

This section has rules that have legal effect. Please check the ePlan to see what the legal effect is or subject to appeal.

Appendix 1.1 – Officers Recommended Amendments to Notable Trees Chapter

Note the below provisions represent the Section 42A Report Writing Officer's recommended amendments to the provisions of the Proposed District Plan, in response to submissions (with underline used for new text and ~~strikethrough~~ for deleted text).

Overview

The district's notable trees are those that are recognised and protected for one or more of their historic heritage, amenity, cultural, botanical or ecological values. These trees can be prominent natural features and landmarks, add character and identity to the area, be rare species, spectacular specimens or have an association with special sites or events. Trees may be identified as an individual stand-alone tree or a small group of trees where each tree within the group is protected. Notable trees include both exotic and indigenous species and have significance to tangata whenua, local communities or the entire district. The purpose of identifying notable trees and groups of notable trees is to protect them from damage or destruction resulting from development. This is important as individual trees and groups of trees in urban environments are not protected under the RMA unless these are specifically identified identified and scheduled in district plans as a notable tree or group of trees.

Council uses the Standard Tree Evaluation Method (STEM) to measure significance of trees which is based on a range of factors including size, position, the presence of other trees, scarcity of the species, the tree's role in the particular location, life expectancy, form, scientific value, historic value, cultural value, functional value, ecological value, and street landscape value. Notable trees are typically mature trees with significant structural form and health. Smaller and less prominent trees may be significant if they rank highly with respect to a number of the criteria, or if they commemorate a notable person or significant event.

Trees that score 130 or higher on the STEM have been scheduled as a notable tree in APP2 - Schedule of notable trees.

Council has responsibilities under the RMA to protect Notable Trees.

Objectives	
NT-O1	Notable Trees and groups of trees which contribute to the botanical, ecological, historical, cultural or amenity value of the district are identified and protected.
Policies	
NT-P1	Identify notable trees and groups of trees within APP2 — Schedule of notable trees where: <ol style="list-style-type: none"> a. The tree or group of trees have a STEM score of 130 or higher, where they have one or more of the following values: <ol style="list-style-type: none"> i. historic heritage; ii. amenity; iii. botanical; iv. ecological; or b. The tree or group of trees have significant cultural values, taking into account any

	assessment undertaken under the STEM including <u>historic</u> ¹ heritage, amenity, botanical and/or ecological values.
NT-P2	<p>Enable the pruning and trimming of branches <u>on notable trees</u>² where the works will³:</p> <ul style="list-style-type: none"> a. <u>Will</u>³ retain or improve the health, <u>form and shape</u>³ of the notable tree; b. allow the regular maintenance of the notable tree,³ <u>b.</u>³ <u>will</u>⁴ <u>may</u>⁵ improve public safety, or prevent damage to property or infrastructure; <u>and</u>⁵ c. control any other maintenance works to ensure that the works will:⁵ <ul style="list-style-type: none"> i. maintain the health, form and shape of the tree; and⁵ <u>c. ii. will</u>⁵ be supervised or undertaken by a suitably qualified and experienced arborist.
NT-P3	<p>Only allow activity and development within the root zone area of a notable tree or group of trees where:</p> <ul style="list-style-type: none"> a. it is demonstrated that the activity and development will not be detrimental to the long-term health and significance of the tree or group of trees; and b. there is a functional or operational need for the development to occur within the root zone area and there are no other practical alternative locations.
NT-P4	<p>Allow the trimming, pruning of trees and groups of trees and activities within the root zone area of notable tree or group of trees for the purpose of operating, maintaining, repairing, upgrading or removing infrastructure where:</p> <ul style="list-style-type: none"> a. for existing infrastructure, the work is required to comply with the Electricity (Hazards from Trees) Regulations 2003 or the Telecommunications Act 2001; or b. for new infrastructure, there is an operational need or functional need to be located within the root zone area and there are no other practicable alternative locations; and c. for both existing and new infrastructure, the work will not compromise the long-term health, natural life or values of the notable tree or groups of trees.
NT-P5	<p>Avoid the destruction or removal of a notable tree or trees unless:</p> <ul style="list-style-type: none"> a. there is an imminent threat to the safety of people and property; or⁶ b. it is necessary to maintain for the safe and efficient use, operation, maintenance and repair of⁷ infrastructure and pruning or relocation of <u>the tree</u> is not possible; c. the use and enjoyment of a property and surrounds is significantly compromised or diminished; or⁸ d. it is dead, or is in terminal decline; and e. <u>For all scenarios described in a-d above</u>⁸, it has been assessed by a suitably qualified and experienced arborist as being suitable for destruction or removal.
NT-P6	<p>Manage land use and subdivision involving a notable tree or trees to address the effects of the activity requiring resource consent, including (but not limited to) consideration of <u>Consider the following matters where relevant when assessing and managing the effects of land use and subdivision involving a notable tree or trees: to the application:</u>⁹</p> <ul style="list-style-type: none"> a. the specific attributes of the tree or trees including the values for which the tree or trees have been identified, including heritage, ecological, botanical, or amenity values; b. the likelihood of significant adverse risk to people and property from the tree or trees; c. whether the land use or subdivision provides for the protection of the tree or trees;

¹ Te Hiku Iwi Development Trust (S399.054)

² Top Energy Limited (S483.129)

³ Clause 16 update will be addressed at the next round of updates.

⁴ Transpower New Zealand Ltd (S454.079)

⁵ Clause 16 amendment will be addressed at the next round of updates.

⁶ Clause 16 amendment will be addressed at the next round of updates..

⁷ Top Energy Limited (S483.132)

⁸ Clause 16 amendment will be addressed at the next round of updates.

⁹ Clause 16 amendment will be addressed at the next round of updates.

	<p>d. whether the works are necessary, ensure the continuing health, structural integrity and amenity value of the tree or trees;</p> <p>e. whether the trimming, alteration or removal of a tree is necessary to accommodate efficient operation of infrastructure;</p> <p>f. alternative methods that could result in retaining the tree or trees;</p> <p>g. whether minor infringements of any rules that apply to the underlying zone would encourage the retention and enhancement of the tree or trees on the site;</p> <p>h. whether the values that would be lost if the tree or trees are removed can be adequately mitigated;</p> <p>i. whether the proposal is consistent with best arboricultural practice;</p> <p>j. whether a report has been provided from a suitably qualified and experienced arborist, detailing any adverse effects on the tree from the development, and whether it should be avoided or could be mitigated;</p> <p>k. methods to contain and control plant pathogens and diseases including measures for preventing the spread of soil and the safe disposal of plant material;</p> <p>l. the provision of a tree or trees management or landscape plan;</p> <p>m. any adverse affect on the rootzone of the notable tree or trees;</p> <p>n. any relevant iwi / hapū management plan lodged with Council</p> <p>o. <u>any Cultural Impact Assessment and</u>¹⁰ any consultation with tangata whenua; and</p> <p>p. any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation.</p>
Rules	

Notes:

1. There may be rules in other District-Wide Matters and the underlying zone in Part 3 - Area Specific Matters that apply to a proposed activity, in addition to the rules in this chapter. These other rules may be more stringent than the rules in this chapter. Ensure that the underlying zone chapter and other relevant District-Wide Matters chapters are also referred to, in addition to this chapter, to determine whether resource consent is required under other rules in the District Plan. Refer to the *how the plan works* chapter to determine the activity status of a proposed activity where resource consent is required under multiple rules.
2. Any activity that requires resource consent shall consider the Historic Heritage Chapter and Sites and Areas of Significance to Māori objectives and policies.
3. The Earthworks chapter rules apply 'in addition' to the earthworks rules in this overlay chapter, not instead of. In the event of a conflict between the earthworks chapter and this chapters earthworks rules, the most stringent rule will apply.

NT-R1	Gardening, mowing and cultivation within the rootzone area of a notable tree or trees	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 It does not:</p> <ol style="list-style-type: none"> 1. involve mechanical cultivation; 2. include sealing or paving; 3. involve the release, injection or placement of chemicals or toxic substances; 	<p>Activity status where compliance not achieved with PER-1: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> a. the extent to which the works will or may adversely affect the health or structural integrity or visual

¹⁰ Te Hiku Iwi Development Trust (S399.055)

	<p>4. involve planting of trees; and</p> <p>5. involve altering of the existing ground level or the disturbance of land other than to the extent necessary to undertake gardening, mowing or cultivation.</p>	<p>appearance of the tree;</p> <p>b. whether the works will be undertaken in a manner consistent with accepted arboricultural standards, practices, and procedures;</p> <p>c. the duration and frequency of the activity and the adverse effect on the tree;</p> <p>d. whether the tree is resilient, including structural soundness and health and the irreversibility of effect on the tree; and</p> <p>e. in relation to a scheduled group of trees, the extent to which the works will adversely affect the health, structural integrity, or ecological values of the wider group.</p>
NT-R2	Maintenance, pruning and trimming of branches of a notable tree	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The maximum branch diameter must not exceed 50mm <u>200mm</u>¹¹ at severance.</p> <p>PER-2 No more than 10% of live growth of the tree may be removed in any one calendar year.</p> <p>PER-3 The works must be undertaken by a person that is a suitably qualified person as per NT-S1 Qualified Arborist - Level 4</p> <p>PER-4 Council is advised 14 days prior to the work commencing and is provided with written documentation by the arborist undertaking or supervising work confirming that they have the qualifications required by NT-S1 Qualified Arborist - Level 4.</p> <p>PER-5 All trimming or alteration must retain the natural shape, form and branch habit of the tree.</p> <p>PER-6 All pruning and trimming shall adhere to the</p>	<p>Activity status where compliance not achieved with PER-1, PER-2, PER-3, PER-4, PER-5 or PER-6: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p>a. the extent to which the works will or may adversely affect the health or structural integrity or visual appearance of the tree;</p> <p>b. whether the works will be undertaken in a manner consistent with accepted arboricultural standards, practices, and procedures;</p> <p>c. whether the tree is resilient, including structural soundness and health and the irreversibility of effect on the tree;</p> <p>d. the degree of effect of the activity on landscape character, and ecological, cultural, heritage, and surrounding amenity values;</p> <p>e. in relation to a scheduled group of trees, the extent to which the works will adversely affect the health, structural integrity, or ecological values of the wider</p>

¹¹ Top Energy Limited (S483.135)

	<p>Minimum Industry Standards: MIS308- Tree Pruning, as per the Arboriculture Australia and New Zealand Arboriculture standards; <u>or</u></p> <p>PER-7 <u>Are required for emergency tree works, then PER 1-6 do not apply. Except that a risk assessment must be conducted by a suitably qualified person as set out in NT-S1 Qualified Arborist – Level 4 and that any necessary works must be carried out on behalf of a network utility operator.</u>¹²</p>	<p>group; and</p> <p>f. the extent to which the works would result in improved community amenity or other benefits for the community that cannot otherwise be achieved by arboricultural or property management means.</p> <p>g. <u>The extent of the works will adversely affect public safety, or cause damage to property or infrastructure.</u>¹³</p>
NT-R3	Removal or pruning of an unsafe or dead notable tree	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 Where a hazard is identified, risk must be assessed using one of the following tree risk method/system:</p> <ol style="list-style-type: none"> 1. Quantified Tree Risk Assessment; 2. Tree Risk Assessment Qualification; or 3. VALID Tree Risk-Benefit Assessment and Management. <p>PER-2 A hazard is created by the tree being:</p> <ol style="list-style-type: none"> 1. dead; 2. in terminal decline 3. at risk of extreme failure; or 4. having a significant loss of structural integrity. <p>PER-3 Council is advised 14 days prior to the work commencing and is provided with written documentation by the arborist undertaking or supervising work confirming that they have the qualifications required by NT-S2 NT-S1 Qualified Arborist - Level 6 <u>4</u>¹⁴.</p>	<p>Activity status where compliance not achieved with PER-1, PER-2, or PER-3: Discretionary</p>
NT-R4	Pruning of a notable tree close to existing electricity lines	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The works are required to provide for safe and reasonable clearance and is carried out in</p>	<p>Activity status where compliance not achieved with PER-1, PER-2, PER-3: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p>

¹² Top Energy Limited S483.135 Far North Hearing 12 Addendum to Notable Trees s42A report

¹³ Clause 16 amendment will be addressed at the next round of updates.

¹⁴ Consequential amendment from Top Energy Limited (S483.137)

	<p>accordance with clause 14 of the Electricity (Hazards from Trees) Regulations 2003 or clause 128 of the Telecommunications Act 2001.</p> <p>PER-2 The works must be undertaken or supervised by a person that complies with NT-S1 Qualified Arborist - Level 4.</p> <p>PER-3 Council is advised 14 days prior to the work commencing and is provided with written documentation by the arborist undertaking or supervising that they have the qualifications required by NT-S2 <u>NT-S1</u> Qualified Arborist - Level 6 <u>4</u>¹⁵.</p> <p>PER-4 The health and integrity of the tree is retained and the pruning will not result in its decline.</p>	<ul style="list-style-type: none"> a. the extent to which the works will or may adversely affect the health or structural integrity or visual appearance of the tree; b. whether the works will be undertaken in a manner consistent with accepted arboricultural standards, practices, and procedures; c. the duration and frequency of the activity and the adverse effect on the tree; d. whether the tree is resilient, including structural soundness and health and the irreversibility of effect on the tree; e. the degree of effect of the activity on landscape character, and ecological, cultural, heritage, and surrounding amenity values; f. in relation to a scheduled group of trees, the extent to which the works will adversely affect the health, structural integrity, or ecological values of the wider group; and g. the extent to which the works would result in improved community benefits for the community or property owner that cannot otherwise be achieved by arboricultural or property management means. <p>Activity status where compliance not achieved with PER-4: Discretionary</p>
NT-R5	New underground infrastructure (including customer connections) and upgrading of existing underground infrastructure in the rootzone area of a notable tree	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 In the rootzone area of notable tree or groups of trees, the infrastructure:</p> <ol style="list-style-type: none"> 1. is at least 4m <u>700mm</u>¹⁶ below ground level; 2. is installed by hand-digging or thrusting; and 3. has an entry point that is located outside of 	Activity status where compliance not achieved with PER-1: Discretionary

¹⁵ Top Energy Limited (S483.137)

¹⁶ Top Energy Limited (S483.138)

	the rootzone area.	
NT-R6	Alterations to the rootzone area of a notable tree or trees	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The removal does not exceed a 80mm diameter root.</p> <p>PER-2 No more than 10% of the rootzone is altered and works does not occur within the structural rootzone.</p> <p>PER-3 The rootzone is protected during any works by temporary fencing.</p> <p>PER-4 No compaction and/or contamination is to occur within the structural rootzone.</p> <p>PER-5 Any directional drilling will occur 800mm below ground level and no works will occur within the structural root zone of the tree.</p> <p>PER-6 Council is advised 14 days prior to the work commencing and is provided with written documentation by the arborist undertaking or supervising work confirming that they have the qualifications required by NT-S1 Qualified Arborist - Level 4.</p>	<p>Activity status where compliance not achieved with PER-1, PER-2, PER-3, PER-4, PER-5 or PER-6: Discretionary</p>
NT-R7	Earthworks, impermeable surfaces, buildings or structures within a rootzone area of a notable tree or trees	
All zones	Activity status: Discretionary	Activity status where compliance not achieved: Not applicable
NT-R8	Removal or relocation of a notable tree (except as provided for by NT-R3)	
All zones	<p>Activity status: Discretionary <u>Permitted</u></p> <p><u>Where:</u></p> <p><u>PER-1</u> <u>Is required for emergency tree works, where a risk assessment must be conducted by a suitably qualified person as set out in NT-S1 Qualified Arborist – Level 4 and any necessary</u></p>	<p>Activity status where compliance not achieved: Not <u>applicable</u> <u>Discretionary</u></p>

	<u>works must be carried out on behalf of a network utility operator.¹⁷</u>	
NT-R9	Activities not otherwise listed in this chapter	
All zones	Activity status: Discretionary	Activity status where compliance not achieved: Not applicable
Standards		
NT-S1	Qualified Arborist - Level 4	
All zones	An arborist with a New Zealand Certificate in Arboriculture (Level 4 or higher) and who is familiar with best practice and standards.	Where the standard is not met, matters of discretion are restricted to: Not applicable
NT-S2	Qualified Arborist - Level 6¹⁸	
All zones	An arborist with a New Zealand Certificate in Arboriculture (Level 6 or higher) and who is familiar with best practice and standards.—	Where the standard is not met, matters of discretion are restricted to: Not applicable— —

¹⁷ Top Energy Limited S483.139 Far North Hearing 12 Addendum to Notable Trees s42A report

¹⁸ Consequential amendment from Top Energy Limited (S483.137)