



# Matamata-Piako District Plan Review

## Plan Change 48 - Tree Plan Change

### Hearings Report

15 April 2016





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## 1.0 Background

Plan Change 48 relates to Schedule 3 (Outstanding or significant natural features and trees and other protected items) of the District Plan and the associated tree protection Objectives, Policies and Rules. The Plan Change seeks to update Schedule 3 to ensure that it continues to represent the most significant trees and groups of trees in the District. In summary the changes are:

- Protect trees of a high value and remove trees from Schedule 3 that do not meet the Standard Tree Evaluation Threshold (STEM) of 140 points.
- Update the Objectives, Policies and Rules regarding protected trees so that there is an increased level of flexibility to landowners with protected trees to carry out maintenance and pruning work while still protecting significant trees.
- Update the Objectives, Policies and Rules.

The District Council (Council) is currently undertaking a rolling review of the District Plan, through consecutive plan changes, rather than a full, one-off, review. For further information on the rolling review of the District Plan refer to the Section 32 report (Appendix D).

For a full background to the Plan Change including the provisions and the changes to Schedule 3 refer to Appendix B, C and D. The Section 32 report has been updated through the Plan Change process and has been revised since the document was notified on 11 November 2015.

The Plan Change was publicly notified by Matamata-Piako District Council on 11 November 2015. The submission period closed on 10 December 2015. A total of 27 submissions were received. The summary of submissions was notified on 3 February 2016. A total of eight further submissions were received, of which one was received late. Under Section 37 of the RMA, Council is required to decide to accept or reject the late submission. Council staff note that interested parties have not been unduly prejudiced by the late submission as there is no opportunity to comment on further submissions. Refer to Section 8.0 of this report for the recommendation to Council on the further submission.

It is noted that this Plan Change does not cover “Outstanding or significant natural features” in Schedule 3 of the District Plan.

## 2.0 Purpose of Hearings Report

The purpose of this report is to provide recommendations on submissions and further submissions to the Plan Change 48, in particular the purpose is to:

- Provide an overview of the plan change process and the statutory provisions and matters that Council must consider in making its decisions; and
- Review and comment on the submissions and further submissions received.
- Provide a recommendation on whether the submissions and further submissions should be accepted, accepted in part or rejected.
- Provide any amendments to the provisions of the District Plan as a result of the recommendations.

The recommendations contained in the report represent staff’s assessment only, not the Council’s position. Before making its decisions, the Council will consider these

recommendations, jointly with the submissions and evidence heard during the upcoming hearing. Ultimately the authority to decide on the submissions lies solely with the Council, and its decisions may or may not coincide with staff's recommendations.

### **3.0 Further consultation**

A range of consultation has been undertaken with affected landowners, the community and stakeholders. Further to the consultation outlined in the Section 32 report (Appendix D) Council has also held an informal 'open day' inviting people who had made a submission on the Plan Change to meet with Council staff to discuss their submission.

The open day meetings were held on 17 March 2016, four meetings were held. The meetings were productive and enabled dialogue between submitters and Council staff to clarify submission points.

As well as the 'open day' meetings that were held with submitters, Council also contacted several submitters for clarification on their submissions as well as offer the chance to provide supporting evidence on their submissions.

### **4.0 Plan Change matters for determination**

A summary table of all of the submissions received for Plan Change 48 is provided in Appendix A. The summary table covers the submission points raised by each of the submitters as well as Council comments and recommendations.

The following discussion provides further assessment on the common key topics covered in the submissions. Refer to Appendix A for a summary of submissions and the Council's recommendations on the submission points.

#### **4.1 Standard Tree Evaluation Methodology (STEM)**

A number of submitters have queried the STEM methodology with regard to what the STEM methodology does and does not take into account and also whether it was the most appropriate methodology to use.

The Standard Tree Evaluation Methodology (STEM) was chosen by Council to be an appropriate method of assessment of trees for the following reasons:

- The STEM methodology uses a wide range of criteria (size, age, form, historical association, visual contribution to the landscape) and compares the merits of the tree on a point based system.
- STEM is used and endorsed by the Royal New Zealand Institute of Horticulture.
- STEM is widely used by a number of territorial local authorities in New Zealand.

The STEM methodology lists a range of criteria with which to score trees and compares the relative merits of trees on a point system. In particular STEM covers three categories; condition, amenity and notability. Each of these topics covers different sub-categories that a tree can be scored on. A copy of all of the STEM assessments carried out is available in Appendix G.

The overall Council recommendation is that the STEM methodology is a suitable mechanism for assessing the potentially significant trees in the District.

#### 4.1.1 Overall recommendation on STEM

That the STEM methodology is retained as the basis to evaluate trees and their respective attributes for inclusion in the District Plan.

#### 4.2 Validation of STEM Assessments

Due to the decrease in trees in Schedule 3, a number of submitters raised queries around the validity of the STEM assessments and how they were carried out. A few submitters raised the need to have the STEM assessments peer reviewed by an independent tree expert.

Arbor Care were engaged by Council as independent tree experts who have experience in using the STEM methodology which is widely used in Local Government in New Zealand and is endorsed by the Royal New Zealand Institute of Horticulture. Arbor Care have carried out STEM assessments for Tauranga City Council.

#### 4.2.2 Overall recommendation on the validation of results

Arbor Care's STEM assessments are accepted as an accurate and reliable record of assessed trees in the District.

#### 4.3 STEM threshold of 140

Due to the decrease in the number of trees in Schedule 3, submitters have raised why a STEM value threshold of 140 was chosen. Submitters expressed that trees provide a lot of benefits to the community and therefore it is better to have more trees protected than less.

The STEM assessment of 140 protects the most significant trees in the District. The purpose of the Plan Change review has been to find an appropriate balance between providing protection of significant trees, while at the same time providing a reasonable level of flexibility to landowners with protected trees on their properties by making the rules as permissible as possible while still providing for the necessary protection of protected trees.

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 listings 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 more than one tree may form part of a listing in Schedule 3.

Assessments of the currently protected trees in the existing District Plan (Schedule 3) provided a range of STEM scores. It is noted that 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, Council determined that the Plan Change should be notified using a STEM threshold of 140.

As outlined in the Section 32 report (Appendix D), Council have considered different options for the STEM value threshold and the options of tree protection versus no tree protection. A review of the approach of other Councils to tree protection was also undertaken. The tree protection rules work together as a package, providing tree protection while also providing permissible rules for tree maintenance. The rules are effective in achieving a balanced approach.

#### 4.3.1 Overall recommendation on the STEM threshold

That the 140 STEM threshold is adopted.

### **4.4 Reduction of the number of protected trees in Schedule 3**

Several submitters raised the question as to why so many trees have been removed from Schedule 3. The information below explains the background and reasons behind why the existing Schedule 3 is so large and the reason for the seemingly large reduction in protected trees.

The current trees contained within Schedule 3 were protected through two separate processes. Firstly, Council in November 1996 proposed to protect a number of trees through Schedule 3 of the District Plan and through a blanket 10m height rule which protected all trees at or above this height in the urban areas (Residential, Business and Industrial Zones). A number of the trees proposed in Schedule 3 were assessed by an arborist, however others were protected following nomination by the community.

Subsequently, the Resource Management Streamlining Amendments Act in 2009 introduced the prohibition of blanket trees protection rules. To comply with the Amendment Act, Council through Plan Change 11, removed the blanket 10m rule in the urban area and added some additional STEM assessed trees, located in the urban area, to Schedule 3. At this time there was no review of the then currently protected trees.

As a result, the decrease in the number of trees protected is due to:

- Some trees currently protected have never had an assessment and therefore may not have been worthy of protection, and
- Significant time has passed since some trees were assessed and, as they are living organisms, their health and values may have changed over time.

In summary, the Plan Change review process has included a thorough review of the protected trees and groups of trees in Schedule 3 as well as undertaking a scoping exercise in the urban area to identify any new trees that might reach a STEM value of 140. In the past, Council had a much less rigorous assessment process which meant that many trees could be included on the protected tree schedule which did not have particular significance or high STEM values.

#### 4.4.1 Overall recommendation on Schedule 3

That the existing Schedule 3 is updated and amended in accordance with the recommendations of Plan Change 48. The STEM assessment process has enabled a thorough review of Schedule 3 and trees in urban areas. The process has resulted in the most significant trees being protected.



## **4.5 Biodiversity**

A number of submitters raised the importance of protecting trees due to the importance of biodiversity matters.

The Plan Change aims to identify and protect significant trees in the District while at the same time providing for the management and maintenance of protected trees through a set of simplified tree protection rules.

Importantly, the removal of a tree from the Schedule does not mean that the tree will be cut down but it does mean that the protection status and District Plan controls no longer apply to the tree. In addition, there will still be a number of trees within the District that have never been protected.

The biodiversity of a tree is taken into consideration under Function and Rarity of the STEM methodology and has been considered when the trees have been assessed.

However, for the most part, biodiversity in New Zealand is best represented in forested areas or in large ecosystems, for example, wetlands and native forest blocks. Biodiversity is higher in large contiguous ecosystems rather than individual trees. Green corridors are not individual trees, they are generally contiguous tracts or consist of large groups of trees. In addition, individual trees are most likely to provide habitat for exotic and common native species and are unlikely to attribute to significant biodiversity loss if they are felled.

Importantly biodiversity is protected through the District Plan through identified Significant Natural Features. Significant Natural Features are not being reviewed as part of Plan Change 48. Biodiversity is also further protected through the Waikato Regional Policy Statement through their identification of significant ecological areas.

It is considered that the 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 have been assessed as being significant and are proposed to be included in the updated Schedule 3 of the District Plan, which will ensure they will be protected. The trees proposed to be protected have significant amenity, ecological and heritage values, which is considered to provide for the community's wellbeing and also safeguarding the life supporting capacity of the environment.

### **4.5.1 Overall Council recommendation on Biodiversity**

Significant Natural Features are the appropriate mechanism for the protection of important ecological sites.

## **4.6 Matamata Township – Character and Amenity of the District**

Some submitters raised concerns on the potential loss of amenity and character in Matamata due to a large decrease in protected trees in Matamata.

Council is proposing to protect trees of high significance through Plan Change 48. The amenity and value placed on trees in Matamata is important and importantly the Council has control and management of trees in the District which are on Council owned land.

The Council Open Space Strategy, through the vision, highlights the importance of natural qualities of parks. The Strategy explains the importance of the Open Space Network to

Council not only for recreation opportunities but also for beautifying local communities and providing green corridors for the protection of biodiversity.

#### 4.6.1 Overall Council recommendation on Character and Amenity

The important role that trees have in providing amenity to the District is recognised broadly in the Council Open Space Strategy.

### **4.7 Explanation of Trees / Groups / Significant Natural Features (SNF's)**

Several submissions raised the need to protect important landscape features and questioned the reason behind assessing trees individually or as a group.

Individual trees have their own STEM assessment and are assessed as an individual tree. Groups of trees are defined as three or more trees in a cluster, grove or line of trees. The value of the group of trees is, as one group, i.e., not individually. Assessing groups of trees enables some trees to be protected that would otherwise not be protected individually, however, as a group they are considered significant. An outstanding natural feature is determined through an assessment process that identifies whether the sum of its values equates to it being considered remarkable. Outstanding natural features must be a natural landscape.

Significant Natural Features (SNF) and important landscapes are not being reviewed as part of the Plan Change 48 and will be reviewed in a separate plan change at a future date.

#### 4.7.1 Overall Council recommendation on Trees/Groups/SNF's

Trees and groups of trees have been assessed to determine either their individual or combined STEM value. Important landscape features fall into the Significant Natural Feature category and will be assessed separately as part of a future plan change.

### **4.8 Resources to landowners with protected trees**

Several submitters to the Plan Change raised the issue of the financial implications on landowners with protected trees on their properties. To address this, the Plan Change provides flexibility to landowners with protected tree/s by permitting an appropriate degree of trimming and maintenance work, while still providing for the necessary protection of protected trees. In addition to this, dead, dying or diseased limbs and trees can be removed as a permitted activity provided that a Council approved arborist has confirmed the limb or tree is dead, dying or diseased.

In addition to this, Council proposes to set aside a fund of \$6,000 each year for the purpose of assisting landowners with protected trees on their properties. In particular the fund is proposed to be available to landowners who wish to undertake works on a protected tree where the rules in the District Plan state that an assessment and a report on the tree needs to be carried out by an arborist on the Council approved list of qualified arborists. Council also has a \$15,000 resource consent grant, to assist with the cost of a resource consent for activities that have a community benefit. It is possible that this funding source may be available for protected trees as they may be considered, when on public property, to have a community benefit. Refer to Appendix C for a list of rules regarding protected trees for Plan Change 48.

#### 4.8.1 Overall Council recommendation on resources to landowners with protected trees

That Council agrees to put forward a fund of \$6,000 annually as part of the annual plan process for landowners with protected trees on their property to assist with the cost of an arborist's report where needed in accordance with the protected tree rules. As well as this, a package of enabling rule provisions has been put together for landowners with protected trees.

#### **4.9 Enforcement of protected tree rules**

Some submitters raised the issue that protected tree rules are not able to be enforced.

In order to ensure that protected trees are cared for in accordance with the rules on protected trees in the District Plan and to ensure that protected trees are not felled or wilfully damaged, the Council relies on the public for any new information on the status of protected trees.

Council is able to issue enforcement orders or abatement notices in accordance with the RMA to stop anyone damaging or removing a tree, however, like most resource management issues factual evidence is required.

An up to date and accurate list of protected trees ensures that Council and the community are aware of what trees are protected. The proposed number of protected trees (95) provides for a manageable list of significant trees in the District.

In addition to the above, a further mechanism that Council has in place is that information is provided to landowners when purchasing a property with a protected tree on it through LIM and property file information. Landowners with protected trees on their properties have a responsibility for the upkeep and maintenance of protected trees.

##### **4.9.1 Overall Council recommendation on enforcement of protected trees**

The RMA provides enforcement powers to Council in the event that evidence is provided relating to intentional damage to a protected tree.

#### **4.10 Protected Trees on council owned land**

The Asset's Strategy and Policy Team from Matamata Piako District Council made a submission on the Plan Change. The Team manage the protected trees located on Council owned land and therefore the same rules apply to Council that apply to the public who have protected trees on their properties.

##### **4.10.1 Overall Council recommendation on trees on Council owned land**

Protected trees on Council owned property are subject to the same rules as trees on non-Council owned property.

#### **4.11 Health and Safety**

Health and safety risks caused by a lack of maintenance of trees were raised by some submitters.

The council acknowledge that if trees are not maintained they can become hazardous to people and property. As part of the Plan Change, Council are proposing to make tree protection rules more permissible to allow for routine maintenance work to be carried out without a resource consent (removal of branches with a maximum diameter of 40mm and no more than 10% canopy removal per calendar year as a permitted activity).

Council are also proposing a new rule where the removal of any protected tree is a permitted activity where there is an imminent threat to life or property. To meet the assessment criteria, prior to the removal of the tree, an assessment must be undertaken by an arborist on the Council list of qualified arborists to confirm that there is an imminent threat to life or property.

#### 4.11.1 Overall Council recommendation on health and safety

Plan Change 48 incorporates a set of rules which takes into account health and safety issues.

## **5.0 Summary of changes to objectives, policies, rules and methods**

As part of the submission and further submission process Council have reviewed requested changes to the Objectives, Policies and Rules. Changes to the plan provisions are shown in Appendix C. The changes mainly relate to clarification and the acknowledgement of the need to comply with the Electricity (Hazards from Trees) Regulations 2003. Refer to Appendix A for a full list of staff comments and recommendations on changes requested through the submission and further submission process.

## **6.0 Overview of Statutory Requirements**

Attached to this report is the Section 32 report (Appendix D) which contains a more comprehensive review of the relevant statutory matters. In summary, this Plan Change must give effect to the over-arching purpose and principles of the Resource Management Act 1991 (contained in Part 2 of the Act). Section 31, 32, 74 and 75 of the Act contain specific provisions relating to the preparation of district plans as outlined further in Appendix F of this report.

The Plan Changes is considered to be in accordance with the purpose and principles of the RMA. In particular the Plan Change seeks to provide for the sustainable management of significant trees in the District. The protected trees in the proposed Schedule 3 have significant values which provide for the communities wellbeing while safeguarding the life supporting capacity of the environment.

## **7.0 Relevant planning instruments**

The relevant planning instruments that this Plan Changes must give effect to or must be consistent with, or must have regard to; under the legislation are outlined and summarised in the Section 32 report (Appendix D).

In summary the most relevant legislation to the Plan Change are:

- National Policy Statement on Electricity Transmission (2008). The matter of national significance to which this national policy statement applies, is the need to operate, maintain, develop and upgrade the electricity transmission network.

- Waikato Regional Policy Statement (partially operative) (2012) (Consent orders endorsed by the Environment Court 2016).
- National Environmental Standard for Electricity Transmission Activities (2010),

## **8.0 Conclusion and Recommendation**

In summary Plan Change 48 is:

- Appropriate and necessary to fulfil statutory requirements.
- The Section 32 report and consultation process carried out to date ensures a robust process has been carried out.
- Appropriate assessment and consideration of different options have been considered.
- The Plan Change meets the statutory purpose of the RMA.

Overall it is recommended that Council adopts the recommendations, in particular:

- The recommendations in Section 4 and 5 of this report are adopted.
- Council adopts the specific decisions on individual submissions and further submissions in accordance with Appendix A.
- The Plan Provisions including amendments in Appendix C and shown on the Planning Maps in Appendix B are adopted.
- That the late further submission (further submission 8) is accepted by Council.

