

NELSON CITY COUNCIL

Nelson Resource Management Plan

Proposed Plan Change 22

Heritage Trees

Section 32 Report

25 September 2010



1.0 Introduction

1.1 Purpose of report

Section 32 of the Resource Management Act 1991 (RMA) requires Council to consider alternatives and assess the benefits and costs of adopting any objective, policy, rule or method in a Plan or Policy Statement prepared under the RMA. Before publicly notifying a proposed Plan or Plan Change, the Council is required to prepare a Section 32 report summarising these considerations.

The purpose of this report is to fulfil these Section 32 requirements for proposed Plan Change 22 (Heritage Trees).

1.2 Steps followed in undertaking the Section 32 evaluations

The 7 broad steps which this section 32 evaluation follow are:

1. identifying the resource management issue;
2. evaluating the extent to which any objective is the most appropriate way to achieve the purpose of the RMA;
3. identifying alternative policies and methods of achieving the objective;
4. assessing the effectiveness of alternative policies and methods;
5. assessing the benefits and costs of the proposed and alternative policies, rules, or other methods;
6. examining the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
7. deciding which method or methods are the most appropriate given their likely effectiveness and their likely cost, relative to the benefit that would likely deliver.

1.3 Description of proposed Plan Change

The Plan Change proposes to include the following additional trees to Appendix 2 'Heritage Trees' of the Nelson Resource Management Plan (the Plan). These are:

Street #	Address	Botanical name	Common Name	NRMP Category
42	Arapiki Rd	Quercus robur	English Oak	Heritage
18	Campbell St (Road Reserve)	Quercus robur	English Oak	Landscape
7	City Heights	Quercus robur	English Oak	Landscape
31	Cleveland Tce	Alectryon excelsus	Titoki	Heritage
31	Cleveland Tce	Podocarpus totara	Totara	Heritage
277	Hampden St	Metrosideros robusta	Rata	Heritage
	Harper St	Ulmus procera	English Elm	Landscape
180	Kawai St	Magnolia grandiflora	Evergreen Magnolia	Landscape
30	Marybank Rd	Dacrycarpus dacrydioides	Kahikatea	Heritage
30	Marybank Rd	Dacrycarpus dacrydioides	Kahikatea	Heritage
16	Ngatitama St	Quercus robur	English Oak	Heritage
1/138	Nile St	Quercus palustris	Pin Oak	Landscape
142	Nile St	Liquidambar styraciflua	Sweet Gum	Local
19	Richmond Ave	Liquidambar styraciflua	Sweet Gum	Heritage
16	Riverside	Phoenix canariensis	Phoenix Palm	Heritage
52	Russell St	Metrosideros excelsa	Pohutukawa	Heritage
247	Rutherford St	Acer negundo	Box Elder	Landscape
18	Sowman St	Magnolia soulangiana	Saucer Magnolia	Landscape
166	St Vincent St	Quercus robur	English Oak	Landscape

29	Stanley Cres	Metrosideros excelsa	Pohutukawa	Landscape
39	Stansell Ave	Nothofagus solandri	Black beech	Local
45	The Ridgeway	Erythrina crista-galli	Coral Tree	Landscape
26	Todd Bush Rd	Quercus robur	English Oak	Heritage
384	Trafalgar St Sth	Podocarpus totara	Totara	Heritage

The inclusion of these trees will provide additional protection, recognition and the potential for maintenance assistance from Council for the owners.

1.4 Consultation

The proposed trees in Plan Change 22 have been nominated by members of the public and property owners.

An initial evaluation using the Council's Intramap system was carried out to determine the size of each tree and its position on the property. This information was used to determine the likelihood of the tree affecting a neighbouring house. Where this information was insufficient site visits were carried out to further examine the tree's location.

Letters were sent to all owners (and occupiers where tenanted) of properties with trees and properties deemed to be affected by trees. Where there have been objections to proposed trees the listings have been withdrawn.

The proposed Plan Change has been discussed with iwi who have not raised any issues.

2.0 Resource Management issue

2.1 Resource Management issue being addressed

An issue is an existing or potential problem that must be resolved to promote the purpose of the RMA. The RMA does not require the identification or analysis of issues within Section 32 evaluations. Notwithstanding this issues are being included in this report because it will be helpful to users to understand the basis and origin of the issue as this provides a context for the evaluations of the objectives and policies that follow.

The Plan Change relies on the existing operative issues within clause RI13 (Heritage and cultural values) of Chapter 4 (Resource Management Issues) of the Plan:

RI13.i Heritage or cultural value may be assigned to buildings, areas, sites, or vegetation (either individually or, as in a streetscape, collectively) having some notable historic, architectural, scientific, archaeological, spiritual or other special value serving to remind present and future generations of past activities and inhabitants of Nelson.

RI13.1.i Loss of important heritage features and sites for present and future generations due to their demolition, desecration, or modification for activities unsympathetic or incompatible with the inherent value of these resources.

3.0 Appropriateness in achieving the purpose of the RMA

3.1 Evaluation of the objective(s) – the environmental outcome to be achieved

Section 32 requires an evaluation of the extent to which the objective is the most appropriate to achieve the purpose of the Act. Appropriateness is not defined in the Act.

In the case of Plan Change 22 no new objectives are being proposed, instead the Plan Change relies on the existing operative objective within clause DO4 of Chapter 5

(District Wide Objectives and Policies) of the Plan. This operative objective is outlined below:

DO4.1 Heritage values; Retention and enhancement of heritage items that contribute to the character, heritage values, or visual amenity of Nelson, in a setting that enhances such items.

Because of the operative status of this objective, it is considered that this is the most appropriate way to achieve the purpose of the RMA.

3.2 Whether the policies, rules, or other methods are the most appropriate for achieving the objectives in terms of their efficiency and effectiveness, benefits and costs, and in regards to the risk of acting or not acting

3.2.1 Introduction

The evaluation of appropriateness assesses the alternative policy options under the headings of efficiency, effectiveness, benefits, costs, and the risk of acting and of not acting.

A range of criteria/matters have been used to assist in undertaking the evaluations:

efficiency	the ratio of inputs to outputs. Efficiency is high where a small effort/cost is likely to produce a proportionately larger return. Includes the ease of administration/administrative costs e.g. if the cost of processing a grant or collecting a fee exceeds the value of the grant or fee, that is not very efficient;
effectiveness	how well it achieves the objective or implements the policy relative to other alternatives. The likelihood of uptake of a method;
benefits	social, economic, environmental - as both monetary and non monetary cost/benefits;
costs	social, economic, environmental - as both monetary and non monetary cost/benefits; and
risk	the risk of taking action and not taking action in say the next 10 years because of imperfect information e.g. the cause/effect relationships are not fully understood.

In the case of Plan Change 22 no new policies or rules are being proposed within the relevant zone Chapters of Volumes 1 and 2 of the Plan, instead the Plan Change relies on the existing operative policies and rules within these parts of the Plan. The Plan Change instead proposes to add additional trees to Appendix 2 'Heritage Trees' of Volume 3 of the Plan, see section 1.3 of this report for details.

In other words, although Appendix 2 is part of the heritage rules, additions to them do not alter how existing operative heritage policies and rules are worded within the relevant zone Chapters of Volumes 1 and 2 of the Plan.

The report concludes with a summary of the analysis undertaken and outlines which option best meets the requirements of Section 32 of the RMA.

3.2.2 Format of the evaluation

Table 1 in Part 3.2.3 of this report provides an evaluation of the costs and benefits of the proposed policies, and considers whether these policies are the most appropriate for achieving the objectives, having regard to their efficiency and effectiveness. The terms efficiency and effectiveness are not defined in the RMA and, therefore, the criteria set out in Part 3.2.1 of this report have been used to help focus the analysis.

Costs and benefits have largely been assessed subjectively and/or comparatively because of the great difficulty in assessing/quantifying intangible costs e.g. environmental costs. In some cases quantitative assessments of costs have been given.

The concept of risk has two dimensions, the probability of something adverse occurring and the consequence of it occurring. For example, if there is low risk associated with acting but high risk associated with not acting, then taking action is clearly the sensible thing to do. Risk is usually expressed as 'probability times consequence' and associated with a cost – usually a severe economic, social or environmental cost. Assessing the risk of acting or not acting means assessing the probability of a cost occurring and the size of that potential cost.

The policy alternatives assessed in this section will achieve the objective to different degrees and combinations of policy approaches will be used to form the final preferred option.

The following four broad options are evaluated in Table 1 (Part 3.2.3 of this report):

- Alternative 1 Status quo - do nothing (do not proceed with the Plan Change);
- Alternative 2 Use of non-statutory measures only (i.e. education and incentives) for the protection of significant trees;
- Alternative 3 Proceed with Plan Change – add additional heritage trees to Appendix 2 of the Plan;
- Alternative 4 Proceed with an alternative Plan Change which includes trees that may be more contentious (to neighbours etc) and reviews the heritage tree provisions in the Plan. This would involve the review and potential alteration of the operative objective, policies and rules relating to heritage trees to ensure a more stringent level of statutory protection.

3.2.3 Table 1: Assessment of Alternative Options

	Option 1: Status quo (do nothing)	Option 2: Use of non-statutory measures	Option 3: Proceed with Plan Change	Option 4: Proceed with an alternative Plan Change
Benefits	<p><u>Social Benefit (Landowner)</u> There would be no restriction under the heritage provisions of the Plan if the owners of these trees wished to alter or destroy them.</p> <p><u>Economic Benefit (Council)</u> No monetary costs to Council of proceeding with the Plan Change, because Plan Change would not be developed. No monetary costs to Council of providing assistance with maintenance of trees.</p>	<p><u>Social Benefit (Landowner)</u> There would be no restriction under the heritage provisions of the Plan if the owners of these trees wished to alter or destroy them.</p> <p><u>Economic Benefit (Council)</u> No monetary costs to Council of proceeding with the Plan Change, because Plan Change would not be developed. No monetary costs to Council of providing assistance with maintenance of trees.</p> <p><u>Environmental Benefit (Community)</u> Possibly an environmental benefit if the trees are retained as a result of information and education but achievement of this outcome is very uncertain and may not occur.</p>	<p><u>Social Benefit (Community)</u> A number of significant trees in the Nelson region are protected, enhancing the quality of life for local people and providing assurance that the amenity value these trees provide is protected. The Plan Change will utilise the existing operative heritage objectives, policies and rules which have been through the statutory process and are known and understood within the community.</p> <p><u>Cultural Benefit (Community)</u> The proposed Plan Change will protect trees which currently do not have any heritage protection under the Plan.</p> <p><u>Economic Benefit (Landowner)</u> Owners of heritage trees are eligible for assistance in the form of maintenance once the trees are listed in the Plan.</p> <p><u>Environmental Benefit (Community)</u> Protecting trees and thereby ensuring their retention enhances amenity, supports biodiversity and helps to mitigate the effects of climate change.</p>	<p><u>Cultural Benefit (Community)</u> This option will protect more heritage trees which currently do not have any heritage protection under the Plan. It will also involve the review and alteration of the operative objective, policies and rules relating to heritage. The amenity value these trees provide enhance the quality of life for local people.</p> <p><u>Economic Benefit (Landowner)</u> Owners of heritage trees are eligible for assistance in the form of maintenance once the trees are listed in the Plan.</p> <p><u>Social Benefit (Community)</u> Where the owners of properties with trees have no intention of removing the tree, listing enables access to assistance in the form of maintenance so affected neighbours and the community generally may benefit from the listing.</p> <p><u>Environmental Benefit (Community)</u> Protecting trees and thereby ensuring their retention enhances amenity, supports biodiversity and helps to mitigate the effects of climate change.</p>

	Option 1: Status quo (do nothing)	Option 2: Use of non-statutory measures	Option 3: Proceed with Plan Change	Option 4: Proceed with an alternative Plan Change
Costs	<p><u>Cultural Cost (Community)</u> There would be no statutory protection or recognition of the heritage trees listed in section 1.3. Potential risk for trees to be removed without consideration of their heritage value. This could result in a loss of heritage value and amenity within Nelson.</p> <p><u>Economic Cost (Landowner)</u> Owners of non-listed trees are not eligible for assistance with maintenance.</p> <p><u>Social Cost (Landowners)</u> Disincentive to owners of trees who have requested they be listed within the Plan.</p> <p><u>Environmental Cost (Community)</u> Trees that have been nominated for protection by the public remain vulnerable to removal (e.g. through development) where their biodiversity and climate change mitigation values would be lost.</p>	<p><u>Cultural Cost (Community)</u> There would be no statutory protection or recognition of the heritage trees listed in section 1.3. Potential risk for trees to be removed without consideration of their heritage value. This could result in a loss of heritage value and amenity within Nelson.</p> <p><u>Economic Cost (Council)</u> There would be monetary costs to Council associated with publishing pamphlets, media releases and other education material promoting the protection of heritage trees.</p> <p><u>Economic Cost (Landowner)</u> Owners of non-listed trees are not eligible for Council assistance with maintenance.</p> <p><u>Environmental Cost (Community)</u> Trees that have been nominated for protection by the public remain vulnerable to removal (e.g. through development) where their amenity, biodiversity and climate change mitigation values would be lost.</p>	<p><u>Economic Costs (Council)</u> There are monetary costs to Council in researching, notifying, hearing submissions and making decisions on the Plan Change although in this Plan Change these costs have been mitigated as much as possible by removing contentious trees during consultation.</p> <p><u>Economic and Social Costs (Landowner)</u> There are monetary costs and social costs (e.g. time) for the owners of these trees who wish to remove or significantly alter them. These owners would be required to go through the resource consent process to undertake this work. Depending on the nature of the work and whether or not it had adverse effects on the heritage character of the tree this work could be granted or refused consent.</p>	<p><u>Economic Costs (Council)</u> There are monetary costs to Council in researching, notifying, hearing submissions and making decisions on the Plan Change. These costs would be higher than Option 3 (proceed with Plan Change 22) as it would require an assessment of the need for altering the existing objectives, policies and rules relating to heritage. There would also be potential for additional costs associated with further consultation, rule drafting and potential appeals (which have a higher likelihood than Option 3).</p> <p><u>Economic and Social Costs (Landowner)</u> There are monetary costs and social costs (e.g. time) for the owners of these trees who wish to remove or significantly alter them. These owners would be required to go through the resource consent process to undertake this work. Depending on the nature of the work and whether or not it had adverse effects on the heritage character of the tree this work could be granted or refused consent. These social costs could be more restrictive on the landowner than Option 3 because of the wider review of the objectives and policies of the Plan. There would also be a monetary and social cost to the landowner because of the additional time it would take to review the existing heritage tree provisions of the Plan.</p>

	Option 1: Status quo (do nothing)	Option 2: Use of non-statutory measures	Option 3: Proceed with Plan Change	Option 4: Proceed with an alternative Plan Change
Benefit and Costs Summary	<p>In general the status quo option will have limited social benefits to landowners and economic benefits to Council.</p> <p>In contrast the potential cultural, social, economic and environmental costs associated with the risk of significant trees being removed without consideration of their heritage value outweighs any benefit that may result.</p> <p>On balance therefore the potential costs outweigh any benefits that may result.</p>	<p>The cost and benefits associated with this option are similar to Option 1 (status quo) although there could be slightly more benefit if the information and education provided was successful, although this is unlikely.</p> <p>On balance therefore, the potential cultural, social, economic and environmental costs associated with the risk of significant trees being removed without consideration of their heritage value outweighs any benefit that may result.</p>	<p>In general the Plan Change option has cultural, social, economic and environmental benefits associated with the protection of significant trees which currently do not have any heritage protection under the Plan.</p> <p>In contrast this option poses only limited social costs to landowners and economic costs to Council.</p> <p>On balance therefore the potential benefits outweigh any costs that may result.</p>	<p>The costs and benefits associated with this option are similar to Option 3 (Plan Change), however the extent of work required for this option outweighs the problem to be addressed.</p> <p>The economic cost to Council and the potential social costs to landowners of reviewing the existing operative heritage tree provisions in the Plan will be greater than Option 3.</p>
Effectiveness and Efficiency	<p>The status quo option is ineffective and inefficient in addressing the heritage issues and achieving the heritage objective as it provides no protection to the trees nominated by the public for inclusion in the Plan.</p>	<p>The non-statutory option is ineffective and inefficient in addressing the heritage issues and achieving the heritage objective because, while information and education is offered, compliance would be voluntary and there would be no statutory protection for the trees nominated by the public for inclusion in the Plan.</p>	<p>The Plan Change option is effective and efficient in addressing the heritage issues and achieving the heritage objective as it will provide protection to these heritage trees.</p>	<p>While this option may provide a high level of statutory protection to these heritage trees it would entail the alteration of the currently operative objective, policies and rules relating to heritage trees within the Plan. This is unnecessary to ensure the protection of the heritage trees listed in Section 1.3 of this report and is better left to a later Plan Change.</p> <p>The inclusion of more contentious trees in the process would reduce efficiency.</p>
Risk of Acting or Not Acting	<p>Council has sufficient information on Option 1 to make a decision on its effects.</p> <p>There is therefore no risk of acting or not acting.</p>	<p>Council has sufficient information on Option 2 to make a decision on its effects.</p> <p>There is therefore no risk of acting or not acting.</p>	<p>Council has sufficient information on Option 3 to make a decision on its effects.</p> <p>There is therefore no risk of acting or not acting.</p>	<p>Council has sufficient information on Option 4 to make a decision on its effects.</p> <p>There is therefore no risk of acting or not acting.</p>

4.0 Conclusion

The only alteration to the Plan as a result of the proposed Plan Change will be the inclusion of the new Heritage Trees within Appendix 2 'Heritage Trees' of the Plan. Members of the public and property owners have requested that they be listed in the Plan.

As a consequence the Plan Change relies on the existing operative heritage issues, objective, policies and rules within other parts of the Plan. Because of the operative status of the heritage objective it is not being considered in this report.

These significant trees have been on Council records as needing inclusion in the Plan for some time. A heritage assessment has been undertaken on all trees which have supported their listing within the Plan.

An evaluation of four alternative options of status quo (do nothing), use of non-statutory measures, proceed with Plan Change and proceed with an alternative Plan Change has been undertaken in Part 3.2.3 of this report. The report has evaluated these alternative options against the benefits, costs, effectiveness, efficiency, the risk of acting and the risk of not acting.

This evaluation has clarified that Option 3 (proceed with the Plan Change) on balance has potential benefits which outweigh any resultant costs, and is the best option in regards to its efficiency and effectiveness with no risks of acting or not acting.