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. Also leaves these 750 trees without regulatory protection until they have been evaluated and a separate variation notified and decisions made on submissions. This is expected to be at least mid 2016.
What are the social and cultural benefits?	Medium	Expected to ultimately protects the highest priority significant remnant biodiversity where owners agree. Also recognises that owners should be able to choose how to manage all other trees.
What are the social and cultural costs and risks?	Medium/ Low	Trees likely to be listed with owner approval so reduces effects on potential of privately owned land. Also the costs of tree maintenance and any consents that may be required or enforcement action pursued. Will not protect all species of value to iwi.
What are the economic benefits?	Medium	Likely to be some additional tree management activity given the priority being given to rules only for highest value trees and species and interim period with no protection. Will give contractors business certainty. Opens up development, infill and intensification opportunities not currently available.
What are the economic costs and risks?	Low	Fewer trees means less potential for consent costs. Some risk it does not protect full long term economic potential of biodiversity.
How efficient is implementation and enforcement?	High	Very manageable number of trees to monitor and enforce once a variation has legal effect.
<b>Overall efficiency</b>	<b>High</b>	
How effectively will it achieve the objective?	Low	Addresses trees with very highest biodiversity value but is not sufficiently broad based to ensure improvement of biodiversity. Also leaves them without protection for a period and expected to be reliant on owner approval
How effective is implementation and enforcement?	High/ medium	Implementation and enforcement will be effective albeit for only the highest priority trees and only once a separate variation has legal effect.
<b>Overall effectiveness</b>	<b>Low</b>	

141 The conclusions of the tables above relating to the options for scheduling significant indigenous tree species are summarised below.

	Efficiency	Effectiveness
Option		
A	Low/Medium	Low
B	Low/Medium	Low
C	Medium	Low/Medium
D	Medium	Low/Medium
E	High	High
F	High	High
G	High	High/Medium
H	High	Low

142 This shows that options E and F are the most appropriate way to achieve the objectives of the District Plan taking into account all requirements of section 32.

143 Kapiti Coast District Council resolved on 11 August 2015 to adopt Option F and also to develop an appropriate package of non regulatory measures around this option.

## 16 CONCLUSIONS

144 This section 32 assessment has considered the consequences of the Resource Management Amendment Act 2013 as it relates to rules applying to trees in urban areas. It has considered options relating to existing and proposed ecological sites in urban areas, rules that should apply to protected trees and options for scheduling other trees with significant biodiversity value.

145 It has concluded that:

1. Scheduling of trees within existing and proposed ecological sites in the Proposed District Plan maintains the ability to apply rules to protect the trees within these sites. The method provides certainty for landowners and the community and is capable of being both efficient and effective. It is the most appropriate way to achieve the PDP objectives.
2. District Plan Rule Option 2C which would permit trimming of protected trees as long as it is in accordance with best practice is assessed to be the most efficient and effective rule option. The method provides flexibility for landowners to manage trimming of trees while providing certainty that this is undertaken having regard to the health and safety of the tree. It is the most appropriate way to achieve the PDP objectives.
3. For protection of other trees and groups of trees with high biodiversity value, options E and F are the most appropriate way to achieve the objectives of the District Plan taking into account all requirements of section 32.

146 Option 3F involves individually listing and protecting only the trees from the 2010 data base that have a biodiversity value of 9 or 10, and are naturally occurring remnant trees (not planted trees); and are key indigenous 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. This is estimated to be approximately 1300 trees involving 400 properties.

147 Attachment 1 details the specific changes to the Proposed District Plan that form Variation 1. This includes amended Schedule 3.1 and new schedule 3.2A and amended plan Maps showing the significant indigenous trees identified in schedule 3.2A. It also includes the NZ Arboricultural Association Best Practice Amenity Tree Pruning guideline which is incorporated by reference.

148 Attachment 2 is an Ecological Assessment undertaken by Wildlands Ltd that has informed this report and the section 32 assessment.