



Aide Memoire: RM reform delegated decisions

Response to Ministerial feedback on delegated decisions on BRF-1710 RM Reform 183 – Detailed decisions for plan development and plan change timeframes and miscellaneous planning provisions

To	Hon David Parker, Minister for the Environment
From	Ministry for the Environment
Date	3 August 2022

1. Your office sought feedback on the urban trees provisions from Minister Twyford, the Associate Minister for the Environment (BRF-1710 RM Reform 183 – Detailed decisions for plan development and plan change timeframes and miscellaneous planning provisions).
2. MFE officials met with the Associate Minister for the Environment on two occasions to discuss the urban trees provisions and their practical application. Minister Twyford supports the amended recommendations proposed in the table below, for your consideration.

Recommendations

1. Please indicate your decision on the recommendations in the table below.

Signature

Hon David Parker

Minister for the Environment

Date

Comment from the Associate Minister for the Environment	MfE advice	Changes to recommendations in BRF-1710 RM Reform 183	
<p>The Minister supports the intention of protecting trees and groups of trees in urban environments. He views tree protection provisions as a strategic component of policy supporting well-functioning urban environments.</p> <p>However, the Minister does not wish to enable expansive protection provisions which could be applied regardless of a tree's location or values. An example might be protecting all of a certain species of tree across a suburb.</p> <p>Instead, the Minister considers that both individual trees and groups of trees could be protected but only where the location of the tree can be specified using an address or legal description. Where more than one tree is protected as part of a cluster, grove, or line of trees, this should only occur where the allotments are adjoining one another.</p> <p>The Minister did not wish to preclude the use of blanket tree protection rules in the future and saw benefit in providing Local Authorities with an alternative protection pathway which avoided the use of the scheduling process. An example might be the protection of specimen trees greater than 15m in certain areas. The Minister envisaged a role for the NPF rather than primary legislation in facilitating this pathway.</p> <p>The Minister acknowledges the benefit of significant natural areas in urban areas with the proviso that these areas need to be maintained, particularly to avoid exacerbating flooding and fire risk in built up environments.</p>	<p>Officials agree with Minister Twyford's approach enabling the protection of individual trees and groups of trees only where the location of the tree can be specified using an address or legal description. For groups of trees, officials agree requiring these to be part of a cluster, grove, or line of trees only where the allotments are adjoining one another is a pragmatic restriction. Accordingly, amendments are proposed to recommendation 38 to reflect this approach.</p> <p>Officials agree with Minister Twyford that while blanket tree protection rules are not appropriate, there may be benefit in enabling an alternative protection pathway through the NPF which avoids the use of the scheduling process. To reflect this, there are proposed amendments to rec 39 and noting rec 40.</p> <p>Officials note that the Ministry of Housing and Urban Development oppose blanket tree protection rules. The proposed approach does not enable blanket tree protection in primary legislation (rec 39), but it does not preclude the NPF from considering this mechanism in the future if there is found to be merit in an alternative protection pathway.</p> <p>Officials agree with Minister Twyford regarding the benefit of significant natural areas in urban areas. As such no change to noting rec 41 is proposed.</p> <p>The Minister is asked to note rec 42 (not subject to this Aide Memoire) which provides the ability to remove scheduled items from plans "without fanfare" in certain circumstances. This approach is likely to be particularly useful for managing notable tree schedules.</p>	<p>37. Agree that the policy intent of RMA sections 76(4A) - (4D) is not retained in the primary legislation. These sections specify that district plans cannot include rules that protect urban trees from being trimmed, damaged, or removed unless that tree or group of trees is specifically identified in a schedule to the plan</p> <p>38. Agree that, subject to any direction by the NPF, the NBA plan may identify and protect any individual tree or group of trees in specified locations in a schedule to the plan where:</p> <p>(a) the individual tree is described, and the allotment is specifically identified by street address or legal description or both</p> <p>or</p> <p>(b) the group of trees is described, and the allotment(s) is specifically identified by street address or legal description or both; and</p> <p>(c) a group of trees means two or more trees in a cluster, grove, or line of trees on a single allotment or adjoining allotments</p> <p>39. Agree that unless directed to do so by the NPF, an NBA plan must not impose tree protection provisions where trees are identified by species, height or girth, irrespective of their location or value, across undefined areas</p> <p>40. Note further advice is being developed to outline options for the NPF that connect urban trees and vegetation with NBA Part 2 environmental outcomes, including the consideration of blanket protection of specimen trees. Retaining controls through the NPF to ensure blanket tree protection provisions are not used will be considered as part of future NPF development</p> <p>41. Note that these recommendations do not preclude the identification and/or protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>