



# Tree protection in urban environments

**This guidance is for practitioners involved with protecting trees in urban environments. It explains how sections 76(4A)–76(4D) of the Resource Management Act 1991 (RMA) should be applied and highlights some key considerations when using district plan rules to protect trees in urban allotments.**

## Introduction

The Government recognises both the value of trees in urban environments (eg, providing slope stability, biodiversity, amenity values, privacy, and shelter), as well as New Zealanders' interest in seeing significant trees and groups of trees protected. A range of voluntary and regulatory methods exist to protect trees in urban areas. Voluntary methods include education and encouragement. Regulatory methods include district rules in RMA plans, along with other methods, such as resource consent conditions and consent notices.

The changes to the RMA resulting from the Resource Management Amendment Act 2013 (RMAA13) are not designed to stop councils protecting trees in urban environments. However, the reforms reflect the Government's desire for a change in approach and it is therefore important that councils are clear about which trees are worthy of protection, and that landowners are clear about which trees on which allotments are protected under a district plan.

The scope of this guidance is limited to the tree scheduling requirements of sections 76(4A)–76(4D) of the RMA. Scheduling involves describing and specifically identifying individual trees or groups of trees in the district plan. While scheduling individual trees is common practice amongst councils, few have scheduled groups of trees. Therefore, this guidance focuses on the statutory requirements for scheduling 'groups of trees'.

Other regulatory and non-regulatory methods can be used to protect vegetation, including groups of trees. These are discussed in detail in a separate [guidance note about indigenous biodiversity](#) on the Quality Planning website. Those methods include:

- » [regulatory provisions](#)
- » [regulatory economic instruments](#)
- » [non-regulatory tools](#)
- » [non-regulatory economic instruments](#)
- » [options to protect vegetation on council land](#).

## Background to tree protection under the RMA

Sections 76(4A) and 76(4B) of the RMA were inserted by the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (RMAA09). They came into force on 1 January 2012.

The intent was 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 intended to prohibit blanket tree protection rules except in areas within a reserve or an area subject to a conservation management plan or conservation management strategy. The provisions also required councils to specifically identify 'notable' trees for protection in a plan, either individually or as part of a definable group.

Shortly after the RMAA09 law change, several local authorities sought clarification from the Environment Court as to the lawfulness of the tree protection rules in their respective plans. In 2011, the Environment Court declared that, despite section 76(4A), councils could retain rules the Government considered amounted to a general tree protection approach (refer ENV-2010-AKL-241, NZEnvC 129). Central to the Environment Court's decision was how the words "group of trees" should be