



## Aide memoire - urban tree protection in the Natural and Built Environments Act

Date Submitted:	18 February 2022	Tracking #: 2022-BRF- 1135	
Security Level	In Confidence	MfE Priority:	Medium

	Action sought:	Response by:
To Hon. David Parker, Minister for the Environment	Read in advance of the Environment Ministers meeting on 2 <sup>nd</sup> March	2 March 2022
CC Hon. Phil Twyford, Associate Minister for the Environment		
CC Hon. Kiritapu Allan, Associate Minister for the Environment		
CC Hon. James Shaw, Associate Minister for the Environment		

Actions for Minister's Office Staff	Forward aide memoire to Associate Ministers listed. Return the signed report to MfE.
Number of appendices and attachments	N/A

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
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## Aide memoire - urban tree protection in the Natural and Built Environments Act

### Purpose

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1. This aide memoire is to support discussions on urban tree protections at the 2 March 2022 Environment Ministers meeting.
2. The Environment Ministers discussion will precede a briefing to Minister Parker on the legislative settings required for urban tree protection as part of RM Reform. Minister Parker was delegated these decisions at MOG meeting 13. At MOG meeting 15 it was agreed that the decisions will be made in consultation with the Ministers for Housing, Conservation and all the Associate Ministers for the Environment.
3. This aide memoire provides information on:
  - a. why it is important to manage trees and vegetation in urban areas well
  - b. challenges with urban tree management under the current system
  - c. our initial views on how the new resource management (RM) system could better address tree and vegetation management.

### Key points

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#### *Urban trees help achieve several Natural and Built Environments Act (NBA) outcomes*

4. Trees play a vital role in helping to deliver a range social, cultural, environmental, and economic benefits associated with urban vegetation cover. For example, by:
  - a. enhancing biodiversity
  - b. improving water quality (minimising stormwater run-off and cooling water through shading)
  - c. advancing nature-based solutions that avoid and mitigate any negative effects of development
  - d. providing resilience to climate change and natural hazards
  - e. contributing to a well-functioning urban environment with associated commercial and economic benefits
  - f. improving human health and wellbeing
  - g. enhancing social and cultural associations including for te ao Māori.

#### *The current system has not provided well for urban tree management*

5. Before 2009, a small number of councils had district plan rules requiring resource consent approval to remove trees that were over particular heights or girths (commonly known as 'general tree protection' rules). Approximately 4,500 consents were being issued annually for tree pruning or removal, representing about 10% of the national consent application total.
6. The focus of the 2009 Resource Management Act 1991 (RMA) amendments was to streamline and simplify the RMA, by removing elements that were costly and/or adding little value. This led to the addition of RMA s76 (4A)-(4D), which restricts what rules councils can include in their district plans for protecting urban trees to only those where the trees are specifically identified and located in a schedule of the plan.

7. There has been widespread criticism about the reliance on scheduling to manage urban trees.<sup>1</sup> The reliance on scheduling is seen as problematic because:
  - a. schedules are unresponsive to local tree protection concerns and are often out of date.
  - b. the lengthy process and associated cost to councils of regularly updating and amending schedules is prohibitive
  - c. the costs to apply for a consent to prune or remove a scheduled tree can be disproportionate to the cost of doing the work
  - d. it does not allow for a range of vegetation types and sizes to be protected which may be required to meet obligations under other national direction
  - e. it does not incentivise planning mechanisms that encourage improvements to urban tree and vegetation cover.
8. At the same time there is increasing pressure to deliver more housing to address New Zealand's housing crisis. There are concerns that the removal of RMA s76 (4A)-(4D) restrictions within the new system, might result in councils returning to more general tree protection approaches. This has the potential to create an unnecessary process burden that could restrict urban development.

*There are several options for addressing tree and vegetation management in the new system*

9. In MOG 13 (Paper 3), it was agreed that there is a need to protect (and potentially restore/enhance) urban trees and vegetation on public and private land in a way that reconciles potentially competing outcomes and which can also be implemented efficiently. It was noted that the challenges with current and historic urban tree protection provisions (as outlined above) needed to be addressed. Officials were directed to undertake further research and engagement before reporting back on options.
10. The key question for reform is how should trees be regulated or managed and where should that regulation sit. There are a two main options:
  - Option 1 - Retain the restrictions in the primary legislation
  - Option 2 - Remove the restrictions in primary legislation; and
    - i. allow NBA plan committees to determine the appropriate approach to managing trees, according to the needs of their community and direction already provided by the NPS UD and NPS IB and other relevant national direction
    - ii. provide direction through the National Planning Framework
    - iii. provide non-statutory guidance
11. If the restrictions on urban tree protection are removed from the primary legislation (and no other changes made) appropriate provisions to manage trees and vegetation in their NBA plans would be supported by a requirement to provide for all of the NBA outcomes, including aspects relating to the natural environment, the cultural environment, climate change and natural hazards and well-functioning urban environments.

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<sup>1</sup>Concerns has been expressed in correspondence, discussions, and in the large numbers of submissions on the Natural and Build Environments Act. As well, LGNZ also passed a remit calling for RMA s76 (4A)-(4D) to be repealed and not carried into the new system. (ref CORM 264)

12. In addition, plans would also be required to provide enough capacity for housing to meet the requirements of NPS UD.
13. Removing the restrictions in the primary legislation would also enable the provision of specific direction on appropriate ways to manage trees through the NPF. Another alternative is the provision of non-statutory guidance, specifically on regulatory tools to manage urban trees or through urban design guidance.
14. Retaining the restrictions in the primary legislation embeds the status quo and will only enable urban tree protection to occur through the identification of significant natural areas or the scheduling of groups of trees or individual trees.
15. Officials prefer removing the restrictions in the primary legislation (option 2) as it will allow for flexibility and innovation in the tools and approaches to manage trees and vegetation and achieve a range of beneficial outcomes.
16. The briefing to Minister Parker on the legislative settings required for urban tree protections is due in early March and will traverse the issues, opportunities and options in more detail.

## Signatures

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**Michael Tucker**  
**Manager, RM Reform**  
**Ministry for the Environment**

Hon David Parker

**Minister for the Environment**

Date

