



OIAD-1042

20 June 2024

9(2)(a)

Dear 9(2)(a)

Thank you for your email of 9 April 2024 requesting the following under the Official Information Act 1982 (the Act):

I am requesting any analysis or reports, commissioned or written by MfE and provided to Ministers in the last term of Parliament, that refer in part or in whole to urban tree protection tools.

On 7 May 2024, the Ministry for the Environment (the Ministry) extended the timeframes in responding to your request under the following sections of the Act:

- 15A(1)(a) – the request necessitates a search through a large quantity of information and meeting the original time limit would unreasonably interfere with the operations of the department.
- 15A(1)(b) – consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original timeframe.

In response to your request, the Ministry has identified 19 documents in scope as listed in the attached document schedule. Some information has been withheld under 18(d) of the Act, as information is publicly available.

Information contained in two documents are being provided to you as excerpts under section 16(1)(e) of the Act; where information requested by any person is comprised in a document, that information may be made available by giving an excerpt or summary of the contents. See Appendix One.

Out of scope has also been redacted.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at:
www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent.

If you have any queries about this, please feel free to contact our Ministerial Services team:
ministerials@mfe.govt.nz.

Yours sincerely

A handwritten signature in black ink that reads "E. Moncrieff". The signature is written in a cursive, slightly slanted style.

Liz Moncrieff, General Manager – Urban & Infrastructure Policy
Ministry for the Environment | Manatū Mō Te Taiao

Document schedule

Document no.	Document date	Content	Decisions	OIA sections applied
1	30/6/21	BRF-190- Urban Trees	Release in Full	NA
2	14/10/21	BRF-704 RM Reform 79 – Final papers for Ministerial Oversight Group Meeting #13 on 18 October 2021	Withheld in Full Can be found here: https://tinyurl.com/yckmceyx	18(d)
3	18/2/22	BRF-1135 Aide Memoire - Urban Tree Protection in the Natural and Built Environments Act	Release in Full	NA
4	29/3/22	BRF- 894 RM Reform 137 - Background on urban tree protection and managing urban trees in the new system	Release in Full	NA
5	29/3/22	BRF- 894 RM Reform 137 - Background on urban tree protection and managing urban trees in the new system Appendix 2	Release in Full	NA
6	12/4/22	BRF-1167 RM Reform 147 - Progressing work on	Release in Full	NA

		urban design in the future RM system		
7	25/5/22	BRF-1648 – Aide Memoire - Update on urban design in the future RM system.doc - 25 May 2022	Release in Full	NA
8	9/6/22	BRF-1710 RM Reform 183 – Detailed decisions for plan development and plan change timeframes and miscellaneous planning provisions	Release in Part Excerpt provided see Appendix One	NA
9	14/7/22	BRF-1648 – Aide Memoire - Update on urban design in the future RM system	Release in Full	NA
10	3/8/22	Aide Memoire - BRF-1710 - Response to Ministerial feedback on delegated decisions on BRF-1710 RM Reform 183 - 3 Aug 22	Release in Full	NA
11	2/2/23	BRF-2652 RM Reform 275 - Initial advice on potential changes to the Natural and Built Environment Bill and Spatial Planning Bill for Minister Parker	Release in Part Excerpt provided see Appendix One	NA
12	10/2/23	BRF-2629 RM Reform 276 - Legislative Settings For Trees - Content In The First National	Release in Full	NA

		Planning Framework And Transitional Arrangements		
13		BRF - 1710 Urban Trees - Proposed recommendations for Minister Twyford	Release in Full	NA
14		National Planning Framework engagement	Withheld in Full Can be found here: https://tinyurl.com/8y348d6w	18 (d)
15		Final Environment Weekly Update week starting 15 November 2021 - Marked Up	Release in Part Out of Scope information redacted	NA
16		Final Environment Weekly Update week starting 13 December 2021 - Marked Up	Release in Part Out of Scope information redacted	NA
17		Amended Final Environment Weekly Update week of 29 August 2022 - Marked Up	Release in Part Out of Scope information redacted	NA
18		Final Environment Weekly Update week of 30 January 2023	Release in Part Out of Scope information redacted	NA
19		Final Environment Weekly Update week of 27 March 2023 - Marked Up	Release in Part Out of Scope information redacted	NA

Appendix One

Excerpt – Doc 8: BRF-1710 RM Reform 183 – Detailed decisions for plan development and plan change timeframes and miscellaneous planning provisions

<p>Urban tree provisions</p>	<p>MOG #13, BRF-894 and BRF-1135 clarified that the intent of sections 76(4A)–76(4D) was to create certainty for landowners by requiring that protected urban trees and vegetation must be described and scheduled in a district plan.</p> <p>Accordingly, district plans can only restrict the felling or trimming of trees in the urban environment where the trees are individually described, identified by location, and scheduled. This approach does not provide well for outcomes where the benefit of trees and vegetation relate to broader groups of trees in a particular area, rather than specific trees with specific values. The inability to protect trees and vegetation generally, in specific locations, impacts on the ability to achieve the range of NBA outcomes that trees contribute to such as quality urban environments and adapting to climate change. Officials recommend a balanced approach to tree protection while avoiding blanket protection provisions in urban areas. Further advice is being developed to outline options for the national direction that connects urban trees and vegetation with other outcomes.</p> <p>Removing the policy intent of sections 76(4A)–76(4D) from primary legislation allows the NPF and NBA plans to develop provisions tailored for the urban</p>	<p><i>Treaty and Māori/Iwi</i></p> <p>The protection of indigenous flora and fauna is integral to the concept of Te Oranga o te Taiao which acknowledges the criticality of the health of the natural environment. Application of these rules in the current system has resulted in the loss of indigenous species in the areas where most people live.</p> <p><i>System efficiency</i></p> <p>Avoiding blanket tree protection rules reduces the number of consents and improves overall efficiency.</p>	<p>38. 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>39. 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</p> <p>40. Agree that 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>41. Note further advice is being developed to outline options for the NPF that connect urban trees and vegetation with Part 2 environmental outcomes. 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>42. 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>
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	<p>environment. This approach is particularly useful where trees and vegetation are a key component of blue-green infrastructure, including functioning as important corridors for indigenous species.</p> <p>Given the challenges with the existing urban tree provisions and the need to support integrated management of urban trees and vegetation, we recommend that the restrictive approach of RMA section 76 (4A) - (4D) is not retained.</p>			
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Excerpt

Doc 11 - BRF-2652 RM Reform 275 - Initial advice on potential changes to the Natural and Built Environment Bill and Spatial Planning Bill

Urban Trees

39. Officials propose removing the provisions in clause 125 of the NBE Bill which restrict a plan from making rules relating to tree protection. The RMA limits the types of rules a plan can have for tree protection and this approach was 'rolled over' into the NBE Bill. Submissions to date raise concerns that the current approach will fail to appropriately manage the urban tree canopy.

40. Stipulating how a specific resource is managed in the primary legislation is unusual. A more appropriate and nuanced approach that balances all outcomes and takes local circumstances into account could better occur through secondary legislation such as the national planning framework and NBE plans.

41. Until NBE plans are drafted, the provisions of the RMA will continue to apply. A separate briefing will provide advice of whether there is a need to amend the RMA to align with any amendments to the NBE Bill.