

Appendix D

Section 32 Report - Updated



District Plan Review Plan Change 48 Tree Plan Change

Proposed Plan Change and Section 32 Report

Analysis of Costs, Benefits, and Alternatives

15 April 2016

Ref: PC48

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Plan Change 48 reviews the objectives, policies and rules related to protected trees as well as Schedule 3 – Outstanding or significant natural features and trees and other protected items. The planning maps will also be updated in terms of the identifying where protected trees are located.

1: Introduction

Plan Change 48 proposes amendments to provisions of the District Plan and Schedule 3 of the District Plan - “Outstanding or significant natural features and trees and other protected items”. A review of the protected tree provisions and Schedule 3 is required to ensure that the Schedule is up to date and reflects the appropriate outcomes for our community.

This will be achieved by successfully reviewing the provisions of the District Plan (objectives, policies and rules) as well as reviewing the existing protected trees and updating the relevant planning maps to reflect the changes made to Schedule 3. The planning process has included consultation with the local community and directly affected landowners who have and/or may wish to retain protected trees on their property.

The Council have engaged an arboriculture firm, Arbor Care, to carry out a review of all of the currently protected trees and potential new trees for inclusion in the schedule of protected trees. Arbor Care have undertaken assessments using the Standard Tree Evaluation Method, known as STEM assessments.

Plan Change 48 proposes to update Schedule 3 to include only those trees that reach or exceed a STEM value of 140. It is proposed that a total of 95 individual and groups of trees will be included on Schedule 3 “Outstanding or significant natural features and trees and other protected items”. It is noted that Outstanding Natural Features have not been reviewed as part of Plan Change 48. Schedule 3 has been updated to provide clarification between protected trees/groups of trees, now referred to as Part A, and Outstanding Natural Features, now referred to as Part B of Schedule 3.

As well as amendments to Schedule 3, it is also proposed to provide more flexible rules so that people who have a protected tree on their property are able to carry out minor work to it that will not cause harm to the tree, without obtaining a resource consent. As well as changes to the rules, we are also proposing to create a new objective and policy to provide directional framework for protected trees in the district.

1.1 Purpose and format of the report

Section 32 of the Resource Management Act 1991 (RMA) allows for objectives in the plan change to be assessed for their suitability in achieving the purpose of the RMA. This report

provides analysis of the key issues, objectives, and policies as well as the proposed changes to Schedule 3 of the District Plan and provides a summary of the evaluation of the costs, benefits, and options considered during the preparation of the plan change, as required under Section 32.

Section 32(2) states:

“An assessment under subsection (1)(b)(ii) must—

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) economic growth that are anticipated to be provided or reduced; and*
 - (ii) employment that are anticipated to be provided or reduced; and*
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions*

Under the above provision, Council is required to document the evaluation process and the reasons for selecting the preferred options as the most suitable option for dealing with the resource management issues and achieving the desired environmental outcomes.

Section 32(5) requires that the *“report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made”*. Therefore, this report will be available, alongside the new plan provisions, when the plan change is notified, to inform the public and stakeholders of Council’s reasoning and assessment.

The report is, however, a “living document”. As the plan-making process progresses from this point on, it is recognised that the public and stakeholders have an important contribution to make through the submissions and hearings process. The report, along with submissions received during notification, will assist Council in its deliberations, prior to making its final decisions on the proposed plan change.

Ultimately, when Council makes its decision, a supplement to this report will be prepared to summarise the process undertaken by Council during its deliberations, and the rationale for any changes made to the proposed plan provisions as a result of the submissions that are heard.

There are six sections to this report:

- Section 1 - Introduction
- Section 2 - Legislative requirements
- Section 3 - Proposed Changes to the District Plan
- Section 4 - Assessment of Relevant Planning Instruments
- Section 5 - Review and research process undertaken.
- Section 6 - Consultation
- Section 7 - Section 32 Cost/benefit analysis.

Seven appendices complete the Hearings Report, including the Section 32 Report.

- **Appendix A – Summary of Submissions received and Staff Recommendations**
- **Appendix B – Changes to the District Plan Maps**
- **Appendix C – Changes to the District Plan (Objectives, Policies and Rules and Schedule 3)**
- **Appendix D – Section 32 Report**
- **Appendix E – Record of Submissions and Further Submissions**
- **Appendix F – Legislative Requirements relevant to the Plan Change**
- **Appendix G – The STEM Assessments carried out for the Plan Change**

Proposed additions to the District Plan are shown in **blue or red text**. **Red** text represents the notified changes to the District Plan as at 11 November 2015. **Blue** text represents changes made to the documents after the Plan Change was notified. Deletions are shown in colour ~~strikethrough~~. The other provisions in the District Plan are shown in black text and are operative.

The changes to the District Plan proposed through this review relate to the protected tree provisions in the District Plan (rules, objectives, policies and Schedule 3). Under this plan change process, the Council has no legislative authority to hear submissions or consider other District Plan matters not related to the protected tree provisions.

1.2 District Plan rolling review

Our District Plan determines the direction that the community wants to take to sustainably manage the District's natural and physical resources, within the framework provided by the RMA. The Plan describes the resource management issues for the District and determines how we deal with those issues through policies and methods, to meet our objectives. The methods include rules that determine when activities are permitted and when resource consents are required. Where activities require resource consents, the Plan provides guidance to ensure that we avoid, remedy, or mitigate adverse effects on the environment.

The RMA requires every District to have a District Plan which, once operative, has to be reviewed every ten years.

Our current District Plan became operative in 2005 meaning that the Plan needs to be reviewed by 2015. To this end, the Council is currently undertaking a rolling review of sections of the District Plan, through consecutive plan changes, rather than a full review of the District Plan.

The option of a rolling review was enabled through legislative changes when the Resource Management (Simplifying and Streamlining) Amendment Act 2009 came into force on 1 October 2009. Section 79 of the RMA as amended through the above change, states:

79 Review of policy statements and plans

(1) *A local authority must commence a review of **a provision** of any of the... documents it has, if the provision has not been a subject of a proposed ... plan, a review, or a change by the local authority during the previous 10 years:*

Prior to the 2009 change to the RMA, the requirement was for a full review of the district plan:

(2) *Every territorial authority shall commence **a full review** of its district plan not later than 10 years after the plan became operative.*

The District Plan's rolling review has so far covered "Integration of the Development Manual" (Plan Change 41), "Rural Subdivision" (Plan Change 42), "Transportation" (Plan Change 43) and "Works and Network Utilities" (Plan Change 44) and Waitoa Private Plan - Change - Development Concept Plan for Poultry Processing and Manufacturing (Plan Change 46). Plan Changes 41, 42, 43 and 44 are now fully operative with Plan Changes 43 and 44 becoming operative on 21 October 2015. Plan Change 46 was made operative in December 2015.

Presently, the Council is reviewing the zoning and rule provisions of Morrinsville, Matamata and Te Aroha in Plan Change 47, which has been named "Plan your Town". This proposed plan change is likely to progress to the notification stage in 2016.

In undertaking this District Plan review there are number of legislative requirements to be considered. Those which are most relevant are outlined in this section.

2: Legislative Requirements

In undertaking this District Plan review there are number of legislative requirements to be considered. Those which are most relevant are outlined in this section. The detailed provisions of the RMA related to the plan change process are provided in Appendix F.

2.1 Purpose and principles of the RMA

The overriding framework that guides all decision-making under the RMA is embodied in the purpose and principles of the RMA, as stated in Part 2 (sections 5 – 8).

The purpose of the RMA is to promote the sustainable management of natural and physical resources. Section 5 of the RMA states:

“5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

Section 6 of the RMA identifies matters of national importance, and states that in achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for these matters.

Section 7 of the RMA identifies “other matters” that in achieving the purpose of the RMA, all persons exercising functions and powers under the RMA shall have particular regard to in relation to managing the use, development, and protection of natural and physical resources.

In achieving the purpose of the RMA, decision makers should also take into account the principles of the Treaty of Waitangi (Section 8 of the RMA).

2.2 Functions of territorial authorities

A district plan is a document to assist territorial authorities to carry out their functions. It follows then that a district plan must be confined to matters that fall within the scope of a territorial authority's functions. The functions of territorial authorities are set out in Section 31 of the RMA. Plan Change 48 proposes to protect significant individual and groups of trees in the District. Protection of trees will ensure the integrated management of effects of land use activities. It is considered that the proposed Plan change will assist Council to carry out its functions set out in Section 31 of the RMA.

2.3 Purpose of district plans

The purpose of district plans as set out in Section 72 of the RMA is to assist territorial authorities to carry out their functions, in order to achieve the purpose of the RMA.

2.4 Preparation/change of district plans

Section 73 requires a territorial authority to have a district plan in place at all times, gives authority to the Council to change its district plan in accordance with the provisions in Schedule 1¹ RMA, and mandates the Council to change its district plan to give effect to an operative regional policy statement.

2.5 Matters to be considered

Section 74 sets out the matters to be considered when changing district plans. Relevant to this plan change is that Section 74 requires that the Council:

- Considers its functions (Section 31), Part 2 RMA matters (i.e. the purpose and principles of the RMA), and its duty to consider alternatives, benefits, and costs (Section 32);
- Have regard to the proposed regional policy statement, management plans and strategies prepared under other Acts and consistency with the plans of adjacent territorial authorities; and:
- Disregards trade competition.

2.6 District plan content

Section 75 determines the contents of district plans, planning instruments that a district plan must give effect to, and that it must not be inconsistent with.

Under Section 75(1) it is mandatory for district plans to state:

- Objectives;
- Policies to implement the objectives; and:
- Rules to implement the policies.

Under Section 75(2) it is optional for district plan to state:

- Significant resource management issues for the district;
- Non-regulatory methods to implement policies;
- Reasons why the policies and methods were adopted;
- Environmental results expected;

¹ Schedule 1 of the RMA sets out the procedural requirements for the plan change process including time limits, consultation, submissions, hearings, notification of decisions, and appeals.

- Procedures for monitoring the effectiveness and efficiency of the plan provisions;
- How to deal with cross-boundary issues;
- The information requirements for resource consent applications; and
- Any other information required to enable a territorial authority to exercise in full its functions, powers, and duties under the RMA.

Section 75(3) mandates a district plan to give effect to certain planning instruments. The planning instruments relevant to this plan change to which effect must be given under Section 75(3) are the Operative Waikato Regional Policy Statement, National Policy Statement on Electricity Transmission and the National Policy Statement for Renewable Electricity Generation.

Section 75(4) requires that a district plan must not be inconsistent with certain planning instruments. The only Section 75(4) planning instrument relevant to this plan change is the Operative Waikato Regional Plan.

Section 75(5) provides the ability for the district plan to incorporate material by reference.

2.7 District rules

Section 76 enables rules to be included in a district plan, to enable the Council to carry out its functions, and to achieve the objectives and policies of the plan. In making rules, the territorial authority must have regard to the effects on the environment. Rules may apply universally to the whole of the district, or to selected parts of the district only. Rules may be general or specific, can make provision for different classes of effects, and can require resource consent to be obtained for an activity likely to cause adverse effects not covered by the plan.

Section 76(4A) of the RMA, following the 2009 amendments to the RMA, removes rules for tree protection except under specific circumstances. In essence Section 76(4A) of the RMA states that a rule must not prohibit or restrict the felling, trimming, damaging or removal of any tree or group of trees in an urban environment unless the tree or group of trees is specifically identified in the Plan. In this instance, all protected trees are listed in Schedule 3 of the District Plan.

Section 77A gives Council the power to make rules for the different activity classes (permitted, controlled, restricted-discretionary, discretionary, non-complying, and prohibited) and specify conditions in a plan.

Under s77B, it is mandatory that a district plan must state the matters over which the Council has retained control for controlled activities, and to which the Council has restricted its discretion for restricted-discretionary activities.

2.8 National environmental standards

Sections 43A, 43B and 44A deal with the contents of national environmental standards and their relationship to plan rules. With respect to the proposed Plan Change 48, it is considered that the National Environmental Standards are not directly relevant to this plan change.

2.9 National policy statements

Sections 45(1) and 55 deal with the purpose of national policy statements (NPS), and their relevance to the plan-making process.

Under the relevant provisions, the purpose of NPS's is to state objectives and policies for matters of national significance, relevant to achieving the purpose of the RMA.

The RMA determines that during the plan-making process NPSs must be dealt with as follows:

- If the NPS directs so, then a plan must be amended, without using the Schedule 1 process, to include the specific objectives and policies specified in a NPS or so that the objectives and policies in the plan give effect to the NPS;
- Otherwise and in all other respects, a plan must be amended, using the Schedule 1 process, to give effect to a NPS.
- All amendments required, must be made within the timescale specified in a NPS, or if none is specified then the changes must be made as soon as practicable.

2.10 Section 32 evaluation

Section 32 RMA requires the Council, before a plan change is notified, to evaluate alternative options for dealing with the District's resource management issues.

Section 32(1) states:

An evaluation report required under this Act must—

- (a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - (i) *identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) *summarising the reasons for deciding on the provisions; and*

The scope and matters that Council must take into account during its evaluation of the assessment required, is described as follows in Section 32(2):

An assessment under subsection (1)(b)(ii) must—

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) *economic growth that are anticipated to be provided or reduced; and*
 - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

The proposed changes to the District Plan are identified in Appendices B and C of this report.

3: Proposed Changes to District Plan

The proposed changes to the District Plan are presented in the appendices as follows:

Appendix B:

Changes to the planning maps

Appendix C:

District Plan changes (Objectives, Policies, Rules, Explanations and Schedule 3)

There are a number of planning instruments (such as the Regional Policy Statement) that Plan Change 48 must take into account as part of the review of the District Plan.

This section provides a discussion and assessment of the relevant planning instruments in accordance with the statutory requirements.

4: Assessment of Relevant Planning Instruments

The relevant planning instruments that this plan change must give effect to or must be consistent with, or must have regard to under the legislation are summarised below.

4.1 Planning instruments that must be given effect to

This plan change must give effect to the following regional planning instruments:

National Policy Statement for Electricity Transmission (NPS-ET)

The NPS seeks to adequately provide for the vital role that the efficient transmission of electricity along the national grid plays, in determining the wellbeing of the people and the environment.

The NPS applies only to the national grid, being the high voltage transmission network owned and operated by Transpower that carries electricity around the country.

The objective of the NPS-ET is:

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.*

The Objective is to be achieved by fourteen policies that seek to:

- Recognise the national benefits of transmission;
- Manage the environmental effects of transmission;
- Manage the adverse effects of third parties on the transmission network;
- Ensure that the electricity transmission network is identified on planning maps;
- Ensure long-term strategic planning of transmission assets.

Comment

An advice note has been added to the Rules section of the District Plan that all works undertaken on Protected Trees shall be in accordance with the Electricity (Hazards from Trees) Regulations 2003.

Operative Waikato Regional Policy Statement

The Waikato Regional Policy Statement (WRPS) became operative in October 2000 and contains a number of provisions that this plan change must give effect to. The relevant issues, objectives, policies and implementation methods are quoted below:

Achieving integrated management (Clause 2.2.2)

- **Issue**
Ad hoc decision-making has the potential to prevent integrated management of natural and physical resources.
- **Objective**
The integrated management of natural and physical resources in the Waikato Region is achieved.
- **Policy One- Natural and physical resources**
When managing the use, development, and protection of natural and physical resources recognise and provide for:
 - *The interconnected nature of all elements of the environment;*
 - *The inter-relationships between natural and physical resources;*
 - *The potential for adverse environmental effects to occur;*
 - *The range of social, cultural and economic values within the Region.*
- **Implementation Method 2**
Encourage territorial authorities, when they are preparing district plans and processing resource consents, to give consideration to the matters listed in Policy One above.

Heritage (Clause 3.15)

- **Issue**
Natural and cultural heritage resources are integral parts of the Region's heritage. Subdivision, use and development have the potential to degrade and destroy natural and cultural heritage.
- **Objective**
The protection of regionally significant heritage¹ resources, and allowing subdivision, use, and development of other heritage resources, while ensuring that there is no net loss in the Region.
- **Policy One: Protection of Heritage Resources**
Ensure the protection of significant natural and cultural heritage resources.
- **Policy Two:**
Allow subdivision, use and development, while avoiding, remedying or mitigating any adverse effects on other natural and cultural heritage resources.

Implementation Methods

3. Through liaison with territorial authorities, the NZHPT, tangata whenua and other interested parties, ensure the integrated management of the Region's natural and cultural heritage resource.

4. Provide information to the public pertaining to the Region's significant heritage resources and their appropriate management, and support education programmes which promote the understanding and values of natural and cultural heritage.

Comment

Plan Change 48 has taken into consideration the relevant issues in the Regional Policy Statement including integrated management, and heritage. It is considered that the proposed Plan Change will contribute towards the integrated management of the District's resources. Plan Change 48 will ensure the protection of significant natural resources by protecting trees that meet or exceed a STEM value of 140.

For the reasons mentioned above, no inconsistencies with the Regional Policy Statement and this proposed plan change have been identified.

4.2 Planning instruments that the plan change must not be inconsistent with

This plan change must not be inconsistent with the following national and regional planning instruments:

Operative Waikato Regional Plan

The Waikato Regional Plan (WRP) became operative on 28 September 2007. Subsequently, there have been a number of variations to the WRP, all of which are now operative.

The WRP provides further policy direction, including rules, to give effect to the WRPS relating to matters within the scope of the Waikato Regional Council's functions under the RMA. The relevant matters are listed on the following page:

1. *Approaches to Resource Management*
2. *Matters of Significance to Maori*
3. *Water Module*
4. *River and Lake Bed Module*
5. *Land and Soil Module*
6. *Air Module*
7. *Geothermal Module*

Comment

For the reasons outlined earlier, this plan change is consistent with the Regional Policy Statement and taking into consideration that the WRP provides further policy direction and detail on these issues. The issues identified above have been considered however are not fundamental to Plan Change 48.

No inconsistencies with the Operative Waikato Regional Plan and Plan Change 48 have been identified.

4.3 Planning instruments that the plan change shall have regard to

During the preparation of this plan change, regard was given to the following planning instruments:

Proposed Waikato Regional Policy Statement (PRPS)

The Waikato Regional Policy Statement is currently being reviewed. The review has reached the stage where WRC has made its decisions (November 2012). Parts of the PRPS are currently under appeal and being dealt with through the Environment Court process. A large number of appeals have been settled by Consent Order and the PRPS was updated on 1 September 2015 to reflect the decisions on the appeals which have been settled.

The relevant “issues”, “objectives”, “policies” and “methods” of the PRPS can be summarised as follows:

- **Objective 3.17 Historic and cultural heritage**
Sites, structures, landscapes, areas or places of historic and cultural heritage are protected, maintained or enhanced in order to retain the identity and integrity of the Waikato region's and New Zealand's history and culture.
- **Objective 3.18 Ecological integrity and indigenous biodiversity**
Ensure that the extent and full range of ecosystem types that occur in the Waikato region, and the indigenous biodiversity that they contain, exist in a healthy and functional state.
- **Objective 3.19 Outstanding natural features and landscapes**
The values of outstanding natural features and landscapes are identified and protected from inappropriate subdivision, use and development.
- **Objective 3.20 Amenity**
The qualities and characteristics of area and features, valued for their contribution to amenity, are maintained or enhanced.

Comment

This Plan change has given particular regard to the PRPS due to the advanced stages of the PRPS.

Plan Change 48 has taken into consideration the need to retain the region's history and culture. The historic heritage values of trees has been considered as a part of the Standard Tree Evaluation Method (STEM) assessment criteria. All currently protected trees have been assessed for their historical values as part of the STEM value assessment matrix. It is noted that there were few identified species that have historical significance in the District. The local historical societies in the District have also been consulted with.

The STEM assessment takes into account any remnants of native ecosystems, scientific, rarity and endangerment features of trees. The STEM assessment method provides assurance that high value indigenous trees are protected.

The value of outstanding natural features and landscapes in the District are identified in Schedule 3 of the District Plan, however this plan change deals only with the protected trees in Schedule 3. A review of the significant natural features in the District will take place at a later date. Generally, however, it is considered that the protection of trees contributes towards ensuring the protection of outstanding natural landscapes.

Plan Change 48 ensures that, through tree protection, the qualities and characteristics of areas that are valued for their contribution to amenity will continued to be maintained.

For the reasons mentioned above, no inconsistencies with the proposed Regional Policy Statement and this proposed plan change have been identified.

National Policy Statements (NPS)

A number of National Policy Statements (NPS's) have been prepared to identify matters of national significance. These must then be incorporated into District Plans in accordance with Section 55 of the RMA.

Plan Change 48 has been assessed in terms of the current NPS's. It is considered that the plan change does not raise any issues which would require further amendment to give effect to the NPS's.

Hauraki Gulf Marine Part Act 2000

The Hauraki Gulf Marine Park Act has been taken into consideration and is not considered relevant to Plan Change 48.

This section outlines the review and research process that has been undertaken to inform Plan Change 48.

5: Review and Research Process

5.1 Existing plan provisions

There are a range of broad objectives and policies provided in Section 3.1.2 of the District Plan (Natural environment and heritage) which cover protection of the natural environment, however there are currently no specific Objectives or Policies on protected trees in the District Plan. The proposed amendments to the Objectives and Policies are provided in Appendix C.

The existing rule provisions are provided in Section 10 (Natural environment and heritage) of the District Plan. The proposed amendments to the Rules are provided in full in Appendix C.

The existing Schedule 3 “Outstanding or significant natural features and trees and other protected items” contains protected trees as well as “outstanding or significant natural features and other protected items”. Plan Change 48 relates only to protected trees. The outstanding or significant natural features will be reviewed at a later date.

5.2 Review of Schedule 3

A review of all the currently protected trees has been carried out by Arbor Care using the Standard Tree Evaluation Method (STEM). This method provides a quantitative measure for the assessment of trees. The STEM method lists a range of criteria on which to score trees and compares the relative merits of trees on a point system. The STEM method is widely accepted and used by arborists and is endorsed by The Royal New Zealand Institute of Horticulture.

Each of the trees protected through the existing schedule (except for one tree where approval was not granted from the owner) have been evaluated by Arbor Care. This information was then recorded in a spreadsheet. In order to capture all of the potentially significant trees in the District, Arbor Care recommended additional trees for assessments that they considered to be significant. In addition, the public were also asked to nominate trees that they felt may be significant.

Letters were sent to all owners and occupiers of the existing properties where protected trees are located as well as the nominated and recommended trees to be assessed. Site visits were undertaken by Arbor Care between April and September 2015. In April 2016, Arbor Care carried out several more site visits as a consequence of submissions or further submissions received following plan change notification.

5.3 Assessment of protected trees

The assessment of all of the protected trees in the District found a range in STEM scores. Some of the trees that are currently protected were not able to be assessed by Arbor Care as it was found that they were no longer on site and others were in such a poor condition that a STEM assessment was not warranted. Through an assessment of the respective merits of different STEM value thresholds and advice from Arbor Care it was confirmed that an appropriate level of protection would be achieved using a STEM value of 140.

Prior to the Plan Change, Schedule 3 contained a total of 272 listings which included protected trees, groups of trees and Significant Natural Features (SNF's). 46 SNF's were transferred to Part B of Schedule 3 as they are not part of Plan Change 48, leaving 226 protected tree listings.

Currently, there are 678 protected trees included in the 226 listing relating to Protected Trees in Schedule 3. After taking into account all of the STEM assessments that have been carried out and the trees that reach a STEM value of 140, the number of protected tree listings is proposed to be 95. The complete amended schedule is provided in Appendix C. It is important to note that each protected tree listing in Schedule 3 may consist of more than one tree.

5.4 Assessment of other approaches

The approaches to tree protection by other district councils has been taken into consideration, this involved reviewing the criteria around tree protection as well as reviewing the relevant objectives, policies and rules. The STEM assessment method is commonly used for assessing trees, however the STEM value chosen to represent worthy trees varies across different councils. For example, a council that chooses to protect a broad range and variety of trees may use a STEM value of 120 whereas a council that only wishes to protect a very unique or limited number of trees would use a STEM value of 160 or 170.

In some instances Councils have no tree protection rules. While this approach has been reviewed, it is not considered appropriate for the District. The proposed rules and schedule of protected trees provide flexible rules to landowners while also only protecting trees of a significant value.

A range of consultation has been undertaken with affected landowners and the general community and stakeholders. This has helped inform and shape the proposed changes to the Plan.

6: Consultation

6.1 Letters to affected parties

An initial information letter was sent to all landowners who have protected trees on their properties, advising them that Plan Change 48 was being undertaken. Landowners were also advised that Arbor Care would visit their property to carry out a STEM assessment and asked to respond to the letter if there was any concerns with Arbor Care carrying out a site visit. One objection was received to the proposed Arbor Care site visit. As a result the protected tree was not assessed and due to no updated information being available the particular tree has remained on the proposed Schedule.

Another letter to all of those landowners with protected trees, where an assessment was carried out was sent to advise them of the outcome of the STEM assessment. In some instances no assessment was carried out because the tree was either no longer on a property or it was considered that it was not worth assessing because the STEM value would be too low. The letter to landowners who had an assessment carried out included specific information about the protected tree on their properties. The landowners were invited to provide comments through filling out a feedback form.

The feedback from those landowners is summarised in Section 6.5 below.

6.2 Letters to potentially new affected parties

Arbor Care identified, through their field work, a number of other trees that may be worth protecting and that could meet the STEM criteria. A total of four sites were identified, of those sites, two parties replied to a letter confirming they were happy for a site visit to be carried out. The purpose of the site visit was to confirm if the subject trees reached the 140 STEM value threshold. Two parties declined a site visit to be carried out and those trees have been left off the proposed Schedule. Of the two parties that did reply, one tree was included on the Schedule and the other did not reach a 140 STEM value.

6.3 Community Consultation

The wider community were informed of the Plan Change via the following channels:

- Council In-focus media articles
The articles provided regular updates on the Plan Change and specifically asked for nominations for other trees that may be worth protecting. Two trees were nominated, and assessed, but neither reached a STEM value of 140.

- Displays in Council offices at reception and libraries
Large tree displays were put in place in the offices and libraries of Te Aroha, Matamata and Morrinsville. The purpose of the tree displays was to advertise this plan change and provide information and the opportunity to be involved in Plan Change 48 via a feedback form. A total of 16 feedback forms were received.
- Council Website
Throughout the Plan Change process we have referred the community to the Council website for further information, the webpage provides more detail about Plan Change 48 process as well as specific details on the proposed changes.

6.4 Other Stakeholders

A letter was sent to other stakeholders in the District regarding the proposed plan change. It advised the general intent of the plan change and sought any feedback from them. These other stakeholders were:

- The Te Mana Whenua Forum
- The three Historical Societies or museums in the district.

6.5 Summary of feedback received

A range of feedback has been received through the consultation process, the feedback received so far has identified the following issues:

Maintenance

- Frustration that landowner pays for tree maintenance when they don't want a protected tree on their property.
- Council should share cost of maintenance.
- The rules should enable the use of machinery for maintenance without a resource consent.
- Maintenance is expensive.

Funding

- Council funding should be provided to contribute towards costs incurred to landowners with protected trees, including maintenance.
- Opposed to Council funding maintenance for trees on private land.
- Concern at cost of resource consents.

Rules

- Protected trees that are removed should be replaced by others.
- Property owners should have the final say on a tree's status.
- The existing rules are inflexible.
- Trees shouldn't be protected based on their height only.
- The current rules are reasonable.

Heritage

- Trees that are planted for significant reasons should be protected.

Amenity

- Trees provide enhanced amenity in towns.
- Loss of trees would result in less attractive landscapes.

Health and safety

- Tree protection is favourable provided trees are not dangerous or in poor health.
- Rules should be changes to allow for the removal of dangerous trees.
- Concern of health and safety due to falling branches of protected trees.

General

- Concern raised around the proposed reduction in protected trees.
- Protected tree hinders the resale value of a property.
- Stand of protected trees hinders farm production.
- Support tree protection for amenity, ecological and heritage values.
- Retain protection of four trees on Council owned property that is not protected by the Reserves Act.

This section of the report provides a summary of the different regulatory options, costs and benefits considered during this plan review process, as required under s32 RMA.

7: Section 32 Cost/Benefit Analysis

This section of the report provides a summary of the different regulatory options, costs and benefits considered during this plan review process, as required under s32 RMA.

7.1 Methodology

In broad terms, the purpose of the section 32 analysis is to ensure:

- That decision-makers have the necessary policy analysis on which to base their decisions;
- That the costs borne by individuals and the community are the most practicable, and consistent with achieving the purpose of the RMA; and:
- That the proposed plan provisions are necessary and more appropriate (efficient and effective) than the alternatives.

To achieve its purpose, a section 32 analysis must therefore evaluate:

- The extent to which each objective is the most appropriate way to achieve the purpose of the RMA;
- Whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives;
- The benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the policies, rules or other methods; and
- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules and other methods.

The following steps have been carried out for this plan review:

- Review the existing trees protected by the District Plan.
- Review of the Objectives, Policies and Rules associated with protected trees.
- The issues with the Objectives, Policies and Rules were identified.

7.2 Proposed objective

The following new objective is proposed:

O2: To protect trees that have significant value to the community in terms of amenity, ecological and historical values.

The above objective is considered to be the most appropriate way to achieve the purpose of the RMA because it seeks to ensure that trees that are of significance are protected, therefore achieving (Section 7(c) and 7 (f) of the RMA.

The proposed objective is consistent with Objective 1 of the Natural Environment and Heritage section. Objective 1 aims to protect and enhance the natural resources within the District that are values for their intrinsic, scientific, educational and recreational values.

7.3 Proposed policy changes

Plan Change 48 proposed the following new policy to achieve the objective set out above:

Providing an effective set of rules to protect significant trees while also limiting the financial impact on landowners who have a scheduled tree on their property.

The policy is the most appropriate for achieving the objective because the objective seeks to protect trees of significance. The policy provides certainty to the community regarding the protection of trees and also signals that the financial impact on landowners should be avoided which is further prescribed in the proposed rules. The proposed policy is consistent with existing policies in the District Plan.

It is proposed to remove the following policies from the District Plan:

SP1: Council will encourage landowners to permanently protect natural features, trees and vegetation provisions.

SP2: To encourage a "conservation" education programme in conjunction with other agencies for targeted groups such as farmers, schools, tangata whenua. This programme may be developed in consultation with these groups.

SP3: Council may, where it considers necessary acquire land to protect threatened outstanding natural features.

SP4: Council will advocate and promote the voluntary protection of individual trees or stands of trees.

It is considered that the above policies are no longer applicable to the District Plan. The policies are redundant in terms of the implementation of the District Plan and don't provide a meaningful framework for enactment.

The full proposed changes to the objectives and policies can be found in Appendix C.

7.4 Proposed rules and Section 32 analysis

In order to evaluate whether the proposal to have 95 trees (individually and as groups) protected and if the proposed rules are the most appropriate method to achieve the purpose and principles of the RMA, four options have been considered. These are:

1. Status quo, i.e., no changes to Rules, Objectives, Policies or Schedule 3.
2. No tree protection, i.e., remove all tree protection rules and Schedule 3.
3. Update the Tree Schedule and relevant rules, objectives and policies with a STEM value of 140.
4. A higher or lower STEM value.

7.5 Part 2 RMA

It is considered that the proposed plan change is consistent with the purposes and principles of the RMA. In particular, Plan Change 48 seeks to provide for the sustainable management of significant trees in the District. 95 individual and groups of tree/s have been assessed as being significant and are proposed to be included in the updated Schedule 3 (Part A) of the District Plan, which will ensure they will be protected. The trees that are proposed to be protected have significant amenity, ecological and heritage values, which is considered to provide for the community's wellbeing and also safeguard the life supporting capacity of the environment.

The importance of the protection of outstanding natural features, areas of significant vegetation and the protection of historic heritage are matters of national importance in Section 6 of the RMA. The protection of significant trees is considered consistent with the matters outlined in Section 6.

Section 7 of the RMA (Other Matters) states that particular regard be given to the maintenance and enhancement of amenity values as well as the maintenance and enhancement of the quality of the environment. It is considered the protection of trees through Plan Change 48 specifically provides for the protection or the maintenance of amenity values and the maintenance and enhancement of the quality of the environment in the District.

It is considered that Section 8 of the RMA has been taken into account through consultation with local Iwi authorities.

For the reasons mentioned above, it is considered that the proposed Plan Change appropriately gives effect to the purpose and principles within Part 2 of the RMA.

	Option 1 – Status Quo	Option 2 – No tree protection	Option 3 – Update Schedule, Rules, Objectives and Policies	Option 4 – A higher or lower STEM value
Description	<ul style="list-style-type: none"> No changes to Rules, Objectives, Policies or Schedule 3. 	<ul style="list-style-type: none"> Remove all tree protection rules and Schedule 3. 	<ul style="list-style-type: none"> Update the Tree Schedule and relevant rules, objectives and policies. See Appendix - C for details. 	<ul style="list-style-type: none"> A higher or lower STEM value.
Benefits	<ul style="list-style-type: none"> No need to undertake a separate plan change, however any review which maintained status quo would still require a formal plan review process. Public notification of the plan change will enable any interested party to participate in the plan change through the submission process, increasing the quality of the decision making and legitimacy of decisions. No changes to rules and associated costs to land owners, providing certainty. Regulatory and enforcement options would still be available for those trees currently protected on the Schedule. 	<ul style="list-style-type: none"> Beneficial to landowners who view protected trees as a nuisance. No costs to Council associated with monitoring and handling queries from the public on protected trees. Public notification of the plan change will enable any interested party to participate in the plan change through the submission process, increasing the quality of the decision making and legitimacy of decisions. 	<ul style="list-style-type: none"> Provides a good level of tree protection (STEM value 140) and allows for the on-going update of Schedule 3. Public notification of the plan change will enable any interested party to participate in the plan change through the submission process, increasing the quality of the decision making and legitimacy of decisions. The proposed Plan Change is aligned with the RMA and therefore consistent with the Purpose and Principles of the RMA. Criteria contained in assessment of trees provides a fair and quantitative assessment for the basis of the identification of any potential protected trees. The inclusion of protected trees on the schedule involves documentation and recording of information specific to that tree, or group of trees, therefore preserving the knowledge and history associated with a particular tree/s. The proposed Plan Change provides flexibility to landowners with protected trees by making the rules as permissible as possible while still providing for the necessary protection of protected trees. Property owners can access funds for undertaking arborist reports. Protection of trees will retain amenity, ecological and heritage values in the District. Protects trees of a high value. 	<ul style="list-style-type: none"> The likely benefits of a higher STEM value threshold would mean only a small number of trees would be protected. A low STEM threshold would protect a large number of trees in the District, providing for amenity, ecological and heritage values. Public notification of the plan change will enable any interested party to participate in the plan change through the submission process, increasing the quality of the decision making and legitimacy of decisions.

Costs	<ul style="list-style-type: none"> Schedule 3 will remain out of date, trees that are currently protected may not be worthy of protecting. No new trees will be added to the Schedule, creating inconsistencies across the District. Does not achieve environmental enhancement. 	<ul style="list-style-type: none"> Potential for loss of amenity, ecological and heritage values in the District. Possibility of the plan change being widely challenged through the appeal process. 	<ul style="list-style-type: none"> Potential costs for enforcement and abatement notices. Costs of preparing the plan change. Possibility of the plan change being widely challenged through the appeal process. 	<ul style="list-style-type: none"> A high STEM value threshold would reduce the amount of protected trees in the District significantly. For example a STEM threshold of 170 would mean approximately 10 trees would be protected. This could potentially result in a significant loss of amenity, ecological and heritage values in the District. A low STEM threshold would mean that there would be a lot of affected parties with protected trees on their property. Possibility of the plan change being widely challenged through the appeal process.
Economic Growth and Employment	As Plan Change 48 is only concerned with tree protection, it is considered that each of the options have a similar and very low influence on economic growth and employment conditions for our District and our community.			
Effectiveness/Efficiency	<p><u>Efficiency</u> No need to undertake a separate plan change, however any review which maintained status quo would still require a formal plan review process.</p> <p><u>Effectiveness</u> This option would not be the most effective in terms of achieving the objectives and policies of the District Plan and the purpose and principles of the RMA as the individual and groups of trees that have been identified through the review process are considered significant. Without updating Schedule 3, insignificant trees will remain on the Schedule and significant trees could potentially be lost through lack of protection.</p>	<p><u>Efficiency</u> This option would be the most financially cost efficient option for the Council.</p> <p><u>Effectiveness</u> Does not provide for the Part 2 of the RMA or the Operative and Proposed Waikato Regional Policy Statements.</p>	<p><u>Efficiency</u> The proposed rules work together as a package, providing tree protection while also providing permissible rules for tree maintenance. The proposed rules are effective in achieving a balanced approach.</p> <p><u>Effectiveness</u> The proposed STEM value of 140 provides for the protection of high quality trees across the District and ensures trees that are not up to a high standard are not protected.</p>	<p><u>Efficiency</u> A high STEM threshold would provide a low number of protected trees which would provide for efficiencies in Council processes and costs.</p> <p><u>Effectiveness</u> A high or low STEM threshold is not effective in achieving the right balance between protection of trees and unnecessary restrictions on landowners.</p>
Risks of Acting/ Not Acting	The risk of the status quo is that the tree schedule will remain out of date and a number of trees that are currently protected are not considered good tree specimens.	No tree protection could lead to a loss of amenity, ecological and heritage values.	It is considered that there is sufficient information to update Schedule 3 now that all of the existing protected trees have been assessed by Arbor Care as well as other trees that were picked up through the site assessment process.	An appropriate STEM value has been carefully considered. A high STEM value could mean that only some of the best trees would be protected a low STEM value may create an un-meaningful schedule of protected trees.
Preferred Option	<u>Option 3.</u> A STEM value of 140 and a review of the existing schedules will ensure that significant trees are protected and the associated rule provisions will ensure that any cost and restrictions on landowners are kept to a minimum.			