

Manawatū District Plan
Proposed Plan Change H(b):
Notable Trees
Section 32 Report

September 2022

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Part I – District Plan Review

1. Scope of Plan Change H(b) Notable Trees

Proposed Plan Change H(b) (PCH(b)) reviews Appendix 1D – Trees with Heritage Value and corresponding District Plan provisions and inserts a new chapter to manage Notable Trees, including an updated notable tree schedule: Notable Trees Schedule.

The scope of this plan change is narrow and limited to a review of the existing notable tree schedule only. PCH(b) is not a comprehensive review of all potential notable trees in the Manawatu District.

PCH(b) has been drafted to be consistent with the National Planning Standards.

2. Proposed Amendments to the District Plan

The following changes are proposed as part of PCH(b) Notable Trees:

1. Addition of new a Notable Tree Chapter including a new Notable Trees Schedule (refer to **Appendix 1** for proposed Notable Trees Chapter).
2. Removal of existing Appendix 1D Trees with Heritage Value.
3. Insertion of two new definitions in Chapter 2 of the District Plan for Notable Trees for *Earthworks* and *Root Protection Area* as follows

Earthworks means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of posts without concrete.

Root Protection Area means the Root Protection Area is a circle taken from the centre of the trunk with a radius equal to 12 times the diameter of the trunk measured at 140cm height. Note that the maximum Root Protection Area radius should be no greater than 15m and no less than 2m.

4. Identify proposed notable trees with symbols on the Planning Maps in accordance with the National Planning Standards.

5. Make the following consequential changes:

Notes:

- As well as PCH(b), Plan Change H(a) Historic Heritage (PCH(a)) is also proposing amendments to existing Appendix 1 – Heritage Places. In preparing PCH(b) and PCH(a) it has been identified that the term ‘Heritage Places’ in Chapter 4 were not updated when *Schedule 4a Significant Historic Built Heritage – Feilding Town Centre* was added to the District plan as part of Plan Change 46. Consequential changes are recommended in this plan change to correct cross referencing to assist plan users.
- Grey shaded text is proposed as part of PCH(a).

Chapter 4 Historic Heritage

- a. Delete the last paragraph under **Section 4.1: Introduction** to Chapter 4, as follows:
- ~~“Feilding has a number of large specimen trees which are part of the town’s history. Large trees add considerably to the appearance and character of urban areas, and some of the trees which have heritage value are listed in the Plan (Appendix 1D)”.~~
- b. Delete Policy 2.2 as follows:
- ~~To protect listed notable trees in such a way that their significance as a heritage resource and the values for which they were listed are not permanently diminished or damaged.~~
- c. Delete Rule 4.4.1 iv as follows:
- ~~Pruning and removing branches from the trees listed in Appendix 1D, provided that the pruning is under Council supervision.~~
- d. Delete Rule 4.4.3 viii as follows:
- ~~Felling, damaging or cutting branches or roots of trees listed in Appendix 1D (other than pruning permitted by Rule A2.3.1 a. iv)).~~

Chapter 3D: Earthworks

- e. Amend Policy 1.2 as follows:
- Policy 1.2** To restrict earthworks within the area of items scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), ~~1D (Trees with Heritage Value)~~, 1E (Buildings and Objects with Heritage Value), 1F (Sites with Heritage Value), Historic Heritage Schedule 4b (Significant Historic Built Heritage - Wider Manawatū District), and Notable Trees Schedule.
- f. Add Guidance Note 4 under Rule 3D.4.1 Permitted Activities: Guidance Notes, as follows:
- “4. Refer also to NT – R3 in the Notable Tree Chapter for additional rules about earthworks in relation to notable trees.”

Rule A1

- g. Amend Rule A1.3.2 A xii as follows:
- A1.3.2 Reservation of Control – Controlled Activity Subdivision Applications**
- A) The matters in respect of which **Council** has reserved its control are:
- xii) Impact of subdivision upon future management of **natural areas, and heritage places, and items listed in Schedules 4a, 4b and the Notable Trees Schedule.**
- h. Amend Rule A1.2.2 B) iii) d) as follows:
- A1.2 Information Requirements For Resource Consent Applications and Designations**
A1.2.2 Land Use Consent Applications

B) Assessment of Environmental Effects

iii) d) An assessment of the actual or potential effects on the environment of the activity, including adverse effects, benefits and cumulative effects, particularly:

...

- Any effect on heritage places, natural areas, items listed in Historic Heritage Schedules 4a, 4b and the Notable Tree Schedule, or other places of special value to present and future generations.

i. Amend Rule A1.2.3 A ii) o) as follows:

A1.2.3 Subdivision Consent Applications

A) All applications shall be in the proper form and should include:

ii) Plans drawn to scale, legible and capable of being readily copied. The plans must show, as appropriate:

o) Any heritage places and items listed in Historic Heritage Schedule 4a, Schedule 4b and the Notable Trees Schedule identified by the Plan

j. Amend Rule A1.3.4 as follows:

A1.3.4 Assessment of Discretionary Activity Applications

A) In assessing discretionary activities Council will have regard to matters including the following:

xiv) The effect of the proposal on the heritage values and preservation of any place or object listed in Appendices 1A to 1F, Appendices 1A, 1B, 1E, 1F, and items listed in Historic Heritage Schedules 4a, 4b and the Notable Trees Schedule, or upon the heritage significance of any **natural area** in terms of the criteria in Appendix 11.

Part II – ASSESSMENT REPORT

3. Introduction

The Manawatu District Council (“the Council”) has prepared Plan Change H(b) to the Operative Manawatu District Plan (“the Operative Plan”) for notification under the provisions of the Resource Management Act 1991 (“the Act”). This report has been prepared in accordance with section 32(5) of the Act. It represents a summary of the evaluation of alternatives, costs and benefits undertaken by the Council in respect to the proposed District Plan provisions as required under section 32(1). In summary, the Council must establish that the plan change is the most appropriate way to achieve the purpose of the Act including that the proposed changes are the most appropriate means available to achieve Council’s objectives – when compared against alternative methods available, including doing nothing.

4. Purpose of Proposed Plan Change H(b)

The purpose of PCH(b) reviews the provisions for notable trees which are mostly contained in Chapter 4: Historic Heritage and Appendix 1D - Trees with Heritage Value of the operative District Plan. These provisions have not been reviewed since the District Plan was made operative in December 2002. The proposed plan change inserts a new chapter into the District Plan for the management of notable trees in the District including a new schedule of notable trees.

5. Operative District Plan Review

Section 79 of the Act requires Council to commence a review of its District Plan every 10 years. The Act allows Council to review the District Plan in full or in sections. The Council has decided to undertake the review of the District Plan in sections (i.e. a sectional district plan review). The reason for this approach is to lessen the administrative burden of reviewing the entire District Plan within the statutory timeframes. This approach enables the public to make comment on a topic-specific basis. Council is very conscious of the need to maintain a holistic view of the future to ensure that research and consultation for related components of the District Plan still achieve a high level of integration. A key focus for the review process is ensuring local context, a high degree of alignment of regulatory provisions and ensuring that the context and scale of any rules are appropriate to manage the issues raised.

6. Statutory and Legislative Framework For The Review

6.1 Resource Management Act 1991

Section 74 Matters to be considered by Territorial Authority

Section 74 of the Act requires the Council to prepare and change the District Plan in accordance with the following:

Section 74

- (1) *A territorial authority must prepare and change its plan in accordance with-*
- a) *its functions under section 31; and*
 - b) *the provisions of Part 2; and*
 - c) *a direction given under section 25A(2); and*
 - d) *its obligation (if any) to prepare an evaluation report in accordance with section 32; and*
 - e) *its obligation to have particular regard to an evaluation report in accordance with section 32; and*
 - (ea) *a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and*
 - f) *any regulations.*
- (2) *In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
- (a) *any—*
 - (i) *proposed regional policy statement; or*
 - (ii) *proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
 - (b) *any—*
 - (i) *management plans and strategies prepared under other Acts; and*
 - (ii) *[Repealed]*
 - (iia) *relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; ...*

to the extent that their content has a bearing on resource management issues of the district; and

- (c) *the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*

Section 31 Functions of Territorial Authorities

The Council has statutory functions under section 31 of the Act, which include the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.

Section 72 Purpose of District Plans

The purpose of District Plans under section 72 of the Act is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act. Section 72(3) states:

In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

Section 76 District Rules

Sections 76(4A) and 76(4B) of the Act were inserted by the Resource Management (Simplifying and Streamlining) Amendment Act 2009 and are particularly relevant for this plan change.

Section 76(4A) states:

A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—

- (a) *the tree or trees are described; and*
- (b) *the allotment is specifically identified by street address or legal description of the land, or both*

Section 76(4B) states:

A rule may prohibit or restrict the felling, trimming, damaging, or removal of trees on 2 or more urban environment allotments only if—

- (a) *the allotments are adjacent to each other; and*
- (b) *the trees on the allotments together form a group of trees; and*
- (c) *in a schedule to the plan,—*
 - (i) *the group of trees is described; and*
 - (ii) *the allotments are specifically identified by street address or legal description of the land, or both.*

Section 76(4C) states:

In subsections (4A) and (4B),—

group of trees *means a cluster, grove, or line of trees*

urban environment allotment or **allotment** *means an allotment within the meaning of section 218—*

- (a) *that is no greater than 4 000 m²; 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 reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.*

Section 76(4D) states:

To avoid doubt, subsections (4A) and (4B) apply—

- (a) *regardless of whether the tree, trees, or group of trees is, or the allotment or allotments are, also identified on a map in the plan; and*
- (b) *regardless of whether the allotment or allotments are also clad with bush or other vegetation.*

The changes to the Act introduced in 2009 were intended to reduce high transaction costs caused by the large number of resource consents required due to blanket tree protection rules in urban environments. The provisions required councils to specifically identify 'notable' trees for protection in a plan, either individually or as part of a definable group. This plan change gives effect to this national direction.

The new sections 76(4A)–76(4D) do not remove councils' ability to protect trees on urban allotments, do not place any restrictions on the types of trees to be protected, and do not limit the methods a council may use to assess the quality of a tree or group of trees. Sections 76(4A)–76(4D) require urban tree protection rules in district plans to be applied in ways that provide certainty for landowners and district plan users about what, if any, tree protection rules affect their properties. To achieve this, trees to be protected are to be described and the allotment or allotments specifically identified by street address and/or legal description in a schedule to the plan.

The proposed provisions for notable trees have been drafted to give effect to these statutory directions. The existing notable trees identified in the District Plan have been reviewed following a nationally recognised approach. PCH(b) is therefore considered consistent with promoting the purpose of the Act.

Section 5 Purpose

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined in section 5(2) of the RMA as:

In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enable 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.*

In carrying out a s32 analysis, an evaluation is required of how the proposal achieves the purpose of the Act. This is addressed in Part III of this Report.

Sections 6, 7 and 8 of the Act

In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in s6, have particular regard to other matters referred to in s7 and take into account the principles of the Treaty of Waitangi referred to in s8.

The section 6 matter relevant to Plan Change H(b) is:

s6(f) The protection of historic heritage from inappropriate subdivision, use, and development.

The Resource Management Act amendments in 2003 elevated heritage protection to a ‘matter of national significance’ in section 6, from section 7, along with the insertion of an associated definition of historic heritage in section 2. With this amendment, the protection of historic heritage from ‘inappropriate subdivision, use, and development’ became a matter of national importance instead of an ‘other matter’.

This matter is relevant to managing notable trees as historic heritage is one of the factors in the identification of notable trees.

The section 7 matters relevant to Plan Change H(b) are:

s7(c) the maintenance and enhancement of amenity values.

s7(f) maintenance and enhancement of the quality of the environment

s7(g) any finite characteristics of natural and physical resources

The matters listed above are relevant as notable trees contribute to local amenity values in the area in which they are located. They contribute to the quality of the environment and there are finite characteristics of trees as a natural resource.

Section 8

In achieving the purpose of the Act in relation to managing the use, development, and protection of natural and physical resources, the Council is required to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Given the narrow scope of Plan Change H(b), the trees assessed and recommended in this plan change are not representative of the requirements of section 8, and further work will be done with iwi, hapū, and Māori in the District to identify any areas of particular mana whenua value.

Section 32

Section 32 stipulates the content and evaluation necessary prior to notification of a plan change. The evaluation report focuses only on those parts of the District Plan where changes are being proposed.

Section 32 of the Act –

(1) *An evaluation report required under this Act must -*

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

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

- (i) *identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) *assessing the efficiency and effectiveness of the provisions 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.*
- (2) *An assessment under subsection (1)(b)(ii) must -*
- (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 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.*
- [...]
- (5) *The person who must have particular regard to the evaluation report must make the report available for public inspection –*
- (a) *as soon as practicable after the proposal is made (in the case of a standard, regulation, national policy statement, or New Zealand coastal policy statement); or*
 - (b) *at the same time as the proposal is notified.*
- (6) *In this section, –*
- objectives** means, –
- (a) *for a proposal that contains or states objectives, those objectives:*
 - (b) *for all other proposals, the purpose of the proposal*
- proposal** means *a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act*
- provisions** means, –
- (a) *for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change;*
 - (b) *for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.*

This report follows the requirements outlined in Section 32 above.

7. National Direction

7.1 National Policy Statements

The following National Policy Statements are effective under the Act:

- National Policy Statement for Electricity Transmission 2008
- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement for Freshwater Management 2020
- National Policy Statement on Urban Development 2020
- National Policy Statement for Highly Productive Land (coming into effect on 17 October 2022).

There are no National Policy Statements relevant to this topic.

An exposure draft of the National Policy Statement for Indigenous Biodiversity (NPS-IB) has been consulted on but is not yet gazetted. While the draft NPS-IB is focussed on large areas of indigenous biodiversity, the identification, protection and appropriate management of individual notable trees or groups of notable trees can assist in achieving objectives in indigenous biodiversity. However, given the limited scope of this plan change, being a review of the existing list of notable trees, the future intent of the NPS-IB has not been further considered in this plan change.

7.2 National Environmental Standards

The following National Environmental Standards (NES) are currently in force:

- NES for Air Quality 2004
- NES for Sources of Human Drinking Water 2007
- NES for Electricity Transmission Activities 2009
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- NES for Telecommunication Facilities 2016
- NES for Plantation Forestry 2017
- NES for Freshwater 2020
- NES for Marine Aquaculture 2020
- NES for Storing Tyres Outdoors 2021

The following standards are considered to be relevant to notable tree matters:

NES	Relevant Clauses	Comment
<p>National Environmental Standards for Telecommunication Facilities 2016</p>	<p>S45 Significant trees</p> <p>(1) This regulation applies to a regulated activity if the activity is carried out at a place that—</p> <p>(a) is not in a road reserve; and</p> <p>(b) is within the drip line of a tree that is, or is in a group of trees that are, identified in the relevant district plan or proposed district plan as being subject to tree protection rules.</p> <p>(2) This regulation is complied with if the regulated activity is carried out in accordance with the tree protection rules that apply in relation to that tree.</p> <p>(3) In this regulation, tree protection rules means district rules about the protection of trees that are identified in the district plan or proposed district plan as being of special significance (however described).</p>	<p>This means that significant trees that are not in the road reserve and are specifically identified in the relevant District Plan can have stricter regulations than what is in the NES.</p> <p>In completing this plan change, there is one notable tree listed in the Notable Trees Schedule which is located in the road reserve.</p>
<p>National Environmental Standards for Electricity Transmission Activities 2009</p>	<p>Trimming, felling, and removing trees and vegetation</p> <p>s30 Permitted activities</p> <p>(1) Trimming, felling, or removing any tree or vegetation, in relation to an existing transmission line, is a permitted activity if all of the applicable conditions in subclauses (2) to (6) are complied with.</p> <p>Relevant Conditions</p> <p>(2) Any tree or vegetation must not be trimmed, felled, or removed if—</p> <p>(a) a rule prohibits or restricts its trimming, felling, or removal (as the case may be); or</p> <p>(b) it is in a natural area.</p>	<p>Clause 30 of this NES outlines that trees cannot be trimmed, felled or removed if there is a specific rule that prohibits or restricts it.</p> <p>In preparing this plan change specific provisions have been included to enable the trimming of notable trees. It is noted that the trees listed are not located within Electricity Transmission corridors.</p>

7.3 National Environmental Regulations

The following regulations are relevant to the management of notable trees:

Regulation	Relevant Matter	Comment
Notable Trees - Electricity (Hazards from Trees) Regulations 2003	<p>Purpose of these regulations is to protect the security of the supply of electricity and public safety by:</p> <ul style="list-style-type: none"> • Specifying safe distances (growth zones) from electrical conductors (network lines) within which trees must not encroach; • Setting rules about who has responsibility for cutting or trimming trees that encroach on electrical conductors, and • Assigning liability if those rules are breached. 	<p>The regulations were introduced to keep trees at a safe distance from power lines for public safety, and to protect the electricity supply. They do not apply to service lines that run from the street to a house or building, but electricity network lines; and apply to all trees which are growing into network lines, unless they are covered by a previous agreement.</p> <p>A guidance note referring to these regulations has been included in the new Notable Trees Chapter to recognise that the Electricity (Hazards From Trees) Regulations (2003) shall be complied with in relation to works associated with a notable tree near lines (including the National Grid).</p>

7.4 National Planning Standards

The National Planning Standards 2019 (NPStandards) outline the structure of District Plans. Council is in the process of amending the District Plan into the new format as required by the NPStandards. To reflect this, the Notable Trees chapter has been structured to be part of a future section on Historical and Cultural Values. In the future the Notable Trees chapter will form this section:

Historical and Cultural Values:

- Historical Heritage
- Notable Trees
- Sites and areas of significance to Māori

Given that there must be separate chapters for historic heritage, notable trees, and sites and areas of significance to Māori, the topics are being dealt with separately as part of the District Plan review.

The NPStandards states that if the following matters are addressed, they must be located in the notable trees chapter:

- a. identification of individual trees or groups of trees

- b. provisions to manage trees or groups of trees
- c. a schedule(s) of individual trees and groups of trees. This schedule must include a description of the tree(s) including the species of the tree(s). This may cross-reference an appendix.

The NPStandards state that any schedules of items must be located within the relevant chapter or there may be a cross reference to an appendix. For the purposes of PCH(b) the list of Notable Trees have been included as a schedule under the Notable Trees Chapter and referred to within the District Plan as the Notable Trees Schedule. To be consistent with the NPStandards the schedule includes the following for each site.

- a. unique identifier (created by the local authority)
- b. site identifier (eg, legal description, physical address, site name or description)
- c. site type (including description of values)
- d. map reference or link.

Local authorities must consider whether to include additional relevant information in schedules. In this instance Council is including a brief description of the tree from the technical report that has been completed.

7.5 Natural and Built Environment Bill

The Natural and Built Environment Bill is one of three pieces of legislation which will replace the Act as part of the Resource Management Reform process currently underway. To date, there is still uncertainty about whether the identification and protection of notable trees will be provided for under the new planning legislation. As identified in the scope at the start of this report, this plan change is limited to a review of the existing notable trees. Once the new legislation is in place, Council will review the approach taken for notable trees and complete a future plan change (if required).

7.6 Other National Legislation / Information

Tree Protection in Urban Environments, Ministry for the Environment (2013)

This report provides guidance on and explains how the Resource Management (Simplifying and Streamlining) Amendment Act should be applied. It also highlights key considerations when using District Plan rules to protect trees in urban allotments. This guidance focuses on the statutory requirements for scheduling 'groups of trees'. While considering the limited scope of PCH(b), the approach taken in the review of the Notable Trees in Appendix 1D and the proposed rules are considered to be consistent with the relevant guidance in this document. The NPStandards now provide additional guidance on how notable trees need to be listed within a District Plan.

NZ Tree Register

This register is supported by the New Zealand Arboricultural Association and the Royal New Zealand Institute of Horticulture. The purpose of the NZ Tree Register is to raise the profile of notable community trees, foster the centralisation and exchange of tree information, and to encourage people to submit trees that they think are important. There are a 10 trees within the Manawatu District that are listed in the NZ Tree Register and the Sequoiadendron Giganteum located at 28 Kimbolton Road (District Plan Reference: T2) is included. Given the limited scope of

this plan change being a review of the existing Notable Trees listed in the District Plan, the inclusion of new trees such as those listed in the NZ Tree Register is a matter for future consideration once national direction under the future Natural and Built Environment Act is confirmed. It is noted that should additional trees be included in future District Plans, then an assessment of these trees using an assessment tool such as STEM, would still be required. Being on the NZ Tree Register does not automatically mean the trees should be included in the District Plan and subject to the regulation approach.

8. Regional Direction

Regional Policy Statement – Horizons Regional Council One Plan

Horizons Regional Council’s One Plan combines the Regional Policy Statement and Regional Plan into one document. The Regional Policy Statement is contained in Part 1 and the Regional Plan is in Part 2. Chapter 6 of the Regional Policy Statement is relevant to PCH(b) as it sets out the resource management issues, objectives and policies for Indigenous Biological Diversity, Landscape and Historic Heritage.

The Manawatu District Plan is required to give effect to the regional policy statement as required by section 75(3) of the RMA, and must not be inconsistent with a regional plan (Section 75(4)(b)).

The following table sets out the relevant objectives and policies of the One Plan.

Regional Policy Statement/Plan	Relevant Section
Objective 6-3 Historic Heritage	Protect historic heritage from activities that would significantly reduce heritage qualities.
Policy 6.4.1 Indigenous Biodiversity	<p>Policy 6-1 Responsibilities for maintaining indigenous biological diversity In accordance with s62(1)(i) RMA, local authority responsibilities for controlling land use activities for the purpose of managing indigenous biological diversity in the Region are apportioned as follows:</p> <p>a. The Regional Council must be responsible for:</p> <ul style="list-style-type: none"> i. developing objectives, policies and methods for the purpose of establishing a Region-wide approach for maintaining indigenous biological diversity, including enhancement where appropriate ii. developing rules controlling the use of land to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and to maintain indigenous biological diversity, including enhancement where appropriate. <p>b. Territorial Authorities must be responsible for:</p> <ul style="list-style-type: none"> 1. retaining schedules of notable trees and amenity trees in their district plans or such other measures as they see fit for the purpose of recognising amenity, intrinsic and cultural values associated with indigenous biological diversity, but not for the purpose of protecting significant indigenous vegetation and significant habitats of indigenous fauna as described in (a)(ii) above.

The approach of PCH(b) is to recognise Notable trees with specific values. These values do not include their indigenous vegetation value which is a Regional Council matter. Therefore it is considered this plan change is consistent with the direction in the One Plan.

9. Iwi Management Plans

While not specifically related to PCH(b), there are Iwi Management Plans currently in preparation, and one Iwi Management Plan has been lodged with Horizons Regional Council: the Rangitīkei Catchment Strategy and Action Plan, by Ngā Puna Rau o Rangitīkei (NPRR), of which Ngāti Hauiti is part of. NPRR has developed the Rangitīkei Catchment Strategy and Action Plan to provide a clear picture of how they would like to see the health and wellbeing of the Rangitīkei Awa and its tributaries, and the work programme that they think will result in restoration of the health of Awa and its catchment.

A copy of Draft PCH(b) has been sent to mana whenua of the Manawatū District. At the time of preparing PCH(b) and the associated Section 32 Report, no specific information has been received from iwi or hapū on this issue.

10. Local Direction

10.1 Long Term Plan 2021-2031

Council's Long Term Plan 2021-2031 (LTP), also known as the 10 Year Plan, outlines the Council's plans for the next 10 years regarding funding its ongoing programmes and capital works projects. Council's priorities for the next 10 years are outlined in the LTP, and the following priorities are relevant to Plan Change H(b):

A future planned together

We work with all parts of our community to plan for a future everyone can enjoy.

An environment to be proud of:

We protect and care for the Manawatū District's natural and physical resources.

A prosperous, resilient economy

We aim to make the Manawatū District a great place to live, to visit and to do business.

The purpose of Plan Change H(b) is to review the existing District Plan list of notable trees to ensure that the list is relevant and up-to-date. The trees recommended to be included in the District Plan are all of a size, age and scale that contribute to the wider amenity of the areas in which they are located. This plan change, while particularly narrow in scope, contributes to an environment to be proud of.

11. Technical Advice and Input

Council commissioned Arborist, Mr Jez Partridge, from Treecology, to complete a review of the existing 10 locations of Notable Trees in Appendix 1D of the District Plan. Mr Partridge completed his assessment and has prepared the following two reports (attached in **Appendix 2**):

- **Part 1 – Report on the Survey and Assessment of Notable Trees for Manawatu District Council.** The purpose of the assessment and report was to assist the Council:
 - To decide whether protection of these trees should be continued within the District Plan,
 - To provide arboricultural advice into the Plan Change process, and

- To determine a suitable STEM threshold for District Plan inclusion.

- **Part 2 – STEM Assessments of Notable Trees, Manawatu District Council** – this report provides the individual STEM assessments for the notable trees listed in existing Appendix 1D.

11.1 Part 1 – Report on the Survey and Assessment of Notable Trees for Manawatu District Council

Report Context and Summary of Recommendations:

The Part 1 Report provides the background and context to the STEM assessment method that was selected and how each tree was assessed, as follows:

The STEM, designed by NZ landscape architect Ron Flook, was designed to assist and encourage a consistent and objective approach to the assessment of the amenity trees. The method was introduced in 1991 and is currently used by around two thirds of NZ District Councils to assess the suitability of trees for protection in District Plans. ... Three major aspects of a tree or group of trees' 'amenity values' are assessed, these being Condition, Amenity Value, and Notable criteria. These aspects are subdivided into the criteria for Form, Occurrence, Vigour and Vitality, Function, Age, Stature, Visibility, Proximity, Role, Climate, Historic, and Scientific values. Each criteria is separately valued against a perfect score of 27 points for each criterion.

In addition to undertaking STEM assessments each tree had a basic safety and condition assessment undertaken to ensure trees are safe to retain. Any known threats to each tree were noted, and any tree management recommendations were also provided. Trees which are hazardous or dangerous should normally not be protected unless in exceptional circumstances.

The STEM is recognised by the Environment Court and is used by around two thirds of District Councils across NZ as a relatively objective and consistent evaluation method for determining whether trees should be protected as Notable by a District Plan. Councils use a threshold score to decide whether a tree should be protected and this threshold score varies from Council to Council. STEM does a good job of recognising and scoring historic trees ...

Assessment of threats

The assessments undertaken by Mr Partridge identified that there are credible threats to nine of the 11 trees assessed.

STEM Threshold

Mr Partridge has recommended that the Manawatū STEM threshold be set at 130 or 135 points, as follows:

Trees with a score of 130 points are generally in reasonable health and condition, are not unsafe, have some significance in the landscape or locality, and are capable of contributing to the character and identity of the District for a reasonable length of time. Trees with the higher scores have increasingly higher district importance in terms of their age, history, size or rarity.

It is considered that a threshold of 130 to 135 points is appropriate for the Manawatu. Those that reach this score are recognisable features of the District's landscape that most people would appreciate as having some significance and therefore warrant protection under the District Plan.

From these recommendations, a threshold of 130 has been recommended for the selection of Notable Trees onto the Notable Tree Schedule.

11.2 Part 2 – STEM Assessments of Notable Trees, Manawatu District Council

The trees on the existing schedule in the operative Manawātū District Plan were re-evaluated using the STEM tool. The STEM evaluation is accompanied with the following information:

- Photographs of the trees
- Brief notes on care and maintenance
- An assessment of the potential for nearby development, and
- Threats to the health of the trees.

As a summary of the findings of Mr Partridge's report, the recommendations from the STEM and safety assessment for each existing tree are as follows in Table 1:

Table 1: Summary of Recommendations for Notable Trees

Ref	Address	Species	Status/Issues/Recommendations	STEM ranking (2021)
T1	7 Pines Court	Titoki	Recommended not to be protected. The tree is unsafe and in rapid decline.	117
T2	28 Kimbolton Road	California Big Tree	Recommended to be protected. Owners concerned about large size, cutting out light, and weather events which could put tree at risk causing damage to property/injury to people. Assessment: In good condition overall slight lean north west. No suggested care and maintenance	204
T3	306 Kimbolton Road	North Island Rata	Removed	n/a
T4	3 Ranfurly Road	Red Oak (incorrectly identified as English Oak)	Recommended to be protected Ongoing maintenance regime sufficient.	189

Ref	Address	Species	Status/Issues/Recommendations	STEM ranking (2021)
T5	30 Kimbolton Road	Weeping Elm	Removed	n/a
T6	7 Pines Court	Chinese Hawthorn	Removed	n/a
T7	2B Pines Court	Tasmanian Blackwood	Recommended to be protected Repairs to footpath under tree should be undertaken sensitively to not damage roots and allow permeability. Possible raised footpath to protect roots. When undertaken, a consultant arborist should help design new footpath under canopy and be present when old footpath removed to advise and assist.	183
T8	19 Pharazyn Street	Oaks (2) – Red Oak	Recommended to be protected Neighbours concerned about safety of tree and work required to tidy up leaves, branches, acorns, etc on their property as most of it falls on their property. Reducing sunlight in their house. 1995 assessment indicated decay but this does not mean the tree is unsafe. Crown reduce 15 to 20%, deadwood, remove ivy. Trees unlikely to fail given size and weight.	174
T9	Kakariki Road	Golden Totara	Recommended not to be protected as tree is in very poor state and dying	72
T10	28 Kimbolton Road	Magnolia Grandiflora	Recommended to be protected In April 2020, a Certificate of Compliance was issued to undertake works to prune low lying limbs from two trees in Pines Court, to enable safe access to and egress from Pines Court, Feilding, for waste management vehicles. The recommendation was for the removal of two live branches and one dead branch from the Californian Big Tree, no larger than 200mm in diameter, and the removal of four	149

Ref	Address	Species	Status/Issues/Recommendations	STEM ranking (2021)
			<p>minor branches from the Magnolia Grandiflora. This work was assessed as not having an impact on the health of either tree.</p> <p>Owners concerned about root system under concrete. Tree is not publicly visible.</p> <p>Assessment: One sided canopy mostly to north, numerous decay pockets, showing signs of senescent aging decline, veteran and retrenching.</p> <p>Reduce limb over road as hollow and could fail. Reduce end weight by 2 to 3 metres. This recommended work is relatively minor and should not overly detract from its form and amenity values.</p>	
T11	SH 54 / McLaren Street (Former Waituna West Hall)	Magnolia Campbelli	<p>Recommended to be protected</p> <p>Recommend annual inspection to determine if diseased, and to recommend any suitable mitigation based on that finding.</p>	198
T12	No.1 Line Cloverlea	Group of four Chestnut trees and two Oak trees	Now within PNCC jurisdiction	n/a
T13	11 South Street	English Oak and Gian Redwood	<p>English Oak removed due to wind damage in May 2020 through a discretionary resource consent application. This consent was granted subject to a condition that another tree of Quercus genus be planted on the site within six months of removal (put forward by the applicant).</p> <p>Giant Redwood recommended to be protected.</p> <p>Owner and neighbour feel it is unsafe. Want to know lines of responsibility.</p> <p>Remove lowest limb south, reduce length of lower branches south by 2 to 3 metres. Reduce weight on lean by</p>	204

Ref	Address	Species	Status/Issues/Recommendations	STEM ranking (2021)
			balanced crown reduction north side as required. Monitor tree annually for 3 years to determine if tree is under any wind stress. This monitoring is a belts and braces safety approach.	
T14	Manfeild Park	English Oak	Recommended to be protected Reduce lowest limb west by 3 to 4 metres as decayed. Numerous decay sockets and medium failures visible. May have some kind of active decay. Recommend biennial condition and safety inspection and potentially ultrasound to map decay.	240
T15	54 Root Street East (PC 51)	English Oak (2)	Remove trees from the schedule. Trees were included in error. Listed tree location does not relate to the trees which were assessed and were not assessed through the STEM tool.	n/a

As part of the STEM assessments, Council's expert recommended how the existing trees could be managed by undertaking specific works to ensure the safety and health of the notable trees. These recommendations have been forwarded to notable tree owners as part of the Plan Change process.

The STEM assessments provide the technical review of each notable tree, and whether each tree meets the recommended STEM threshold of 130 points. These assessments consider the condition (health), amenity (community benefit) and notability (distinction). These matters form the basis for PCH(b) and is reflected in the proposed Schedule of Notable Trees.

12. Operative District Plan Framework

12.1 Chapter 4: Historic Heritage

The Operative District Plan includes Chapter 4 Historic Heritage which provides the planning framework for historic heritage items that are located within the Feilding Town Centre (reviewed in 2014). Provisions for notable trees are also located within Chapter 4 in the form that they were drafted and made operative in 2002. The list of notable trees are contained in "Appendix 1D – Trees With Heritage Value".

There is currently no objective in the District Plan relating to Notable Trees. There is however the following policy:

Policy 2.2 To protect listed notable trees in such a way that their significance as a heritage resource and the values for which they were listed are not permanently diminished or damaged.

There are currently two rules that apply to notable trees:

4.4.1 Permitted Activities

- iv. Pruning and removing branches from the trees listed in Appendix 1D, provided that the pruning is under Council supervision.*

4.4.3 Discretionary Activities

- viii. Felling, damaging or cutting branches or roots of trees listed in Appendix 1D (other than pruning permitted by Rule A2 2.3.1 A) iv)).*

There is currently no assessment criteria and limited information about why the notable trees were included in Appendix 1D in the District Plan to guide resource consent applications, despite the reference to 'values' in the policy. The lack of guidance in the current District Plan was demonstrated in 2020 where a resource consent application for the removal of a wind damaged notable tree was assessed against the historic built heritage assessment criteria of 'rarity' and 'vulnerability'.

12.2 Chapter 3 District Wide Earthworks

Earthworks have the potential to result in adverse effects on notable trees. Provisions relating to earthworks are contained in Chapter 3 District Wide Rules.

District Plan provisions for earthworks in Chapter 3 of the District Plan are as follows:

3D.3 Objectives and Policies

Objective 1:

To ensure earthworks do not result in adverse effects on the visual amenity, landscape, or historic heritage values of the area.

Policy 1.2

To restrict earthworks within the area of items scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value).

3D.4.2 Standards for Permitted Activities

The Permitted Activities specified above must comply with the following standards: ...

- e. Earthworks must not be undertaken within any area identified in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value).*

There are several permitted activity standards which control the effects of earthworks on a site, e.g.

- Control of sediment run-off;
- Dust and sedimentation control measures;

- Setback requirements near Oroua River, Kiwitea Stream, Makino Stream;
- No blocking of stormwater or overland flow paths.
- Earthwork volumes: volume per site, maximum area exposed; setback from site boundary; extent of ground level change.

12.3 Rule A1 Subdivision and Consent Information Requirements

The following provisions that are currently included in the District Plan are relevant to the consideration of notable trees in subdivision proposals, including information requirements for land use and subdivision:

A1.3.2 Reservation of Control – Controlled Activity Subdivision Applications

- A) The matters in respect of which **Council** has reserved its control are:
- xii) Impact of subdivision upon future management of **natural areas** and **heritage places**.

A1.3.4 Assessment of Discretionary Activity Applications

- A) In assessing discretionary activities Council will have regard to matters including the following:
- xiv) The effect of the proposal on the heritage values and preservation of any place or object listed in Appendices 1A to 1F, or upon the heritage significance of any **natural area** in terms of the criteria in Appendix 1I.

Rule A General

A1.2 Information Requirements For Resource Consent Applications and Designations

A1.2.2 Land Use Consent Applications

- B) Assessment of Environmental Effects
- iii) d) An assessment of the actual or potential effects on the environment of the activity, including adverse effects, benefits and cumulative effects, particularly:
 - Any effect on heritage places, natural areas or other places of special value to present and future generations.
- ...

A1.2.3 Subdivision Consent Applications

A) All applications shall be in the proper form and should include:

- ii) Plans drawn to scale, legible and capable of being readily copied. The plans must show, as appropriate:
 - o) Any heritage places identified by the Plan.

13. Plan Change Development

13.1 Chronology

The following table outlines the key milestones in preparing PCH(b) Notable Trees:

Date	Activity
2014	Plan Change 46 Town Centre made operative, including a new Chapter 4 for Historic Heritage. Existing provisions for notable trees were unchanged (not reviewed) and remained in Chapter 4.
March 2020	Council decision to review existing trees included in Appendix 1D Trees with Heritage Value and to protect key trees.
Mid 2021	Jez Partridge, Arborist, contracted by the Council to review the trees included in Appendix 1D, and to provide recommendations for the STEM threshold level.
September 2021	Tree assessments of the 10 existing trees listed in Appendix 1D undertaken by Jez Partridge.
January - February 2022	Part 1 (Report) and Part 2 (STEM Assessments) reports finalised by Jez Partridge.
February 2022	STEM assessments sent to tree owners.
March-April 2022	New draft District Plan chapter prepared: Plan Change H(b): Notable Trees.
May – June 2022	Clause 3 consultation initiated with notable tree owners and neighbours: draft plan change provisions, fact sheet and feedback form sent to tree owners to seek feedback on report information and draft plan change provisions.
June 2022	Feedback by tree owners/neighbours received on the draft plan change provisions.
September 2022	Draft PCH(b) sent to iwi and hapū for comment.
September 2022	Finalisation of Proposed PCH(b) Notable Trees including Section 32 Report.

13.2 Consultation

Clause 3 of the First Schedule of the Act specifies the people who must be consulted in the preparation of a plan, including plan changes. The provisions that relevant to PCH(b) are:

3 Consultation

- (1) *During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—*
- (a) *the Minister for the Environment; and*
 - (b) *those other Ministers of the Crown who may be affected by the policy statement or plan; and*
 - (c) *local authorities who may be so affected; and*
 - (d) *the tangata whenua of the area who may be so affected, through iwi authorities; and*
 - (e) *any customary marine title group in the area.*
- (2) *A local authority may consult anyone else during the preparation of a proposed policy statement or plan.*
- ...
- (4) *In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.*

4A Further pre-notification requirements concerning iwi authorities

- (1) *Before notifying a proposed policy statement or plan, a local authority must—*
- (a) *provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and*
 - (b) *have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.*
- (2) *When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.*

Issues Arising From Clause 3 Consultation

Tree owners and immediate neighbours of existing notable trees were asked for feedback in May-June 2022 on draft provisions for a notable tree chapter. The draft plan change was also sent to the Ministry for the Environment and Ministry for Culture and Heritage.

The following issues/questions were raised as part of feedback on the plan change and notable tree consultation:

- The lack of management and maintenance with some notable trees
- The effect of some trees on neighbouring properties, and the work needed to clean up branches, leaves, e.g. the need to clear leaves from gutter
- Trees cutting off light to nearby houses
- Questions over who is responsible for the trees, and who is liable if a tree falls and damages property or injures people
- Concerns over whether the trees were healthy and safe
- What happens if tree roots go over a property boundary and into neighbouring buildings
- Impact of extreme weather events on large standalone trees in residential areas

- Lack of evidence that the tree was significant
- Offer to swap the neighbours notable tree for another tree on their section to become notable instead
- When purchased house, was told that the Council was responsible for maintenance on a regular basis and that leaves would be taken away, but then were told that it was landowner responsibility
- Would like additional trees on property to be protected, existing notable tree isn't in good condition but has recovered since took over property 10 years ago
- Would like the trees retained in Pines Court.

As part of PCH(b) specific rules are proposed which enable pruning and removal of a notable tree where there are health and safety issues including damage to property and infrastructure. The STEM assessments have also provided information about the condition (health), amenity (community benefit) and notability (distinction) for each tree, including a basic safety and condition assessment to ensure trees are safe to retain. Any known threats to each tree have been noted, and any tree management recommendations were also provided. These STEM assessments have provided significantly more information about each tree than what is currently included in the District Plan. These recommendations in the Part 2 report were sent to the owners of the assessed Notable Trees.

Note that some issues raised in the feedback, particularly in relation to maintenance and liability, are outside of the scope of the District Plan and therefore the plan change. Further discussions about these issues and further advice has been provided to the relevant tree owners outside of the Plan Change process.

Clause 4A of Schedule 1 of the Act sets out the requirements for local authorities to consult with iwi authorities before notifying a proposed plan and to have particular regard to any advice received from those iwi authorities. Draft PCH(b) Notable Trees was sent to representatives of iwi and hapū. At the time of preparing this report no feedback had been received.

14. Issue Identification and Analysis

The following issues have been identified for notable trees through a review of legislative and policy contexts, from technical reports, best practice approaches in other district plans, and from consultation held through the preparation of the plan change:

- **RMA matter of national importance:** s6(f) The protection of historic heritage from inappropriate subdivision, use, and development.
- **From technical reports / current district plan provisions / approaches in other district plans**
 - Trees can have many values (landscape, amenity, historic heritage, cultural, botanical) and have a role in enhancing urban and rural environments
 - Trees contribute to community wellbeing and may have important intrinsic value
 - The loss or degradation of significant and important trees, including the removal of some notable trees from the District Plan
 - Inappropriate works to trees and activities near trees (e.g. pruning; works within root protection area) can have detrimental impacts on the health and safety of notable trees
 - The need for works to be undertaken in accordance with good arboricultural advice

- The existing stock of notable trees are aging which affects the range of notable trees that are protected in the district
- There is a lack of guidance in the existing District Plan provisions, including no relevant objective, and uncertain rules and a policy which refers to values which are not referenced anywhere in the District Plan.
- **From consultation:**
 - Trees can create nuisance to owners and neighbours, particularly if not regularly maintained
 - Concerns over safety of large trees near residential areas, particularly with extreme weather events and the age of the proposed notable trees
 - Lines of responsibility – who is responsible if tree damages property or injures someone
 - Support for retention of trees
 - Who is responsible for maintenance and carrying out works on notable trees
- **From One Plan direction – notable trees for amenity, not indigenous biodiversity:**
 - Territorial authorities are responsible for retaining schedules of notable trees and amenity trees in their district plans or such other measures as they see fit for the purpose of recognising amenity, intrinsic and cultural values associated with indigenous biological diversity, but not for the purpose of protecting significant indigenous vegetation and significant habitats of indigenous fauna.

Based on consultation, technical assessments and the analysis of policy and legislative context, the following District Plan related issues have been identified for notable trees:

1. Notable trees can have important botanical, landscape, amenity, historic heritage and cultural values and can have a role in enhancing the urban and rural environment, contributing to social and cultural well-beings.
2. The potential loss or degradation of notable trees in the district.
3. Notable trees can pose a safety threat to property, people or infrastructure.

15. Evaluation of Part 2, Resource Management Act

As well as considering the STEM assessment for each tree, Part 2 of the Act needs to be considered to determine if each notable tree is appropriate for scheduling within the District Plan. This consideration involves having regard to notable significance and also to its structural integrity or condition and ongoing safety. For the purposes of this plan change, trees that are assessed as having safety issues which cannot be addressed should not be put forward for protection.

The Council needs to have regard to sustainable management under the Act, including the effect the tree has on the individual, particularly in terms of their social, economic and cultural wellbeing, and for their health and safety.

The Council is enabling through the plan change the ability for tree owners to undertake works without the need for resource consent (subject to guidance of an arborist), including pruning or removal of the tree, if the tree is creating health and safety issues for people. PCH(b) therefore enables Part 2 of the Act to be achieved, particularly in terms of economic well-being, and ensuring

that people and communities can provide for their health and safety, where safety concerns over trees can be quickly addressed.

The STEM assessments provide the technical review of each notable tree in the existing District Plan, and whether each tree meets the recommended STEM threshold of 130 points. These assessments consider the condition (health), amenity (community benefit) and notability (distinction). Identification and protection of notable trees enable historic heritage, botanical, landscape, amenity and cultural considerations to be identified and protected where trees hold such values. The identification and protection of notable trees therefore enables the social and cultural well-beings under Part 2 of the Act to be achieved, given the values that notable trees can provide to communities.

Overall the proposed plan change for notable trees is considered to achieve Part 2 of the Act.

16. Plan Change H(b) Direction

The purpose of PCH(b) is to insert a new chapter into the Manawatū District Plan to manage notable trees, as required by the National Planning Standards. The limited scope of the plan change is to remove those trees from the Notable Tree list that have not meet the STEM value and to provide clear policy guidance and rules that enable their management more easily than what the current plan provides.

Part III: Statutory Evaluation

17. Scale and Significance

Under s32(1)(c) of the Act, this evaluation report needs to:

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.

The eight factors below are used to assess the Scale and Significance of the plan change topic: Notable Trees. Each factor is scored low, low-moderate, moderate, moderate-high, high. This is consistent with the Ministry for the Environment's guidance on Section 32 reports.

The level of detail undertaken for the evaluation of the new chapter for Notable Trees, including the Schedule, has been determined by an assessment of the scale and significance of the implementation of these provisions. The scale and significance assessment considers the environmental, economic, social and cultural effects of the provisions. In making this assessment regard has been had to whether the provisions meet the following criteria in **Table 2** below:

Table 2: Summary of Scale and Significance

	Low	Low-moderate	Moderate	Moderate-high	High
Degree of change from the Operative Plan		✓			
Effects on matters of national importance (s6 RMA)	✓				
Scale of effects – geographically (local, district wide, regional, national)	✓				
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?)	✓				
Scale of effects on those with particular interests e.g. Tangata Whenua....	✓				
Degree of policy risk – does it involve effects that have been considered	✓				

implicitly or explicitly by higher order documents.					
Does it involve effects addressed by other standards/commonly accepted best practice	✓				
Likelihood of increased costs or restrictions on individuals, businesses or communities.	✓				

The greatest change from the Operative District Plan provisions is to provide permitted activity status for the removal of notable trees where there is a serious imminent threat to the safety of people or property, or the tree is dead or has less than five years life expectancy remaining. The plan change provisions also provide much greater guidance and certainty to tree owners about which activities are permitted or require a resource consent, than with what is provided under the operative District Plan provisions.

There is only a very small number of notable trees being put forward for protection, resulting in a small number of tree owners and neighbours being affected by the plan change.

The overall scale and significance of this proposal has therefore been assessed as being low given the limited scope of the plan change, and the enabling approach proposed for landowners. On that basis the information provided in this Section 32 Report is considered appropriate given the scale and significance of the plan change.

Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment above of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic. Instead, this report identifies more generally where any additional costs or cost may lie.

18. Notable Tree Chapter

18.1 Evaluation of Options

This section of the report evaluates the approach taken in assessing the options considered to address the resource management issues.

General Policy Direction Options and Recommendations	
<p>Option 1: Status Quo. Retain existing schedule (Appendix 1D) and existing policy and rules. Under this option there is no Objective relating to notable trees.</p> <p>Option 2: No provisions for notable trees: remove provisions for notable trees including the schedule of notable trees – notable trees would not be managed through the District Plan.</p> <p>Option 3: Insert new chapter: new objective, policies, rules and standards, and a revised notable tree schedule.</p>	
Consideration of Alternatives	
Option 1	Summary of Evaluation
Status Quo	<p>Relevance:</p> <ul style="list-style-type: none"> • Only partly achieves the purpose and principles of the Act: the rule framework does not effectively enable people to provide for their health, safety and well-being through removal of trees or branches if imminent threat to safety; resource consents would be required if a tree had to be removed due to health and safety issues (so may not provide for economic well-being); the identification of the existing notable trees in part provides for social and cultural well-being of the community. • Partly achieves resource management issues of identifying notable trees with certain values however there is no objective to guide a resource consent process if works to a tree are proposed. • The two rules are ambiguous as '<i>pruning and removing branches</i>' is permitted, but then '<i>felling, damaging or cutting branches or roots</i>' is a discretionary activity, creating confusion about what is actually permitted. • The permitted activity of pruning and removing branches must be under 'Council supervision', but this doesn't identify if that supervision is to be by an arborist; it could be any council officer. • The rule framework could result in tree health and safety issues being exemplified and the loss of more notable trees as there is no clear permitted activity pathway to enable works to be undertaken for health and safety reasons. • The status quo only partly enables the Council to undertake its statutory function in terms of the management of the effects of use, development or protection of land as the planning framework does not contain an objective and the rules are ambiguous. • The existing notable tree schedule is out of date as there are several trees which have been removed and two are dying. • Is less consistent with the purpose and principles of the Act (therefore not fully within the scope of higher level documents) given the inability of the provisions

	<p>to recognise when notable trees become a serious threat to the safety of people or property.</p> <p>Feasibility</p> <ul style="list-style-type: none"> • There is uncertainty regarding tree protection rules and the rules are not clear as to what is required (e.g. supervision by who), and when a resource consent is required. • The existing schedule is out of date and does not reflect the existing stock of notable trees. Nor does the schedule contain what values are being protected. • Not realistic in achieving sustainable management as the planning framework is not comprehensive and the tree schedule is out of date and not reflective of current tree stock. <p>Acceptability</p> <ul style="list-style-type: none"> • Issues were raised during consultation about the potential for trees to cause damage/injury to property/people. The status quo does not provide for the permitted removal of trees if they are causing damage to property, infrastructure or injury to people. This may create unjustifiably high costs (e.g. resource consent application) for tree owners where there is a legitimate reason for removal of the tree.
Option 2	Summary of Evaluation
No provisions for Notable Trees	<p>Relevance:</p> <ul style="list-style-type: none"> • Does not achieve purpose of Act as not including a notable tree schedule and provisions will not achieve people’s cultural and social well-being, where trees which have significant values to people in the Manawatū District are not identified and protected. • Notable trees would be at risk from removal or damage. • Does not assist the Council in undertaking its functions under s31 as this approach does not manage the effects of use, development or protection of land in relation to notable trees. • Does not address resource management issues relating to the identification of significant trees according to their values, and the potential loss or degradation of notable trees. • Not having any rules to guide appropriate works for notable trees does not achieve the issue relating to where trees can cause health and safety issues to people, in that any works would be able to be undertaken to prevent those safety issues from occurring. • Is not consistent with the higher level documents, particularly part 2 of the Act as trees with heritage and cultural values may be affected if they are not identified and protected through the District Plan. <p>Feasibility</p> <ul style="list-style-type: none"> • There is uncertainty regarding tree protection, particularly on private property where other legislation does not apply as there is no regulatory mechanism to protect them. • The option would realistically be able to be achieved as it would not require any intervention from the Council. However, there would still need to be a plan

	<p>change (and therefore costs incurred) to remove the existing provisions and tree schedule in Appendix 1D so that no trees were identified and protected.</p> <p>Acceptability</p> <ul style="list-style-type: none"> • There is some support for the protection of notable trees where they are significant to the history of the district and where they also provide an important role in the community. This option would not allow this recognition to occur. • Will not result in unjustifiably high costs to tree owners, as they do not need to apply for a resource consent for certain works, however, the notable trees will not be protected which could lead to their removal, and this will impact on people’s social and cultural well-being. • Council would still need to prepare a plan change to remove the notable tree list, including technical evidence to support such an approach.
Option 3	Summary of Evaluation
<p>Insert new chapter to manage notable trees: Plan Change H(b)</p>	<p>Relevance:</p> <ul style="list-style-type: none"> • Achieves purpose and principles of the Act as the provisions enable the protection of notable trees which provides for social and cultural well-being (identification and protection of trees with significant values), and ensuring that people and communities can provide for their health and safety, where safety concerns over trees can be quickly addressed. This in turn can provide for people’s economic well-being by not having to apply for a resource consent when pruning or removal of a tree is required due to certain situations. • Achieves resource management issues as notable trees would be protected while recognising that pruning and removal may be unavoidable in some instances. • Provides additional clarity for works that can occur within the drip line of a notable tree. This is currently not provided for within the existing District Plan. • Assists the Council in undertaking its functions under s31 as this approach manages the effects of use, development or protection of land in relation to notable trees. An effective objective, policy and rule framework is proposed to provide certainty and clarity to plan users, including a permitted activity pathway for where there are health and safety issues associated with the tree, and for gardening within the root protection area of the tree. Two definitions are also included to assist in managing works within the Root Protection Area of a notable tree, which has not been included in the current plan provisions. • Within the scope of higher level documents as notable trees may be protected in relation to their historic heritage values and (s6(f)). • RMA requirements are met by scheduling notable trees that have important historic heritage, botanical, landscape, amenity and cultural values, and managing activities that could impact their identified values and health. • Comprehensive review of the existing list of Notable Trees has been completed, with only those that meet the STEM threshold of 130 or higher being recommended for protection. The list, compared with the existing list in Appendix 1D, has been narrowed to reflect some trees which do not exist anymore and two which do not meet the STEM threshold. • The proposed notable tree schedule and provisions are consistent with the National Planning Standards as each individual tree is specifically described and

	<p>identified in the District Plan, and each lot is identified by location and legal description.</p> <p>Feasibility</p> <ul style="list-style-type: none"> The new chapter provides certainty as to which activities are permitted or require a resource consent, as well as where notification is not required. This reduces the costs for consenting (where required). There is always a risk that a tree can come down, however, the proposed provisions enable the removal of a tree if there is an imminent threat to safety of people or property. The option can realistically be achieved and implemented. <p>Acceptability</p> <ul style="list-style-type: none"> Is consistent with community outcomes in terms of feedback provided, and the need for practical and useful provisions. Clarity around gardening in the root protection area and the ability to remove trees where there is threat to human life is appropriate. Will not result in unjustifiably high costs to tree owners, as specific permitted activities are proposed, meaning they do not need to apply for a resource consent for certain works. There will be some activities which require a resource consent, such as works within the Root Protection Area, and the removal of a tree which is not unsafe or dying. The need for a resource consent in these situations is balanced against the need to protect notable trees which have significant values and are important to people or the community.
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The above analysis indicates that the preferred option is Option 3 (Plan Change H(b)) for the following reasons:

- Most likely to achieve the identified resource management issues for notable trees;
- Providing a more appropriate and effective rule framework such as enabling the removal of notable trees when trees become unsafe, or have less than five years life expectancy;
- Gives effect to the relevant statutory planning documents and the Act. It is based on technical assessments undertaken for the Council which evaluated the current list of Notable Trees and completed a comprehensive STEM assessment. The proposed provisions are considered to provide a clear and easily understood approach to managing the small number of Notable Trees in the District, which provides clarity for plan users compared with the operative District Plan.

18.2 Evaluation of Objective

This section of the report evaluates the proposed objective for the new Notable Trees chapter as to whether the objective is the most appropriate to achieve the purpose of the Act.

Relevance:	<p>Achieves purpose and principles of RMA</p> <p>Addresses a resource management issue</p> <p>Assists Council to carry out its statutory function</p> <p>Within the scope of higher level documents</p>
Feasibility:	<p>Acceptable level of uncertainty and risk</p> <p>Realistically able to be achieved</p>

Acceptability:	Consistent with identified Iwi and community outcomes Will not result in unjustifiably high costs on the community or parts of the community.
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The following table outlines the proposed objective for notable trees:

Objective Most Appropriate Way to Achieve the Purpose of the Act	
Proposed Objective:	Summary of Evaluation
<p>NT-01 Trees with notable, botanical, landscape, amenity, historic heritage or cultural values are identified and protected.</p>	<p>Relevance:</p> <ul style="list-style-type: none"> • Achieves purpose and principles of Act, particularly section s6(f), as the objective clearly identifies what is important to consider when assessing Notable Trees. This is fundamental to the subsequent identification of Notable Trees in the Schedule to the new chapter. • Reflects the best practice approach to assessing notable trees using the STEM process. • The objective combines ‘identification’ and ‘protection’ of notable trees into one objective to provide a succinct approach to the chapter. The objective provides certainty and clarity to plan users, particularly given there is no current objective in the District Plan to provide guidance for notable trees. • The Act requirements are met through the objective by requiring outlining those values that identify notable trees, specifically, their historic heritage, botanical, landscape, amenity and cultural values. <p>Feasibility</p> <ul style="list-style-type: none"> • The proposed objective can be achieved through the STEM assessment and the introduction of new rules as proposed. The narrowing of tree values as proposed by the Objective provides clarity for plan users on what is considered most relevant for identifying notable trees in the District. The reference that trees meeting these characteristics are protected has been achieved though the introduction of a new schedule and rule framework. This is a pragmatic approach based on the information Council has, and means that not all trees in the District are notable. • The option can realistically be achieved and implemented. <p>Acceptability</p> <ul style="list-style-type: none"> • Is consistent with community outcomes in terms of feedback provided from tree owners, and the need for practical and useful provisions. The Objective sets the framework for the subsequent provisions and provides more certainty to landowners who have a notable tree compared with the operative District Plan approach. • Implementing the objective will not result in unjustifiably high costs to tree owners, as they do not need to apply for a resource consent for certain works. There will be some activities which require a resource consent, such as works within the Root Protection Area, and the removal of a tree which is not unsafe or dying. The need for a resource consent in these situations is

	balanced against the need to protect notable trees which have significant values and are important to people or the community.
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The above analysis indicates that the proposed Objective for the Notable Trees Chapter is the most appropriate way to achieve the purpose of the Act. The objective provides an effective and efficient approach to identify and then protect notable trees. The objective contributes to achieving section 6 of the Act and the overall purpose of the Act, being sustainable management of notable trees in the Manawatū District.

18.3 Section 32(1)(b) Evaluation of Provisions (Policies, Rules and Standards)

This section of the report evaluates whether the provisions are the most appropriate way to achieve the objective by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objective, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. Given the assessment in Section 15.0 of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is not considered necessary and instead, the assessment below identifies generally where any additional cost(s) may lie.

Given the discrete topic being covered, the provisions in Plan Change H(b) are bundled together for this assessment.

Objective			
NT-01 Trees with notable, botanical, landscape, amenity, historic heritage or cultural values are identified and protected.			
Proposed approach to provisions	Costs	Benefits	Risk or Acting/ Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
<p>Provision package summary:</p> <p>Policies:</p> <p>TREE-P 1</p> <p>TREE-P2</p> <p>TREE-P3</p> <p>TREE-P4</p> <p>TREE-P5</p> <p>Rules:</p> <p>TREE-R1</p> <p>TREE-R2</p> <p>TREE-R3</p> <p>TREE-R4</p> <p>Standards:</p> <p>TREE-S1</p> <p>TREE-S2</p>	<p>Environmental</p> <p>There are no significant environmental costs identified for the proposed new provisions. While the size of the tree may over time potentially block some sunlight to a property, it is generally not an entire lot that is devoid of sunlight.</p> <p>Economic</p> <p>There will be some administrative costs incurred by applicants and Council associated with the processing of consents, where there is a need for a resource consent for tree works. However there is only a small number of notable trees recommended for protection so the number of potential resource consent applications required to be processed through the Council is anticipated to be low.</p> <p>In addition, PCH(b) includes a number of new permitted activities which reduce the need for resource consent, compared with the operative District Plan. The provisions also require works to be assessed and undertaken</p>	<p>Environmental</p> <p>Under these provisions, the loss of notable trees would be less likely as their maintenance is enabled as a permitted activity. Health and safety of notable trees will be better managed through these provisions, particularly given the new permitted activity rules.</p> <p>When considering the operative provisions, the proposed provisions provide a clearer framework to manage notable trees. Enabling the pruning and tree removal where there are health or safety issues will assist in the identified trees to be appropriately managed without the need for resource consent.</p> <p>Economic</p> <p>The provisions enable a number of permitted activities such as gardening, pruning and tree removal if there are health and safety issues identified with the tree. This reduces the consenting costs for</p>	<p>The approach to assessing the existing notable trees in the District Plan has included a specific assessment of all trees by an arborist. As discussed previously in this report, Council's expert has included an assessment on the health of each tree, noting where trees should be removed and where maintenance is recommended to protect the health of the tree. Those trees recommended to be excluded from the Schedule of Notable Trees are no longer healthy or have already been removed.</p> <p>The STEM assessments completed for each tree provide a level of information that does not currently exist for the trees listed in the operative District Plan. Understanding this information forms the basis for this plan change and the content of the Schedule.</p>

<p>TREE-S3</p> <p>Schedule:</p> <p>Notable Trees Schedule</p>	<p>by a suitably qualified arborist, which will incur a cost to the tree owner. However, it is likely that arborists are already used for these trees given their size.</p> <p>Notable trees can have an impact on the development capacity on a site for those landowners who wish to develop a site, which can affect the economic return of any development, given the need to obtain consent to remove the large tree.</p> <p>Economic growth and employment costs are likely to be negligible as a result of this plan change.</p> <p>Social</p> <p>There is unlikely to be social costs as a result of these provisions.</p> <p>Currently, only two notable trees contain information about why they were included on the list in the District Plan in 2002. There is current a lack of information for each tree, such as condition, amenity (community benefit) and notability of a tree, to guide decision-making. In addition, the existing policy refers to ‘the values for which they were listed are not permanently diminished or damaged’, however the District Plan does not contain any information about such values. The new schedule addresses these shortcomings.</p>	<p>landowners compared with the operative provisions.</p> <p>PCH(b) has specifically restricted notification to reduce costs should a resource consent be required.</p> <p>Social</p> <p>Recognition and protection of notable trees can help achieve social well-being through enabling significant trees to remain for future generations to enjoy, learn from and identify with.</p> <p>Provides greater certainty for notable tree owners with regard to process, matters to be considered and likelihood of approval for those instances where a consent is required.</p> <p>Cultural</p> <p>Recognition and protection of notable trees can help achieve cultural well-being through enabling significant trees to remain for future generations to enjoy, learn from and identify with.</p> <p>It is noted that this plan change has a narrow scope and only reviews those trees already listed in the District Plan. There may be other trees with a cultural value that are not recognised by this Plan Change.</p>	<p>The best practice approach to managing Notable Trees has been reflected in PCH(b) whereby there is clear objective and policy guidance, and permitted activity rules have been used for minor activities. The addition of specific rules to prune or remove notable trees where there are tree health or safety issues for people or property is an important provision to include in the District Plan. Greater clarity on activities in the root protection area also provide additional clarity to plan users. These changes were recommended by the expert advice received by Council.</p> <p>Overall, it is considered that there is certain and sufficient information about the existing notable trees in the District Plan through the technical reports prepared to process the plan change as proposed.</p>
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	<p>The permitted activity rule provides for ‘pruning and removing’ branches, however, this could be confused with ‘cutting’ branches under the discretionary rule, so there is uncertainty about which rule applies when trees need to be pruned.</p> <p>The proposed provisions seek to address these concerns and confusion and provide tree owners with more certainty for managing their trees.</p> <p>The provisions clearly enable gardening to occur within the Root Protection Area of a Notable Tree which previously was not clear that it could be undertaken.</p> <p>As mentioned above, the protection of notable trees can result in less development capacity of a site, however, given the small number of notable trees, and the small number of sites where development could occur, the social costs are likely to be minor.</p> <p>Cultural</p> <p>There is unlikely to be any cultural value costs as a result of these provisions.</p>		
<p>Effectiveness and Efficiency</p>	<p>Effectiveness</p> <p>The proposed provisions are the most effective method of meeting the objective given they will provide increased environmental, social and cultural benefits as outlined above. The inclusion of a specific objective and associated policies is a significant improvement compared with the operative District Plan provisions and how consents have recently been processed for Notable Trees in the absence of strong and certain policy guidance.</p>		

	<p>The revised schedule of notable trees has specific information on the values of each tree, which has not been included in the District Plan to date. This provides plan users with additional clarity for those instances where resource consent is required. This approach is also consistent with the direction in the NPStandards.</p> <p>Efficiency</p> <p>The proposed provisions are the most efficient method of meeting the objective given the benefits identified above, including the permitted activity pathway for gardening within the Root Protection Area of a notable tree, and the pruning and removal of a tree where there are identified health and safety issues.</p> <p>There are no apparent significant opportunities for economic growth or employment as a result of the proposed provisions, given the nature of the topic.</p> <p>Under the operative District Plan there have been three notable trees which have been removed without resource consent, since 2002. The reasons for these trees being removed is not known. While this could've been a result of the tree owner not knowing that they were protected, it could also be a result of the current ambiguous rules or the requirement for a resource consent which can be off-putting for some people. The current provisions do not effectively enable trees to be maintained (e.g. pruned) where there are health or safety issues identified, which can therefore impact on the long term health and safety of the tree. As a result of this, the proposed approach in PCH(b) is considered to be a more effective and efficient approach to managing the issues of notable trees.</p> <p>There is no objective to guide an assessment of the appropriateness of work associated with notable trees, which could lead to the loss or degradation of notable trees. There is also very limited information about why the trees are significant, and also no known STEM assessments (or similar) undertaken when they were included in the District Plan.</p>
<p>Overall Evaluation</p>	<p>The proposed provisions are the most appropriate way to achieve the objective TREE-O1 because:</p> <ul style="list-style-type: none"> • Collectively, the provisions will ensure that the existing notable trees continue to be recognised and protected through identification within a schedule and on the planning maps; • The policies provide clear direction and guidance for assessing works proposed for notable trees while ensuring the health and safety of those trees; • The rule framework enables appropriate activities to occur as permitted activities, including pruning for health and safety issues and gardening within the Root Protection Area, while managing potentially inappropriate activities. It also enables as a permitted activity, the removal of a notable tree where there are serious safety issues or the tree has less than five years life expectancy.

	<ul style="list-style-type: none">• The plan change is efficient in terms of reducing consenting costs for tree owners for pruning associated with tree health and safety issues and tree removal (as identified above), and enables pruning to occur as a permitted activity where there is interference with property. The inclusion of non-notification provisions also assist to reduce the consent compliance costs of the proposed new chapter.• The new chapter gives greater clarity and certainty for District Plan users than the operative district plan provisions, which do not enable the same level of permitted activities nor is there a specific objective to guide the assessment of consent applications.• The proposed chapter and definitions are aligned with the National Planning Standards.
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19. Conclusion

This evaluation has been undertaken in accordance with Section 32 of the Act in order to identify the need, benefits and costs arising from PCH(b) and the appropriateness of the proposal having regard to its effectiveness and efficiency in relation to other options in achieving the purpose of the Act. The evaluation demonstrates that PCH(b) is the most appropriate option for the following reasons:

- PCH(b) is not inconsistent with higher order documents including national policy statements, environmental standards and regulations, Horizons One Plan, and gives effect to the National Planning Standards;
- PCH(b) is the most effective and efficient way to achieve the purpose of the Act through enabling people and the community to provide for their well-beings and for their health and safety. It therefore enables the Council to better fulfil its obligations under the Act.
- The plan change removes the existing inefficient and ineffective provisions (policy and rules) in the District Plan and proposes a new chapter for notable trees. The notable tree schedule is updated with more appropriate information for each tree, including: tree name, STEM assessment number, location, legal description, co-ordinates, and a description of values for each tree.
- There is sufficient information for Council to make the changes as proposed.
- While the current schedule is limited to the existing listed notable trees, this assessment framework can be used if additional notable trees are proposed in the future.

List of Appendices:

Appendix 1: Proposed Notable Trees Chapter, Including the Notable Trees Schedule

Appendix 2: Technical Reports (provided as hard copy)

- **Part 1 – Report on the Survey and Assessment of Notable Trees for Manawatu District Council.**
- **Part 2 – STEM Assessments of Notable Trees, Manawatu District Council**