

# Proposed Horowhenua District Plan Natural Features and Values and Notable Trees

Hearing: 12 April 2013

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## Tabled amendment to the proposed notable tree provisions

### Permitted Activity Rule for Notable Trees

At the hearing for Natural Features and Values, the proposed permitted activity rule for notable trees was discussed. There was one submission by Truebridge Associates Limited which opposed the permitted activity Rule 15.1(m) regarding notable trees in the Residential Zone. The reason for this was that the submitter felt that the rule could be interpreted to allow for the partial or full removal of a notable tree as a permitted activity which would undermine the purpose of listing a tree as notable.

As the discussion in the Section 42A Report provides, it is not intended that this rule be read in isolation but rather in conjunction with the Conditions for Permitted Activities. The conditions for notable trees allow for the removal or partial removal of a notable tree only in the case that the tree has been confirmed dead by the Council or the activity of removal is required as an emergency work.

In the Section 42A Report I made the recommendation to provide an advice note below the permitted activity rule which made reference to compliance with the conditions for permitted activities.

Following questions from the Commissioners during the hearing, I agreed that it would be appropriate to strengthen this advice note to ensure that plan users are aware that for a permitted activity to be permitted, it must comply with the permitted activity conditions and provide a reference to where in the Plan these could be found. I recommend the following amendment to my initial recommendation on pages 68 and 69 of the Section 42A Report.

#### **Recommended Amendment:**

Amend Rule 15.1(m) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:.

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

*Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 15.6.28.*

As a consequential amendment to this submission, I also recommend that this advice note is included in all the notable tree permitted activity rules across the other zone chapters (Commercial, Industrial, Rural and Open Space) in the Proposed Plan. On reflection I should have raised these consequential amendments within the Section 42A Report as I feel that they provide for a consistent approach in protecting notable trees in the Proposed Plan without the advice note, notable trees in each of these zones will be at risk of misinterpretation of the Plan. I have provided the recommended consequential amendments below:

Amend Rule 16.1(q) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

*Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 16.6.20."*

Amend Rule 17.1(w) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

*Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 17.6.22."*

Amend Rule 19.1(p) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

*Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 19.6.27."*

Amend Rule 20.1(j) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

*Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 19.6.27."*

### **Conditions for Permitted Activities for Notable Trees**

The Permitted Activity Conditions were also a point of discussion at the hearing with the Commissioners and it was requested that I provide amendments to the conditions for notable trees to ensure that the removal or partial removal of a notable tree is confirmed by a qualified arborist and any trimming or maintenance of a notable tree is undertaken or approved by a qualified arborist.

These comments were raised in relation to the submission point made by Transpower New Zealand Ltd (99.31). Submission Point 99.31 (page 70 of the Section 42A Report) sought amendment to Rule 19.6.27(c)(ii) to ensure that the trimming of notable trees would be a permitted activity if the tree is likely to compromise the effective operation of network utilities.

There was some concern raised by Commissioner McMeeken that this Rule does not state that trimming and maintenance of notable trees shall be required to be undertaken by or with the supervision and approval of a qualified arborist. To ensure that the trimming and maintenance of notable trees does not undermine the health and status of the notable tree, I recommend that this rule is amended to ensure that works are undertaken by, or approved by a qualified arborist.

This same concern was raised in relation to the permitted activity condition Rule 19.6.27(a)(i). I have analysed the submission made by Transpower New Zealand Ltd and as their submission point relates specifically to clause (c) I did not consider that there was scope to amend clause (a) although there was merit in clarifying that the declaration of a notable tree as dead should be confirmed by a qualified arborist. I note that while this rule carries a risk (i.e. a tree is confirmed dead by someone other than a qualified arborist), the confirmation must be by Council which I consider significantly reduces the risk that a tree may be incorrectly confirmed as dead. While Council does not currently employ an arborist, Council officers have ready access to qualified arborists working for Council's contractors.

### **Recommended Amendment:**

Amend Rule 19.6.27(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or interfering with likely to compromise the effective operation of those overhead wires or utility networks and only where the work is carried out by , or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

As a consequential amendment to this submission, I also recommend that the above recommended amendment is included in all the notable tree conditions for permitted activity rules in all zone chapters in the Proposed Plan. On reflection I should have raised these consequential amendments within the Section 42A Report as I feel that they provide for a consistent approach in protecting notable trees in the Proposed Plan. I have provided the recommended consequential amendments below:

Amend Residential Zone - Conditions for Permitted Activities Rule 15.6.28(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with~~ likely to compromise the effective operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Industrial Zone - Conditions for Permitted Activities Rule 16.6.20(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with~~ likely to compromise the effective operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Commercial Zone - Conditions for Permitted Activities Rule 17.6.22(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with~~ likely to compromise the effective operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Open Space - Conditions for Permitted Activities Rule 20.6.19(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with~~ likely to compromise the effective operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

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Prepared by Sheena McGuire

Reviewed by David McCorkindale

Dated 19 April 2013