

Plan Change 129 – Notable and Public Trees

Section 32 Evaluation Report

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Final following Pre-notification consultation
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B&A

Urban & Environmental

Executive Summary

Plan Change 129 (PC129) forms a component of the rolling review of the Operative Whangarei District Plan (WDP) which Council is required to undertake once every 10 years. PC129 *Notable and Public Trees (NPT)* is proposed to replace the *Heritage Tree* provisions in chapter 14, 59 and Appendix 2 of the Operative WDP that relate to the protection of individual trees or groups of trees.

Both individually and collectively trees provide a significant contribution to the historical, ecological, cultural and amenity values of the District. Those specimens that exemplify these characteristics are identified as being “notable”. Such trees are considered appropriate to maintain and protect, their ongoing benefits continuing to be appreciated in some cases over multiple generations. Public trees in road reserves, parks and reserves make the streetscape more appealing while improving pedestrian amenity and public health. Public trees also provide important ecological functions including providing habitat and food for wildlife, improving water and air quality, increasing stormwater infiltration, and preventing erosion.

The review of the ‘Heritage Tree’ provisions in the WDP has identified issues relating to conflicts between trees and private land uses, maintenance and efficient operation of infrastructure and the demand for protection of trees which have identified social, cultural and environmental values. The review has identified the need to ensure that trees are considered in relation to future generations, and therefore identified and retained through future subdivision and development processes. The benefit associated with enabling trees on road reserves, parks and reserves to be efficiently managed in order to support the ongoing retention of this asset has also been identified.

As a result, changes are proposed to the provisions to provide a more flexible and holistic approach to the management of these identified ‘notable and public’ trees, and to emphasise the need to consider and provide for trees through the future subdivision and development of land. PC129 also considers and recommends a change to the title of the chapter from ‘Heritage Trees’ to ‘Notable and Public Trees’, which recognises that a large number of trees afforded protection under these provisions are located on road reserves, parks and reserves and that those scheduled in the Plan are not necessarily scheduled for their heritage values rather a range of more diverse values.

Pre-notification consultation has been undertaken on the PC129 provisions. This has resulted in specific feedback and in the engagement of an arborist to review scheduled trees at the request of landowners and adjoining properties. While the trees visited by the arborist are recommended to be retained in the schedule, it is acknowledged that submissions could seek to add or remove trees from the schedule following notification of PC129.

This report details the comprehensive section 32 evaluation that has been undertaken to confirm the appropriateness of PC129. Section 32(1)(a) of the Resource Management Act 1991 (RMA) specifies examination of the extent to which the objectives of a plan change achieve the purpose of the RMA. In this instance the proposed provisions have been reviewed and considered in relation to the RMA, higher order plans and policy documents and the existing overarching objectives in the WDP. As a result, three new objectives are identified (in **Appendix B**) and have been assessed as being the most appropriate way to achieve the purpose of the RMA.

The proposed provisions attached as **Appendix B** have been detailed and compared against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of section 32 of the RMA. It is considered that the proposed provisions represent the most efficient and effective means of achieving the existing and proposed objectives, and for addressing the underlying resource management issues relating to the management of notable and public trees in the District.

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1.0 Introduction

1.1 Council's Rolling Review

1. The Operative Whangarei District Plan (WDP) became operative on 3 May 2007, however the Council had spent more than eight years formulating the WDP and therefore the data that the WDP was based upon is well over ten years old. Section 79 of the Resource Management Act ('the Act' or 'RMA') sets the Council requirement to review district plans. Whangarei District Council ('Council') must initiate a review of district plan provisions within a 10-year time period. To reflect this requirement a rolling review method has commenced. According to section 79(2) following a review of the provisions, should the local authority consider that the provisions require alteration, the local authority must undertake a plan change. Should the local authority consider that no alteration is required it still must publicly notify the provision as if it were a change.
2. A review of the WDP has identified issues with the complexity and accuracy of the Heritage Tree provisions in terms of how they are understood, applied, and how they may be effectively monitored.
3. The procedure for rolling review is outlined in Chapter 2 of the WDP, which sets the expectations for future Council and private plan change applications.

"Key Outcomes Sought:

- District Plan shall be streamlined and simplified.
 - Policy and rules shall direct consenting process to provide certainty.
 - Comprehensive policy and objectives shall reflect the sustainable management outcomes sought for the respective District Plan Environments and Policy Area.
 - District Plan shall address resource management matters only and will cross reference to other legislation as required.
 - Some methods shall only be utilised where expressly stated in the relevant Environment Rules Chapter."
4. To remedy some of the disjoints between (Operative) District Plan sections, a new structure has been adopted. The District Plan structure will evolve and chapter format will be adjusted through the rolling review to be more consistent with the manner in which the provisions are applied in practice (assessment of consent applications and enforcement of rules). District wide topics/matters will be contained within individual chapters to avoid repetition of methods throughout the District Plan.
 5. The rolling review provides an opportunity to include further objectives and policies on an Environment (zone) by Environment basis. A policy heavy approach to the District Plan has been introduced. The new structure provides opportunity for policy at a district wide, geographical, locality or neighbourhood context. The scope and degree of specification in the objectives and policies will be proportional to the level of context and relevance to ensure objectives and policies at each level do not overlap or contradict each other. In this instance, Plan Change 129 – Notable and Public Trees (PC129) seeks to replace the *Heritage Tree* provisions in chapter 14, 59 and Appendix 2 of the Operative Whangarei District Plan (WDP). PC129 will provide specific objectives and policies relating to the management of notable and public trees at a 'district wide' level and will incorporate the rules associated with this policy direction in one chapter in contrast to the piecemeal approach in the WDP which locates policies and rules across the different chapters as well as providing the schedule of heritage trees in an Appendix.

1.2 Background – Notable Trees and Public Trees

1.2.1 What are Notable Trees and Public Trees?

6. Trees provide a significant contribution to the historical, ecological, cultural and amenity values of the District. Notable Trees are those specimens that exemplify these characteristics, and the identification of these ensures that the trees can be maintained and protected, and their ongoing benefits continue to be appreciated.
7. Trees in road reserves, parks and reserves make the streetscape more appealing while improving pedestrian amenity and public health. These trees also provide an important environmental function in terms of storing carbon, providing habitat and food for wildlife, improving air quality and providing botanical and amenity values. Given the extent of public trees in the District, it is not feasible to specifically identify and assess all of these specimens. Rather, it is considered appropriate to provide general protection to public trees over a certain size. Road reserves, parks and reserves, facilitate a

wide range of uses, including network utilities which can conflict with the presence of trees. As such, the protection of trees in road reserves, parks and reserves needs to be balanced with these competing uses.

1.2.2 PC129 – Notable and Public Trees

8. The primary outcome of PC129 is a review of the objectives, policies and rules relating to Heritage Trees within the WDP (Chapters 14, 59 and Appendix 2). The protection of trees is also related to other matters within the WDP in terms of ecological areas, natural hazards, general amenity, sense of place and tangata whenua values. These related issues are considered in this review.
9. This review does not seek to undertake a re-classification of trees already listed as ‘Heritage Trees’ throughout the District. Nor has the review undertaken an assessment of any trees with the intention of adding these to a specified list. However, it is acknowledged that there is the potential for submissions to seek to add or remove trees from the schedule. This is discussed in further depth on Section 5.0 of this report.

1.2.3 WDP Approach

10. Provisions within the Operative Whangarei District Plan (WDP) relating to the protection of scheduled trees can be found within Chapters 14 and 59, and in Appendix 2 (see **Appendix A**). Chapter 14 *Heritage Trees* contains objectives and policies that relate to scheduled Heritage Trees, and also the criteria by which trees are classified for inclusion as Heritage Trees under Schedule 14A *Criteria for Heritage Tree Classification* (located in Chapter 14). This classification method is based upon the ‘Standard Tree Evaluation Method’ (STEM™)¹, with trees scoring 100 points or greater meeting the required threshold to be included in the list in Appendix 2 referred to by the rules elsewhere in the WDP.
11. It is acknowledged that the schedule of heritage trees in the WDP is not exhaustive and there may be more specimens that meet the required threshold that have not been assessed.
12. As well as listing the scheduled ‘Heritage Trees’, Appendix 2 also identifies the protection of larger trees within a road reserve or ‘reserve’ administered by the council. The threshold for inclusion within this blanket protection is any tree greater than 6.0m in height or with a girth (measured 500mm above the ground) greater than 600mm.
13. The rules relating to the protection of the listed scheduled trees and public trees are contained within Chapter 59 *Heritage Trees Resource Area Rules*. Rules are included which control the trimming of trees, removal of trees, and activities undertaken near a Heritage Tree.
14. Destruction or removal of Heritage Trees requires Resource Consent to be sought as a discretionary activity. There are some allowances for the trimming of Heritage Trees as a permitted activity as follows, otherwise trimming is a discretionary activity:
 - a) It is the removal of dead, dying or diseased wood from the crown of the tree; or
 - b) It involves trimming by use of secateurs or loppers, (i.e. no handsaws or chainsaws) of branches less than 50.0mm in diameter, and
 - c) No more than one third of the foliage of the tree is removed in any 12 month period; and
 - d) Any work is undertaken by, or under the supervision of, a contractor approved by the New Zealand Arboricultural Association, who has advised the Parks Department of the Whangarei District Council in advance of the work to be carried out; or
 - e) The trimming is undertaken by the Whangarei District Council as an emergency work to safeguard life or property, or to restore power or communications’ links.
 - f) The trimming is undertaken by a network utility operator in consultation with a contractor approved by the New Zealand Arboricultural Association, where branches are interfering with overhead wires or utility networks and trimming is required in order to maintain the security of an existing supply.
15. Under the Rule 59.2.3 in Chapter 59 of the WDP, if ‘construction or alteration of any structure, excavation of land, or formation of new impervious surfaces’ occur within the dripline of a Heritage Tree, Resource Consent must be sought as a restricted discretionary activity. Discretion is restricted to the following:

¹ Flook, R. 1996: A Standard Tree Evaluation Method, published by Ron Flook, Lower Hutt, New Zealand. Further detail regarding the STEM™ Evaluation System is provided below in heading 1.2.4.

- i. The public benefit or degree of necessity concerned;
 - ii. Any alternative methods which may be available to achieve the objectives of the application;
 - iii. The extent to which the tree or trees contribute to the neighbourhood;
 - iv. Whether the activity is likely, in the opinion of Council, to damage the tree or endanger its health.
16. While the trees identified in Appendix 2, and subject to the provisions in Chapters 14 and 59, are presently termed “Heritage Tree” in the WDP there is a note in the recently operative Historic Heritage Chapter of the WDP (Chapter HH) which highlights the distinction between items of historic heritage and trees that may be of significance predominantly for historic value. Chapter HH indicates that any consideration of trees of historical value are intended to fall solely within the specific provisions being promulgated in PC129.

1.2.4 STEM™ Evaluation System²

17. The STEM™ evaluation system is composed of three sections – Condition (Health), Amenity (Community Benefit) and Notability (Distinction).
18. Each of the three sections is further broken into additional categories against which tree trees are assessed and scored. The rationale behind the scoring of each category is explained in the publication titled STEM™ - A Standard Tree Evaluation Method, by Ron Flook. Below is an understanding of the STEM™ criteria prepared by Peers Brown Miller Arborists.

Condition (Health) (ref: pg's 17-21 STEM™ guidelines)

19. The criteria assessed in this section comprise of the following;
 - Form
 - Occurrence
 - Vigour/ Vitality
 - Function (Usefulness) i.e. is the species a source of food for birdlife/ fauna/ invertebrates? Does it provide for roosting or nesting habitat for bird species? Does it perform a useful role in terms of wind modification, shading, screening and pollution/ toxin absorption?
 - Age
20. From an arboricultural perspective these criteria are not typically contentious. While form could be said to be in the eye of the beholder, assessment of this criterion is generally based on the physical and structural integrity of the canopy (i.e. extent of fractures, defects, pruning history etc) rather than whether it's a “nice looking” tree or not.
21. Occurrence, Vigour and Age are all evidential based assessments.
22. In terms of function, there has been an increase in documented evidence with regards to the roles trees play and their contribution to the urban forest. In the main this relates to moderation of adverse climatic effects, amelioration of wind, stormwater and pollutants, maintenance of ecological habitats and pathways and improved community health outcomes

Amenity (Community Benefit) (ref: pg's 23-27 STEM™ guidelines)

23. The criteria assessed in this section comprise of the following;
 - Stature
 - Visibility
 - Proximity (to other trees)

² This section is taken and amended from section 4.0 of the Peers Brown Miller Arboricultural Report in **Appendix I.**

- Role i.e. how a particular scene or place would look without the tree; does it contribute to the setting?; does it lend serenity to an urban or rural space?; does it have an association with tradition?; is it attractive to fauna?
 - Climatic Influence
24. Stature, Visibility and Proximity again are generally not contentious – all are measurement based. Historically, Role and Climatic Influence may have been scored lower. As with Function in the Condition section, there has been an increase in documented evidence with regards to the roles trees play and their contribution to the urban forest. In the main this relates to moderation of adverse climatic effects, amelioration of wind, stormwater and pollutants, maintenance of ecological habitats and pathways and improved community health outcomes.

1.2.5 History of Plan Provisions for Trees

25. Provisions in the WDP are largely unchanged from the original text of the Proposed District Plan as notified in September 1998 (PDP). The only notable difference being the note included at the end of the list in Appendix 2. Originally this note made reference to heritage trees being protected as per the Works and Services Tree Protection Policy, which was originally compiled in 1999 and known as the “Tree Policy”. The Tree Policy was drawn up to guide work on trees in public spaces.
26. A submission by the Department of Conservation (DoC) sought an amendment to the note to remove reference to the Tree Policy, ensuring instead that all trees meeting these criteria were afforded the same protection as any other listed tree under the District Plan and were subject to management through the resource consent process as opposed to the application of the “Tree Policy”. The note in Appendix 2 of the WDP read as follows:

“NOTE: Any tree greater than 6.0m in height or with a girth (measured 500mm above the ground) greater than 600mm located within a road reserve or reserve administered by the council is classified as a Heritage Tree.”

No further submissions from Utilities Companies nor Council’s Roading Department were received in relation to this amendment, and it was carried into the WDP.

27. Boffa Miskell Consultancy had reviewed the provisions in the PDP a June 2004 report (also known as the “Tree Strategy”) on behalf of Council. The Tree Strategy was further supplemented by a “Tree Protection and Management Strategy” prepared by Conway Stewart in 2005. Following this review consideration was given to the protection of Pohutukawa and other listed native trees within the coastal area. This area, termed the ‘Coastal Tree Management Area’, extended from MHWS to a specified point inland.
28. The Draft Tree Strategy framework went to Council in December 2005, and the following was decided:
- 2.-1 That Council make a resolution on which type of tree protection should be afforded in the Coastal Environment:
- 2.1 Protection of Pohutukawa over a specified height and girth width; and
- 2.2 Protection of other Natives over a specified height and girth width.
- 3.-1 That tree protection in the **urban environment** consists of a voluntary mechanism utilizing the STEM™ criteria and Heritage Tree list in the District Plan;
- 4.-1 That tree protection rules in the **rural environment** are developed as part of the landscape project in areas identified as outstanding, visual amenity, natural character and heritage landscape areas, **and** that voluntary tree protection within the rural environment for individual trees through utilisation of the heritage tree list and STEM™ criteria **and/ or** through covenanting areas of bush;
- 5.-1 That the general vegetation clearance rules in the District Plan are retained for habitat protection, PNAP to be included in the District Plan once finalised;
- 6.-1 That additional criteria to the STEM™ **criteria** be inserted into the District Plan regarding the appropriateness of tree locations in regard to network utilities
- 7.-1 That an interim plan change is prepared in regard to trees **on Council and Road Reserve**
- 8.-1 That a **draft tree strategy document** is prepared and is to go out for targeted public consultation.

9.-1 That a policy of incentives is developed and included in any public consultation.

29. Draft Plan Change 56 – (PC56) Indigenous Tree Protection in the Coastal Environment sought to protect Pohutukawa and other specified native trees over a specific height and girth within the Coastal Environment. However, in August 2006 Council resolved not to proceed with the plan change.
30. In July 2007, the adoption of Draft Plan Change 44 (PC44) – Trees on Road Reserves (adopted June 2006) was rescinded, and staff directed to develop an internal best practice procedure for tree removal on Road Reserves. PC44 was then only to consist of removal of the note on trees in reserves (see above). This note was never removed and remains to date in the WDP.
31. In response to the rescinding of Draft PC44, Council Departments applied for and obtained a global resource consent (RC40898 and as amended by LU0840898.02) in 2008 that allows Council (and their authorised agents) to carry out maintenance work on heritage trees where they are greater than 6.0 metres in height and/or with a girth greater than 600 mm as measured 500 mm above the ground (provided that these heritage trees are not specifically listed in Appendix 2 of the WDP) which are located within a road reserve or reserve administered by the Council. This global consent expires in January 2020 and is considered vital to enable the efficient management of ‘public’ trees throughout the District.
32. A further review of tree provisions in 2010 considered the following:
 - The need for incentives for protection of trees.
 - In urban areas Council was to retain the STEM™ approach.
 - In rural (Countryside) areas to use the information from the Protected Natural Areas Programme (PNAPs).
 - In urban areas, the idea of ‘themed’ suburbs floated but not pursued.
 - Public and private land should be subject to guidelines as to what merits protection.
 - In coastal areas, the general approach floated for a plan change was to protect all pohutakawa trees within 100m-1.5km of the coast. Instead have the indigenous veg protection/natural hazards controls (protection in relation to MHWS).
33. Council also has an internal tree policy (policy 0073) that was originally developed in 1999, but was recently reviewed at a Council workshop in July 2015. The policy sets out long term objectives for the management of trees in with respect to their planting, pruning and removal. Council’s Park Department have advised that this policy is not workable as:
 - The WDP provisions protect certain Heritage Trees on road reserves and reserves administered by Council. Policy 0073 is ultra vires as to give effect to the policy would contravene the District Plan and be unlawful.
 - There are major financial implications of Council giving effect to this policy and it represents a significant operational risk as Council does not have the resources to undertake the commitments of this policy
34. Since the review of policy 0073, no further progress has been made. Council Departments continue to rely on the global resource consent for maintenance work on heritage trees in road reserves or reserves administered by Council. Several heritage trees have also been removed by or retrospective resource consent.

1.2.6 Consultation with Council Staff

35. Council is responsible for administering the WDP provisions both in relation to the consideration of resource consent applications and also in relation to monitoring conditions of consent and ensuring compliance with the WDP provisions.
36. A review of the operative provisions has included workshops and interviews with the Policy, Resource Consents, Infrastructure and Services and Compliance departments at Council, and sought to identify:
 - How the Operative Heritage Tree provisions are being applied.
 - The number of resource consents involving these provisions, including the locations and types of activities triggering the provisions.

- Whether there has been an issue with the current consenting framework.
- Other mechanisms utilised by Council to protect trees?
- Compliance issues or complaints associated with existing scheduled trees and the unlawful removal of trees from private land.
- Monitoring of resource consents which required the removal of, trimming or works within the driplines of scheduled heritage trees.
- General feedback associated with the WDP provisions.

37. These workshops identified the following key feedback in relation to Council's administration of the existing heritage tree provisions in the WDP.

Infrastructure and Services Issues

38. There are over 17,000 trees in the road reserve that the Infrastructure and Services Department (I&S) are required to manage. This is a significant asset to manage. These trees are generally managed and reviewed on a 5-yearly basis. Trees in road reserves or Council reserves are protected by the general tree protection on page 12 of Appendix 2 which states:

“NOTE: Any tree greater than 6.0m in height or with a girth (measured 500mm above the ground) greater than 600mm located within a road reserve or reserve administered by the council is classified as a Heritage Tree.”

39. General feedback from the I&S team include:

- *Cost of Consents:* The Parks and Roading Departments highlighted that the general tree protection note in Appendix 2 required them to obtain consent for the removal of ‘Heritage Trees’ on Council reserves and road reserves. This is a cumbersome and costly process requiring the use of independent commissioners to avoid any perceived conflict of interest where another internal council department is the applicant. I&S staff would like to see a more efficient approach to managing trees in road reserves and Council administered road reserves that provides greater flexibility for works and removal while providing suitable protection to existing trees.
- *New Subdivisions:* Trees are not managed well when planted in new subdivisions. There is a clear conflict with Council's Environmental Engineering Standards 2010 (EES 2010) which seek to avoid street trees being planted in the road reserve where in proximity to underground services. As a result, it can be a case of one or the other with services being a key requirement to development.
- *Budget Issue:* Parks have a limited budget per annum to spend on tree maintenance for private property owners adjacent to parks and reserves. This fund is quickly depleted through the use of arborists to undertake the required works and the fund is identified as being inadequate to also address the resource consent costs. Tree removals and works are often required to achieve health and safety regulations, where the tree poses a risk to people and property.
- *Prevention of future conflicts:* The use of preventive measures was discussed and I&S identified that they do not have budget (or the ability to require that measures be put in place during the subdivision process) to put root barriers in place when locating new ‘public’ trees or street trees, therefore root intrusion into services or foundations on neighbouring sites can result as trees mature. I&S have also identified issues with scheduled trees on other properties impacting on services in road reserves.
- *Conflicting Interest:* Trees and road reserves can cause safety issues in terms of impeding sightlines for the road users or dropping leaves or other debris making footpaths hazardous. However, trees in the road reserve are valued for their contribution to amenity values, providing shade and shelter and separation between the road and adjoining properties.
- *Global Consent:* Council Departments have a global consent (RC40898 and as amended by LU0840898.02) that allows Council (and their authorised agents) to carry out maintenance work on heritage trees where they are greater than 6.0 metres in height and/or with a girth greater than 600 mm as measured 500 mm above the ground (provided that these heritage trees are

not specifically listed in Appendix 2 of the WDP) which are located within a road reserve or reserve administered by the Council. This global consent expires in January 2020 and is considered vital to enable the efficient management of 'public' trees throughout the District. The Parks Department would like to see provisions which enable the management and removal of pest plants in the road reserve and provide scope for the maintenance of trees.

- *Reserve Management Plans:* There are currently four reserve management plans covering, Kensington Park, Parihaka and Hatea River, William Fraser Memorial Park, and Pukenui Forest. The number of reserve management plans is limited because it tends to be time-consuming and costly to for Council to develop these. There are no immediate plans to complete additional reserve management plans for Council reserves, although it was acknowledged through the workshops that it would be useful to have plans that identified notable trees that were worthy of protection within Council's main reserves.
- *Policy 0073:* In the Parks Department's opinion, it is clear that this Policy needs to be reviewed urgently to align with the District Plan. In their view, the document is not workable and work is required to ensure that it does not attempt to supersede the District Plan.

General Council Staff Feedback

40. General feedback from Council staff included the following:

- *No Issue with STEM™ Scoring Approach:* generally, no issue was expressed with the STEM™ scoring approach and criteria currently utilised in the WDP.
- *Trees on Private Property:* this issue primarily relates to heritage trees on private property. Complaints about leaf litter, health and safety of overgrown, damaged or dying scheduled trees and their potential to damage people and property are reasonably frequently received by Council.
- *Tree Protection in Rural Areas:* There are no scheduled trees in rural areas. Tree protection is reliant on QEII or Conservation Covenants, and the environmental benefit approach to subdivisions.
- *Monitoring and Compliance:* Compliance and monitoring in the District is (as is the case in many Districts) primarily a 'reactionary' regime. Compliance investigations are generally triggered by a complaint, and monitoring visits are associated with resource consents, primarily where there is an applicable condition which requires a certain action be undertaken. The Monitoring and Compliance team also find it difficult to investigate and determine complaints relating to poisoning of or blatant damage to Scheduled trees, as evidence is required to determine who is responsible and who undertook the actions, which is often difficult to obtain.
- *Council Tree Policy:* Staff identified the need for a non-statutory strategy outside of the District Plan to set the direction in terms of new planting, incentives for retaining trees on private property and preference for different tree species.
- *Age of Current Trees:* Many of the currently scheduled trees are reaching maturity and new trees need to be listed in order to futureproof this asset for the District. There is a need to consider how mature trees are to be replaced and whether it is possible to include this in assessment criteria to enable this to be conditioned and accurately monitored.
- *Positive Maintenance:* New provisions need to provide for the ability to undertake positive maintenance of heritage trees without the need for consent.
- *Notification and Identification of Heritage Trees:* Currently scheduled heritage trees are highlighted by dots on planning maps and GIS maps. These are not necessarily accurate and may unintentionally affect multiple sites especially after subdivision approval.
- *Heritage Values:* The removal of trees in the 'extent of place' associated with heritage items/places is subject to the historic heritage provisions in Chapter HH. It was acknowledged that the STEM™ analysis undertaken for those trees currently included in the schedule at

Appendix 2 does not generally include an assessment of heritage values and the majority of trees are protected for their amenity or character values as identified in the STEM™ criteria, as such the title of ‘heritage trees’ associated with those listed in Appendix 2 is not considered to reflect the values held by the trees.

- *Amenity / Character Values:* Several trees are listed due to their botanical rarity, otherwise listings are reliant on other aspects of the STEM™ Scoring, largely character and amenity values. There needs to be more recognition for these values in the associated provisions.
- *Natural Hazards:* No clear issue was identified in relation to the removal of trees and vegetation in natural hazard areas, however it was acknowledged that indigenous vegetation is protected for slopes in coastal areas. Assessment criteria should acknowledge the consideration/relationship had between trees and vegetation and natural hazards, particularly land stability hazards.

1.3 Approach of Other Councils

41. There are multiple approaches to tree management being applied throughout New Zealand. A comparative analysis was undertaken of five different Councils’ approaches to tree management. Far North District Council (FNDC), Kaipara District Council (KDC) and Auckland Council were used as a comparative study due to the close proximity to Whangarei. Thames Coromandel District Council (TCDC) and Queenstown Lakes District Council (QLDC) were also reviewed as examples nationally. A full overview of the district plan comparative analysis is provided in **Appendix D**.

1.3.1 Far North District Council

42. The Far North District Plan (Operative) schedules trees using the Rural New Zealand Institute of Horticulture (RNZIH) Tree Evaluation method. Assessment criteria includes, but is not limited to, size of tree, rarity of species, life expectancy, form and special features. Tree protection policies and rules are included in Chapter 12 Section 5 – Heritage. Policy direction seeks to protect notable trees except where it can be demonstrated that they pose a risk to people or property. Chapter 12 also includes provisions with regards to removal of indigenous vegetation. There are no specific rules relating to trees in either the Natural Hazards or Coastal chapters.
43. There are no provisions contained within the Plan relating to street trees or trees in reserves. FNDC have a ‘Tree and Vegetation Guideline’ (2008) which is implemented by their infrastructure arm. This document contains guidelines on the management of trees in parks, reserves and Council property, street trees and amenity planting and management of the road corridor. FNDC have advised that this document is due to be reviewed, however it will not be incorporated into the District Plan.

1.3.2 Kaipara District Council

44. The Kaipara District Plan (Operative 2013) schedules trees using the Standard Tree Evaluation Method (STEM™). Chapter 19 of the Plan provides the policy direction and rules relating to the management of notable trees throughout the District. The policies seek to protect notable trees, whilst recognising that notable trees can cause unreasonable hazard to people or buildings or can create unreasonable restriction on landowners’ opportunities to provide for their social and economic well-being. Vegetation clearance rules are otherwise provided at zone level.
45. There are no provisions under the Kaipara District Plan relating to the protection of street trees.

1.3.3 Auckland Council

46. The Auckland Unitary Plan (Operative in Part 2016) schedules trees based on assessment criteria formulated based on STEM™, RNZIH Tree Evaluation Method (and Trees A-H system used in the UK. Assessment criteria includes, but is not limited to, special factors (standalone), negative factors and trees specific factors. The special factor criteria are standalone which means that if a tree or group of trees meets any one criterion then it is deemed notable. The tree specific criteria require a cumulative assessment. The Auckland Unitary Plan has a ‘Notable Tree’ overlay, under which it controls activities relating to notable trees. The notable tree overlay policies seek to protect and retain notable trees and groups of trees from inappropriate subdivision, use and development.
47. Street trees are managed through a separate Chapter, with the policies seeking to increase the number and quality of trees in roads, and recognizing that these trees contribute to cultural, amenity and landscape values. Activities are restricted with most works (excluding biosecurity tree works, dead wood removal and emergency works) requiring resource consent).

48. Provisions for the protection of trees in the Open Space Zone are also included in the Auckland Unitary Plan under another separate Chapter – Trees in Open Space zones. The provisions seek to encourage the ongoing maintenance of trees in Open Space zones to protect their cultural, amenity, landscape and ecological values. Activities are restricted with most works (excluding biosecurity tree works, dead wood removal and emergency works) requiring resource consent.

1.3.4 Thames Coromandel District Council

49. The Thames Coromandel District Plan (Appeals version³) schedules trees based on criteria set out in the District Plan which includes notable significance, botanical or scientific significance, historic heritage, cultural and spiritual significance, landmark and functional significance and amenity. Significant tree policy seeks to protect the health of significant trees by ensuring all works are carried out in accordance with best arboricultural practices. Removal or felling of trees is avoided except where there are health and safety risks. TCDC adopts a more permissive approach, to that of other Councils to works within the vicinity of protected trees whilst applying permitted activity standards. Vegetation clearance is otherwise controlled at zone level.
50. The Waikato Conservation Management Plan has a system of permissions and concessions for land use which the TCDC Plan defers to for works within the conservation zone. Council owned trees within public reserves and road berms are managed through the Tree Strategy 2002, which is implemented through a series of 'Tree Masterplans'.

1.3.5 Queenstown Lakes District Council

51. The Queenstown Lakes District Plan (proposed) schedules trees using the STEMTM methodology. The policies seek to protect scheduled trees from removal, inappropriate trimming and destruction whilst providing for works to or removal of trees in the instances of death or disease and where trees pose risk to people or property. Some activities are provided for as permitted activities, including minor trimming, maintenance, and removal of trees that are dead or diseased.
52. QLDC have also introduced provisions to protect trees in the Arrowtown area affording protection to trees within the road or public spaces in Arrowtown and to 'character' trees in the Arrowtown area. Character trees are considered to contribute to the character, amenity and historical status of Arrowtown however do not meet STEMTM criteria.

1.3.6 Comparative Summary

53. Different approaches to tree management have been identified across those Councils observed. In addition to district plans Councils rely on regional strategies, masterplans and guidelines, with some tree management falling to the responsibility of the operations, parks and infrastructure teams to implement.

1.4 Pre- Notification Consultation

1.4.1 WDC Planning Committee Workshop

54. The draft NPT provisions were presented to the WDC Planning Committee on 14 June 2017. Councillors and Council staff from various departments were presented with a summary of the research undertaken and initial draft provisions that had been developed for PC129.
55. Feedback from the Planning Committee Workshop included:
- There was agreement from the Elected Members to change to one chapter with the title Notable and Public Trees.
 - There was agreement from the Elected Members that there needed to be an appropriate balance between protection and health and safety.
 - STEMTM assessments should be made available to the public.
 - Comments regarding increasing the permitted girth for trimming and alteration from 50mm to 100mm branches.
 - Issues with the use of common names vs botanical names.
 - Ability to identify scheduled trees with metal plates.

³ Note that there are no provisions of Section 11 and 35 of the TCDC proposed plan which are under appeal and therefore can be treated as operative under s86F of the RMA.

- 4 weeks is not long enough for pre-notification consultation and it should be increased to 6 weeks to allow the general public to properly consider and make comment on the draft provisions and schedule of trees.

56. Particular regard has been given to the feedback from the Council Planning Committee. In particular, the following actions have been taken in response:

- A one chapter approach has been implemented in the recommended provisions. See discussion further on in this document.
- Amendments have been made and overall it is considered that the recommended provisions achieve an appropriate balance between protection and facilitating appropriate development and health and safety.
- STEM™ assessments were made available to the public during pre-notification consultation. See below for more details on this.
- The branch diameter was increased from 50mm to 100mm following consultation with Council's arborist in support of allowing more flexibility in this regard.
- A number of amendments were made to the tree schedule to correct in correct spelling or errors in the common name / botanical name prior to pre-notification consultation.
- The pre-notification period for the PC129 provisions was increased from 4 weeks to 6 weeks to allow greater consideration by the public.
- An arborist was engaged by Council to specifically visit and undertake revised STEM™ assessments in response to comments made by property owners and the general public during pre-notification consultation.

1.4.2 Te Kārearea Workshop

57. Following the workshop with the Planning Committee, a further workshop was held with Te Kārearea Strategic Forum at Council Chambers on 16 August 2017. Te Kārearea is a strategic partnership between the hapu of Whangarei and the Council. Committee members include Elected Representatives and representatives from local hapu.

58. Feedback from Te Karearea included:

- The primary feedback from Te Karearea and in particular the hapu representatives was the ability for Māori to schedule culturally significant trees or stands of trees on their ancestral lands. An example was given regarding the customary practice of returning whenua (placenta) to the whenua (land). In Māori, these terms are the same and represent the connection of Māori to the land where they belong. As such, in some cases stands of trees exist which contain the whenua of generations of whanau and provision should be made to protect these trees.
- The possibility of the chapter being renamed "Significant and Public Trees" rather than "Notable and Public Trees" as "significant" has more mana than "notable".
- Any criteria for scheduling culturally significant trees should be established by hapu and empower them to decide if a tree is culturally significant.
- Hapu representatives should be specifically given the opportunity to comment during pre-notification consultation period in light of the feedback given by Te Karearea.
- The pre-notification consultation period should be longer than 4 weeks to allow hapu to distribute the proposed provisions to marae and give them the opportunity to hold hui if required.

59. Particular regard has been given to the feedback from Te Karearea. In particular, the following actions have been undertaken in response:

- Letters (see **Appendix E**), including a feedback form, draft district plan text and STEM™ criteria were specifically sent to hapu representatives.

- During the workshop, it was highlighted that Council are concurrently preparing PC100 Sites of Significance to Māori plan change. This plan change was described as more appropriate for the identification and protection of tree(s) or groups of trees which should be protected for their cultural significance.
- Feedback from hapu during pre-notification consultation was specifically sought regarding the creation of separate culturally focused criteria for trees of significance for Māori.
- Feedback from hapu was specifically sought regarding amending the chapter title to “Significant and Public Trees.”

1.4.3 Distribution

60. The draft pre-notification consultation period commenced on 22nd September 2017 with the period for comments to be received closing on 10 November 2017.
61. Draft pre-notification provisions (see **Appendix F**) were distributed to a number of parties. This included the following actions:
- Iwi and hapu representatives – sent draft provisions, comment form, STEM™ criteria list and were given a summary of the initial hapu comments from Te Karearea (see letter **Appendix E**).
 - Property owners with scheduled trees either on their property or on a property directly adjacent to their property – sent draft provisions, comment form, STEM™ criteria list and encouraged to provide comment (see letter **Appendix E**)
 - Local resource management practitioners, district plan holders and internal council departments: were sent draft provisions and were invited to make comment.
 - There was a release on Council’s website providing the draft provisions and inviting public feedback within the pre-notification consultation timeframe.

1.4.4 Feedback Received

62. There was a good level of feedback received. In total, 79 unique feedback forms were returned. This is considerably more feedback than Council would typically receive for a plan change of this scale. Copies of full feedback forms are available on request from the Council.
63. A summary of the feedback is provided in **Appendix G**. This feedback has been grouped into the following topics:
- Arborist Review Required;
 - Specific Changes requested;
 - General Comments and;
 - Other;
64. Comments made under these topics are discussed below and response provided to feedback where necessary.
65. No specific feedback was received from iwi and hapu representatives. As such, while comments were made during Te Karearea were made regarding potential additions or amendments (see heading 1.4.2), no clear direction or actions were identified and as such no changes have been made in response at this stage.

1.4.5 Arborist Review Required

66. The majority of the feedback received related to requests for specific trees to be removed or in limited cases added to the schedule of notable trees in NPT.1.9 because the given tree did not meet the STEM™ criteria for scheduling. Various reasons were given for these requests, but the key reasons include:
- Health and safety – concerns expressed about the health of the tree and the potential damage that falling branches or trees could cause to people and property. Concerns about effects of roots were also expressed.

- Effect on development potential of the site – concerns expressed about the limitations that a scheduled tree put on the development of the site.
 - Maintenance and upkeep costs – dissatisfaction expressed by property owners with trees in terms of the costs of maintaining scheduled trees.
67. During the Planning Committee workshop, Elected Representatives outlined their preference that an arborist be engaged to respond to requests from the public regarding the removal or addition of specific trees from the schedule in NPT.1.9. Accordingly, an arborist, Simon Miller from Peers Brown Miller, was engaged to review these specific requests and undertake site visits to assist revised STEM™ assessments as necessary.
68. A review of the comment forms that fell within this category was undertaken. In total 48 comment forms were identified as requiring input / review from Mr Miller. Some of these comment forms related to the same scheduled tree.
69. Mr Miller undertook site visits before Christmas 2017 from 11 – 14 December 2017. Prior to this, letters were sent to the property owners where the tree to be visited was located. This provided written notice of the intention of Mr Miller to undertake site visits and gave property owners the opportunity to select times when they were home to discuss the tree with Mr Miller.
70. Unfortunately, due to number of reasons (including inability to locate the tree, access the property or late submissions), Mr Miller did not make it to several trees that were on the list to be visited. This included the following trees.

Comment number	Name	Address	DP tree number
7	Badham G and Adam M	87 Fourth Avenue	225
29	Robbins B & G	21 Mair Street	518
44	Tomason H	110 Hatea Drive	
31	Hoogeveen J	27 Kauika Road	New tree
59	Laird L		New tree
79	Northland District Masonic Lodge	5 Waitawa Road	508

71. Parties whose trees were not visited, have been notified by Whangārei District Council and it is considered that these trees can be visited separately during the next round of arborist visits that will be required post notification.
72. Following the completion of his site visits, Mr Miller completed revised STEM™ assessments for the trees that he visited. A summary of the revised STEM™ assessments by Mr Miller is included in **Appendix H**. More detailed STEM™ assessment prepared by Mr Miller are available on request from Council. This is further supported by a report titled “Arboricultural Report – Summary of Findings” in **Appendix I**.
73. Mr Miller’s site visits and STEM™ assessments have not resulted in any of the identified trees falling below the required score of 100 to be listed as a scheduled tree in NPT.1.9. In fact, the majority of his assessments resulted in recommendations that the STEM™ scores of trees increase, with several scores decreasing and a new tree being added to the list. These changes to the STEM™ scores and details have been incorporated into the final version of the Proposed Provisions in **Appendix B**.

1.4.6 Specific Changes Requested

74. Several submissions focused on the content of the draft provisions and sought amendment or additional text. These are discussed below:

21 – Jaffurs W

75. Mr Jaffurs questioned the need for a qualified arborist to undertake tree trimming and sought to allow an owner to do occasional minor trimming including branches less than 25mm.

76. Mr Miller has provided specific comment regarding the tree trimming rules in section 5 and 5.1 of his summary report in **Appendix I**. Based on his recommendations, greater flexibility is provided in the proposed provisions for tree trimming or alteration. His expert opinion has been accepted and the proposed Provisions (**Appendix B**) have been amended to allow trimming and alteration of Notable and Public trees to be undertaken without an arborist and to a branch diameter of 100mm at severance.

22 -Landowners Coalition Inc

77. Landowners Coalition have sought a number of changes to the draft pre-notification consultation provisions (**Appendix F**).
78. NPT.1.5.1.b.i – sought to increase the maximum branch diameter from 100mm to 200mm. No evidence or reasons are given for this request. This change is not supported by Council’s arborist Mr Miller who has recommended 100mm, therefore the change has not been proposed in **Appendix B**.
79. NPT.1.5.1.b.ii – sought increase from crown removal from 10% to 20%. Mr Miller has recommended a change in his Summary Report in **Appendix I** and therefore the change to “20% live growth” has been incorporated into NPT.1.5.1.b.ii.
80. NPT.1.5.d – sought to add “private land owner” for parties that can undertake emergency works. This change is not supported as no justification is provided.
81. NPT.1.5.e – sought change from five working days to three working days. This change is not supported as it is considered that five working days (e.g. one week) represents a reasonable timeframe through which to notify Council of the intention to undertake tree works.
82. NPT.1.5.f – add a new clause regarding vehicle sight lines for traffic safety. This change is not supported as it will give inappropriate scope to undertake tree works on notable trees that may endanger their long term health.
83. NPT.1.6.1 and 2 – sought change from 100m² to 200m² for a building platform. The 100m² building platform is standard and used in the District Plan at present. A change to 200m² is not supported or consistent with that approach.
84. NPT.1.7.1.b – sought removal of the term “cultural values.” This change is not supported as it is inconsistent with the feedback received in Te Karearea regarding the cultural significance of certain scheduled trees and their association to certain moments, whanau or historic events.
85. NPT.1.7.1.c – sought clarification as to what is adequate mitigation. No change is requested for the provision. In response, this assessment criterion will require a case by case consideration under a discretionary activity resource consent application. No further changes are recommended to this criterion in response.
86. NPT.1.8 – general concern expressed regarding STEM™ criteria and scoring method. A detailed explanation of the STEM™ criteria and how it works is provided in section 1.2.4 of this report. STEM™ is widely used by other councils throughout New Zealand for scoring and scheduling notable trees. It provides a consistent measurement and comparison of trees that has been identified as best practice. Examples of STEM™ assessments have been undertaken by Mr Miller as part of his review of comments made during pre-notification consultation where a specific arborist review was required.
87. NPT.1.10.1 - seek increase of girth from 600mm to 1500mm. This change is not supported as the limits set in NPT.1.10 have been reviewed by Council’s arborist and deemed to be consistent with best practice. The change sought has no such justification.
88. NPT.1.10.1.c – remove protection on edible fruit species. This change is not supported as the list provided in NPT.1.10 is consistent with the previous blanket consent and has been reviewed by Council’s arborist as being appropriate.

067 – Transpower NZ Limited

89. Transpower have an interest in the NPT provisions as it plans, builds, maintains and operates New Zealand’s National Grid. This includes a number of assets in Whangārei which are mapped in Appendix 1 of their submission form. Transpower have outlined that it is important from a health and safety

perspective that they are able to trim and clear any vegetation that could affect the safe operation, maintenance or upgrade of the National Grid. Transpower have provided 6 comments with regard to the pre-notification consultation NPT provisions (see **Appendix F**)

90. Comment 1 supports the definition of protected public tree within NPT.1.10. No changes to this definition have been proposed as a result of pre-notification consultation.
91. Comment 2 supports NPT.1.2.2. No changes to this provision have been proposed as a result of pre-notification consultation.
92. Comment 3 seeks changes to objective NPT.1.3.2 and NPT.1.3.3. It is agreed that the addition of the word “public” clarifies that objective NPT.1.3.2 relates to public trees which is defined in NPT.1.10. This change has been made in the final proposed provisions (see **Appendix B**). A change has been made to NPT.1.3.3 to include the term “existing and new” (see **Appendix B**). It is considered that this clarifies the objective and provides a clearer link to Policy NPT.1.4.3 which provides the policy direction as to how this objective is to be implemented
93. Comment 4 seeks an amendment to policy 2 to include the term “public” to clarify that the policy relates to public trees which is defined in NPT.1.10. This change is supported and has been made throughout the policy to improve clarification as to the applicability of the policy (see **Appendix B**). Clause d has also been added to the policy as requested by Transpower, albeit with the addition of the term “appropriate.”
94. Comment 5 seeks a number of amendments to NPT.1.5.4 which relate to the trimming and alteration of public trees. The clause “Compromising the safe and efficient operation, maintenance and upgrade” has been incorporated (see **Appendix B**), however some requests relating to the provision of access have not as it was considered that this allowance was too broad and open for interpretation in terms of what would constitute access.
95. Comment 6 seeks that NPT.1.7 be retained. No changes to this provision have been proposed as a result of pre-notification consultation.

070 – Northpower

96. Northpower generally support the draft pre-notification provisions but have sought the provision of a specific note / provision in NPT.1.5 as follows:

[11] Northpower proposes the following provision be considered in the draft provisions to accommodate severance and final tree work form as a note to the draft chapter:

- ***Note: In situations where utility operators or their contractor arborist:***
 - i. ***are unable to undertake the tree works in accordance with provisions that limit cut severance; and or***
 - ii. ***the utility operators or their contractor arborist deem the severance and cut form provisions are in consistent with the requirements of Electricity (Hazards from Trees) Regulations 2003;***

the utility operators or their contractor arborist will undertake the tree works as they determines as most appropriate for the health of the tree, protection of utility lines and the health and safety of the public.

97. While it is understood that the intent of this provision is to allow greater flexibility to undertake severance, the actual implementation of the above note is unclear. Furthermore, it appears to give significant discretion to the utility operators or their contractor arborist to undertake tree works that they deem appropriate with no clear checks or balances on this. As such, this change is not supported and has not been recommended in the final proposed provisions.

1.4.7 General Comments

98. A large portion of the feedback received also provided comment on the approach taken in the proposed plan change. There was a variety of feedback ranging from general support for the protection of notable and public trees through to opposition to the protection of trees on private land and opposition to the use of the STEM™ criteria. This feedback has been taken into account with regard to the above responses and also the overall consideration of the section 32 analysis and final proposed provisions in **Appendix B**.

1.4.8 Other Feedback

99. Feedback was received from the below submitters which did not naturally fit into the above topics. These instances are discussed below.

068 – Whangārei Intermediate School

100. This relates to tree No. 513 listed in the Operative District Plan. This tree was specifically visited by Mr Miller and a revised STEM™ assessment was undertaken as summarized in **Appendix H**. This has resulted in the tree having an increased STEM™ score and still exceeding the 100 score required for scheduling in NPT.1.8.
101. The additional or unique matter raised in this feedback, was that the land is subject to a designation and therefore should not be subject to obtaining a resource consent for the removal of the tree as it would be “contrary to the rationale for holding a designation”. This position is not supported. It was accepted by the Ministry of Education that discretionary resource consent was required back in 2009 under the Operative rule 59.2.2 when they applied to remove the tree, despite the presence of the designation. This position was accepted by Council in the notification decision made in March 2011 and nothing has changed since then to revise this position.

072 – Housing New Zealand

102. Housing New Zealand provided feedback noting that two scheduled trees (no. 233 and no.363) on their properties in Whangārei had been removed without resource consent March 2016 by their maintenance contractor who advised that the trees were unstable and rotting. No notice was given to Council of this removal nor was resource consent applied for or granted for this.
103. There is little option but to remove these trees from the proposed schedule in NPT.1.9 and this change has been outlined in the proposed provisions in **Appendix B**. However, this feedback has been passed onto the Resource Consent and Compliance team for follow up in terms of enforcement action and retrospective consent.

2.0 Statutory Context

2.1 Resource Management Act 1991

2.1.1 Part 2 – Purpose of the Act

104. The RMA requires district plans, and thereby any changes to district plans, whether private or Council driven, to meet the purpose and principles of the RMA. Section 5 clarifies the purpose of the Act as being: ‘to promote the sustainable management of natural and physical resources’; with sustainable management meaning: 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:
- Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
 - Avoiding, remedying, or mitigating any adverse effects of activities on the environment.
105. The purpose of the RMA involves two elements, one enabling and the other regulatory. The enabling component provides for the management of resources in a way that allows for communities and their people to look after their social, economic, and cultural wellbeing, whilst the regulatory component sets the terms of these management matters which are further refined in Sections 6, 7, and 8 of the RMA.

106. Section 6 of the RMA sets out matters of national importance that must be recognised and provided for when exercising functions and powers under the RMA.
- a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
 - b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
 - c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
 - d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
 - e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
 - f) the protection of historic heritage from inappropriate subdivision, use, and development:
 - g) the protection of recognised customary activities.
107. Section 7 of the RMA sets out the specific matters that those exercising functions and powers under the Act shall have particular regard to. 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 have particular regard to —
- a) kaitiakitanga:
 - aa) the ethic of stewardship:
 - b) the efficient use and development of natural and physical resources:
 - ba) the efficiency of the end use of energy:
 - c) the maintenance and enhancement of amenity values:
 - d) intrinsic values of ecosystems:
 - e) [Repealed]
 - f) maintenance and enhancement of the quality of the environment:
 - g) any finite characteristics of natural and physical resources:
 - h) the protection of the habitat of trout and salmon:
 - i) the effects of climate change:
 - j) the benefits to be derived from the use and development of renewable energy.
108. Section 8 of the RMA requires that all persons exercising functions and powers under the RMA take into account the principles of the Treaty of Waitangi.

2.1.2 Section 32

109. Section 32 of the Resource Management Act ('the Act') requires the Council to consider the appropriateness of any plan change for achieving the purpose of the Act, its functions, relevant costs, benefits and risks. Pursuant to section 32(1) an evaluation report 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*
 - (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*
110. Council's evaluation of PC129 under Section 32 must consider the extent to which each proposed objective is the most appropriate way to achieve the purpose of the Act (s32(1)(a)).
111. The WDP already contains a number of 'settled' higher order objectives which apply across the District and address a range of matters which have previously been assessed as the most appropriate way to achieve the purpose of the RMA. The existing overarching objectives are not proposed to be subject to change as a result of PC129. As such Council's evaluation of PC129 under section 32 must also consider the extent to which each proposed objective aligns with the settled overarching objectives in the WDP.
112. Section 32 requires Council to undertake an analysis of the benefits, costs, efficiency and effectiveness of the proposed policy and methods of PC129, and of the risks of acting or not acting where there may be uncertainty. This report details the comprehensive section 32 evaluation undertaken to confirm the appropriateness of PC129.

2.1.3 Section 76(4A) and 76(4B)

113. Within Section 76 of the RMA (District Rules), controls are placed on the method by which trees can be protected within the urban environment to ensure that blanket protection cannot be applied to trees located on private property. These controls were introduced and further strengthened through the 2009 and 2013 RMA amendments, and state the following:
- (4A) *A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—*
- (a) *the tree or trees are described; and*
 - (b) *the allotment is specifically identified by street address or legal description of the land, or both.*
- (4B) *A rule may prohibit or restrict the felling, trimming, damaging, or removal of trees on 2 or more urban environment allotments only if—*
- (a) *the allotments are adjacent to each other; and*
 - (b) *the trees on the allotments together form a group of trees; and*
 - (c) *in a schedule to the plan,*
 - (i) *the group of trees is described; and*
 - (ii) *the allotments are specifically identified by street address or legal description of the land, or both.*
- (4C) *In subsections (4A) and (4B),—*
- group of trees** *means a cluster, grove, or line of trees*
- urban environment allotment** *or allotment means an allotment within the meaning of section 218—*
- (a) *that is no greater than 4000m²; and*
 - (b) *that is connected to a reticulated water supply system and a reticulated sewerage system; and*
 - (c) *on which there is a building used for industrial or commercial purposes or as a dwellinghouse; and*
 - (d) *that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.*
- (4D) *To avoid doubt, subsections (4A) and (4B) apply—*
- (a) *regardless of whether the tree, trees, or group of trees is, or the allotment or allotments are, also identified on a map in the plan; and*
 - (b) *regardless of whether the allotment or allotments are also clad with bush or other vegetation.*
114. To protect a tree within the urban environment via a rule in a district plan the tree needs to be scheduled with a description of the tree sufficient to identify it (i.e. species and size), and the street address or legal description of the allotment the tree is located within. A group of trees may also be identified within the schedule but these must be within a distinct cluster.
115. The definition of “urban environment” within Section 76 means that blanket rules can still apply to public land such as reserves or road reserves, as well as rural areas.

3.0 National, Regional, District and other Policies and Plans

3.1 New Zealand Coastal Policy Statement

116. The New Zealand Coastal Policy Statement (NZCPS) states objectives and policies designed to achieve the purpose of the Act in relation to the coastal environment. With respect to the preservation of trees, the NZCPS is primarily interested in the protection and retention of indigenous vegetation within the coastal environment at a broader scale than the consideration of individual trees and their values. The NZCPS recognises that vegetation in the coastal environment is important for biodiversity purposes, and hazard mitigation, but also deserves preservation for its contribution to the natural character of the coastal environment.

117. The NZCPS provides direction for the Northland Regional Policy Statement, and subsequent lower order planning documents, therefore the following can be expected to reflect the direction given in the NZCPS.

3.2 National Environmental Standard for Telecommunications Facilities

118. The National Environmental Standard for Telecommunications Facilities provides specific requirements and standards for the installation, operation, and maintenance of telecommunication facilities. These are often located within the road reserve, and the regulations direct that if any works are to be undertaken within the dripline of any protected trees, that any requirements under the relevant district plan must also be met. See heading 4.10 for further discussion of the NES for Telecommunications Facilities.

3.3 Northland Regional Policy Statement

119. The Northland Regional Policy Statement (NRPS) contains no matters relating specifically to the amenity or heritage values of specific trees or stands of trees. The NRPS more holistically considers the importance of preserving wider areas of indigenous vegetation primarily for biodiversity purposes, but also to preserve natural character especially within the coastal environment, and as a means of mitigating natural hazards. Riparian vegetation is also recognised for its role in maintaining and improving water quality.
120. The threshold for preservation of indigenous vegetation is highest within the Coastal Environment (defined within mapping for the NRPS and proposed to be replicated within the WDP maps). Under Policy 4.4.1, adverse effects on significant indigenous vegetation within the Coastal Environment must be avoided. Criteria to identify Significant Indigenous vegetation are provided in Appendix 5 of the NRPS. Where an area falls outside of the Coastal Environment, the NRPS directs that significant adverse effects of subdivision, use and development are avoided, remedied or mitigated to the extent that they are not significant on areas of predominantly indigenous vegetation.

3.4 Northland Regional Plans

121. As the higher order policy documents, do not contain objectives and policies directly relating to the management of trees, the Regional Plans themselves also do not specifically cover what are generally considered as Heritage Trees currently within the WDP. The Regional Plans contain regulation relating to vegetation clearance, with protection only afforded to indigenous vegetation, and at a higher threshold if the indigenous vegetation is significant.
122. The Regional Coastal Plan for Northland is not relevant to the consideration of this matter as the RCP only deals with matters in the coastal marine area, outside of the jurisdiction of WDC.
123. The only related matter within the Regional Air Quality Plan for Northland is the consideration of the effect of agrichemical spraying on areas of indigenous vegetation, habitat areas and reserves.
124. The Regional Water and Soil Plan for Northland recognises the importance of trees within the riparian management area to assist water quality through controlling light, water temperature, and sediment and nutrient regimes, and the importance of vegetation for controlling erosion and stormwater run-off.

3.5 Proposed Northland Regional Plan

125. The proposed Regional Plan for Northland (pRPFN) was publicly notified in September 2017. The pRPFN combines the current Regional Water and Soil Plan for Northland (RWSP), the Regional Air Quality Plan for Northland, and the Regional Coastal Plan for Northland.
126. The draft NRP takes its direction from the NRPS and NZCPS, therefore the consideration of matters related to the management and protection of trees revolves around the notion of indigenous vegetation, particularly if it is significant as identified in Appendix 5 of the NRPS.
127. More specific reference is made to the ti kouka, or cabbage tree, which is listed under native dune vegetation. Native dune vegetation is proposed to be protected from removal in the coastal riparian management zone or in the coastal hazard management zone, unless resource consent is obtained as a Discretionary Activity.
128. Otherwise there is nothing of direct relevance in the pRPFN for PC129 and the proposed provisions.

4.0 WDP Objectives for Notable and Public Trees

4.1 Existing Objectives

129. Existing objectives and policies for Heritage Trees are contained in Chapter 14 as follows:

14.3 Objectives

The protection and enhancement of trees that make a significant contribution to heritage values.

14.4 Policies

14.4.1 Identification

To identify trees of heritage value to the community in the Plan. Consideration is given to the criteria set out in Schedule 14A to determine whether trees are worthy of protection

14.4.2 Destruction

To ensure that no subdivision, use or development should result in destruction of, or adverse effects on, Heritage Trees, in particular adverse effects on:

- The long term life of the tree;
- The heritage and amenity values of the tree.

14.4.3 Trees of Significance to Tangata Whenua

To ensure that subdivision, use or development does not adversely affect the cultural values of trees of significance to tangata whenua.

14.4.4 Cross Boundary Effects

To administer the heritage tree protection provisions in a manner which recognises that works may be required at times to avoid significant loss of daylight to adjoining properties, and/or damage through falling branches and root growth; provided that the amenity value and health of the tree is not compromised.

4.2 Proposed Objectives

130. Council must evaluate in accordance with Section 32 of the RMA the extent to which each objective proposed in PC129 is the most appropriate way to achieve the purpose of the RMA. To confirm the appropriateness of the proposed objectives they are evaluated for consistency with the purpose of the RMA and with existing provisions of the NRPS and WDP.

131. PC129 proposes the following three objectives to replace 14.3 in Chapter 14 as those most appropriate for achieving the purpose of the RMA:

NPT.1.3 Objectives

1. *Notable trees and notable groups of trees with significant amenity, historical, ecological or cultural values are retained and protected from inappropriate subdivision, use and development.*
2. *Public trees in road reserves, parks and reserves are protected and maintained where they positively contribute to amenity, historical, ecological or cultural values, while enabling the safe and efficient development, maintenance, operation and upgrading of the roading network and network utilities.*
3. *Future subdivision, use and development provides for existing and new trees that contribute to amenity, historical, ecological or cultural values.*

132. The term “most appropriate” is comparative and therefore consideration of the objectives proposed for PC129 must be assessed against some alternatives to test the appropriateness of the proposed objectives. The following two alternatives were considered in the appropriateness assessment of the proposed PC129 objectives with part 2 of the RMA:

- Alternative 1 – Status Quo: Existing objectives in Chapter 14.
- Alternative 2 – No tree protection: No objectives for notable trees.
- Alternative 3 – Blanket tree protection: objectives provide for blanket tree protection across the District on private property and public land.

133. Pursuant to section 32, the following sections of this report will assess whether these proposed objectives are the most appropriate way to achieve the purpose of the RMA.

4.3 Part 2 of the RMA

TABLE 1 – APPROPRIATENESS OF OBJECTIVES WITH PART 2	
PART 2 Provision(s)	Appropriateness of Objective(s)
<p>5 Purpose</p> <p>(1) The purpose of this RMA is to promote the sustainable management of natural and physical resources.</p> <p>(2) In this RMA, 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—</p> <p>(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and</p> <p>(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and</p> <p>(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.</p>	<i>NPT.1.3.1</i>
	<p>This objective seeks to sustain the presence of notable trees where they provide for social, cultural or environmental well-being, and to ensure that their presence is not undermined by the use and development of land.</p> <p>However, this is tempered with the term inappropriate, as this indicates that there may be instances where appropriate use and development may have an effect on notable trees.</p>
	<i>NPT.1.3.2</i>
	<p>This objective seeks an appropriate balance between the protection of the natural resource of notable trees, and the requirement to establish and maintain vital physical infrastructure within the public realm.</p>
	<i>NPT.1.3.3</i>
	<p>This objective provides for the ongoing management of notable trees, including replacement trees, to ensure that there are notable trees for the benefit of future generations, ensuring ongoing social and cultural well-being.</p>
	<i>Overall</i>
	<p>The proposed objectives meet Section 5 of the Act as they promote sustainable management of notable trees, while providing for appropriate use and development to continue relative to notable trees, and recognise the need for works to occur in the vicinity of notable trees commensurate to the importance of the works, with community health and safety being a priority.</p> <p>The objectives also recognise the finite nature of notable trees, and the need to encourage replacement of this resource for future generations.</p> <p>The alternatives are not as appropriate because:</p> <ul style="list-style-type: none"> • Alternative 1 – objective 14.3 only refers to contribution to heritage values which does not acknowledge the full range of other values that trees can contribute to. • Alternative 2 – removing any tree protection would mean that trees that contribute to

TABLE 1 – APPROPRIATENESS OF OBJECTIVES WITH PART 2

PART 2 Provision(s)	Appropriateness of Objective(s)
	<p>important values would no longer be protected and potentially removed.</p> <ul style="list-style-type: none"> Alternative 3 – blanket protection of trees on private and public land will not enable people to provide for their economic and social well-being and is not lawful pursuant to s76(4A) of the RMA.
<p>6 Matters of National Importance</p>	<p>Having considered the matters set out in section 6 of the RMA, the proposed objectives are not considered of particular relevance to these matters. As such the proposed objectives do not conflict with those matters set out in section 6 of the RMA.</p>
<p>7 Other Matters</p> <p>(a) <i>kaitiakitanga</i>:</p> <p>(aa) <i>the ethic of stewardship</i>:</p> <p>(b) <i>the efficient use and development of natural and physical resources</i>:</p> <p>(ba) <i>the efficiency of the end use of energy</i>:</p> <p>(c) <i>the maintenance and enhancement of amenity values</i>:</p> <p>(d) <i>intrinsic values of ecosystems</i>:</p> <p>(e) <i>[Repealed]</i></p> <p>(f) <i>maintenance and enhancement of the quality of the environment</i>:</p> <p>(g) <i>any finite characteristics of natural and physical resources</i>:</p> <p>(h) <i>the protection of the habitat of trout and salmon</i>:</p> <p>(i) <i>the effects of climate change</i>:</p> <p>(j) <i>the benefits to be derived from the use and development of renewable energy</i>.</p>	<p style="text-align: center;">NPT.1.3.1</p> <p>The proposed objective provides for the ethic of stewardship (7(aa)) in the protection and retention of notable trees for the ongoing benefits to the environment and to people.</p> <p>The proposed objective also provides for the maintenance and enhancement of amenity values (7(c)), and of the environment, where notable trees are maintained particularly within an urban environment. The protection of a number of larger trees may also have a greater impact on amenity values than replacing trees with additional lower level vegetation or grassed areas.</p> <p>The proposed objective also recognises the finite nature of a specific tree (7(g)) that once lost cannot be replaced.</p> <p>The retention of trees for their ecological values also meets part (7(d)) recognising the importance of trees for intrinsic reasons such as their rarity or form.</p> <p style="text-align: center;">NPT.1.3.2</p> <p>This objective provides for maintenance and enhancement of amenity values, and of the environment (7(c)), and the ability to recognise and protect trees for their intrinsic values (7(d)).</p> <p>The objective also recognises that public works may need to be undertaken that may impact upon notable trees and vice versa, and allowing for appropriate work to occur, therefore facilitating the efficient use and development of resources (7(b)).</p> <p style="text-align: center;">NPT.1.3.3</p>

TABLE 1 – APPROPRIATENESS OF OBJECTIVES WITH PART 2

PART 2 Provision(s)	Appropriateness of Objective(s)
	<p>This objective recognises the finite nature of notable trees, ensuring that sufficient replacement trees can be established to ensure an ongoing benefit (7(g)), and again provides for the maintenance and enhancement of amenity values, and of the environment (7(c)).</p> <p style="text-align: center;">Overall</p> <p>Overall, the objectives meet Section 7 of the Act because they provide for the maintenance and enhancement of amenity values, and of the environment.</p> <p>The objectives provide for the efficient use and development of resources (e.g. land), by acknowledging that physical works may need to occur in the vicinity of, or have a direct impact on trees that cannot be avoided, and to appropriately manage these conflicts.</p> <p>The objectives also recognise the importance of maintaining and protecting notable trees for their intrinsic values, and that notable trees are a finite resource, providing for the ongoing management and eventual replacement of trees.</p> <p>The alternatives are not as appropriate because:</p> <ul style="list-style-type: none"> • Alternative 1 – objective 14.3 only refers to contribution to heritage values which does not acknowledge the full range of other values such as amenity values (7(c)) that trees can contribute to. • Alternative 2 – removing any tree protection would mean that trees that contribute to important values such as amenity values (7(c)) would no longer be protected and potentially removed. • Alternative 3 – blanket protection of trees on private and public land will not enable people to provide for their economic and social well-being and is not lawful pursuant to s76(4A) of the RMA.
<p>8 Treaty of Waitangi</p>	<p>Having taking into account the principles of the Treaty of Waitangi pursuant to section 8 of the RMA, it is considered that the proposed objectives and PC129 do not conflict with the principles.</p>

134. Taking into account the comments in the above table including the consideration of alternative objectives, it is considered that the three proposed objectives represent the most appropriate way to achieve Part 2 of the RMA.

4.4 New Zealand Coastal Policy Statement

135. The NZCPS states objectives and policies designed to achieve the purpose of the Act in relation to the coastal environment.

136. The NZCPS provides direction for the NRPS which is discussed in Section 3.1. The NZCPS does not include provisions specifically relating to the preservation of individual trees, or stands or trees, but more widely supports the preservation of indigenous vegetation within the coastal environment. The NZCPS recognises that vegetation in the coastal environment is important for biodiversity purposes, and hazard mitigation, but also deserves preservation for its contribution to the natural character of the coastal environment.
137. The NZCPS does not distinguish between public and private land in reference to the protection of indigenous vegetation, and seeks to avoid significant effects of activities on areas of predominantly indigenous vegetation in the coastal environment.
138. It is considered that the proposed objectives are consistent with the relevant provisions of the NZCPS.

4.5 Operative Northland Regional Policy Statement

139. The NRPS covers the management of natural and physical resources across the Northland region. The provisions within the NRPS give guidance at a higher planning level in terms of the significant regional issues. Pursuant to the RMA district plans are required to give effect to regional policy statements.
140. As noted in Section 3.1 above, the NRPS does not include specific provisions relating to notable trees. Moreover, the regional planning framework is focused on the protection and enhancement of indigenous vegetation at a wider scale, most notably within the coastal area.
141. It is considered that the proposed objectives are consistent with the regional planning framework, including the NRPS and Regional Plans, as the objectives proposed complement the wider-scale vegetation protection objectives by providing the opportunity for sustainable management of trees.

4.6 Existing Overarching Objectives in the WDP

142. Part C of the WDP contains 23 chapters of topic based objectives and policies. Despite being grouped by topic all objectives and policies are applicable district wide, to any activity, and are intended to collectively achieve the purpose of the RMA. In addition to this, new plan wide chapters are being developed under the rolling review which contain more specific objectives and policies relating to specific areas and values.
143. The proposed objectives (and policies) contained in PC129 are considered to be consistent with the overarching objectives for the District. This is assisted by Heritage Trees currently having their own chapter, which has resulted in a degree of consistency in terms of the manner in which the WDP has developed and any cross-references have been incorporated.
144. A more detailed analysis of the objectives and policies from each of the relevant chapters in Part C is provided below:

4.6.1 Chapter 5 Amenity Values & Chapter 8 Subdivision and Development

145. The objectives in chapter 5 relate to the amenity values across all Environments. The objectives seek to ensure that the character of each Environment is maintained, and adverse effects including those which are desirable for people's health and safety are not reduced. Policy 5.4.10 *Trees and Vegetation* specifically deals with the retention of trees that contribute to the amenity values of an Environment.
146. Objectives in Chapter 8 provide for subdivision and development which does not detract from the character of the locality, and is designed and located to avoid, remedy or mitigate adverse effects on natural character, landscape and ecological values, and amenity values and sense of place.
147. The proposed objectives for PC129 are considered consistent with these existing objectives because:
 - Chapter 5 directly recognises that the presence of trees in part contributes to the high levels of amenity normally enjoyed within residential environments. Therefore, the

retention of Notable Trees and public trees are an important part of retaining expected levels of amenity within residential areas. Ongoing protection and encouraging the establishment of new trees can enhance amenity values.

- Within Countryside, Coastal Countryside and Open Space Environments, indigenous vegetation and landscapes more generally are identified than individual trees due to the scale of sites compared with residential environments. This supports a more generalised protection of vegetation in these areas. Open Space Environments are generally reserve land administered by WDC therefore the second proposed objective recognises the protection of these trees in public reserves.
- Adverse effects from shading or damage from tree roots or branches are acknowledged, and the proposed objectives provide an ability to undertake maintenance to ensure notable trees do not reduce amenity values to a level that impacts on people's health and safety if the notable tree is compromised.
- The proposed objectives also ensure that Notable Trees and public trees are considered, and provided for through subdivision, use and development, including the future provision of notable trees.
- The proposed objectives retain the ability to manage Notable Trees and public trees if necessary, and to facilitate use and development in the vicinity of notable trees, if the work is for health and safety purposes or to establish or maintain important infrastructure.

4.6.2 Other chapters

148. Other chapters of relevance include:

- Chapter 10 – The Coast
- Chapter 11 – Riparian and Coastal Margins
- Chapter 15 – Open Space
- Chapter 16 - Landscapes
- Chapter 17 – Indigenous Vegetation and Habitat
- Chapter 19 – Natural Hazards
- Chapter 22 – Road Transport
- Chapter 23 – Network Utilities Operations
- Chapter 26 – Town Basin Environment.

149. Chapters 10, 11, 15 and 16 relating to the specified values of the coastal environment, open space and landscapes, seek to maintain and enhance these values and ensure that subdivision, use and development does not adversely affect the attributes or resources of these areas, including vegetation that contributes to the character of these areas.

150. Chapter 17 seeks to maintain and enhance ecosystems, and the biodiversity of the District, and contains more specific policies relating to the protection of areas of significant indigenous vegetation, and to manage the effects of environmental pest plants.

151. The objectives in Chapter 19 seek to avoid adverse effects of natural hazards on people, property and the environment, as far as practicable, and to protect, maintain and enhance natural buffers to these hazards. Coastal dune systems and vegetation are recognised as a natural buffer.

152. The objectives of Chapter 22 seek to establish and maintain a safe and efficient road network, and to protect the road network from adjoining development and avoid, remedy or mitigate any adverse effects of road transport activities on the surrounding environment, including ecological, landscape and amenity values.

153. Chapter 23 applies a similar approach seeking both the protection of network utility operations, and the mitigation of adverse effects on the environment from works and infrastructure, particularly on natural character and amenity values of the surrounding environment.
154. Chapter 26 objectives seek to develop a successful and cohesive staged development process for the wider Town Basin area which includes substantial open space areas, maintain and enhance special amenity, recreation and cultural values, tangata whenua values, and the sense of place unique to the maritime setting.
155. The proposed objectives are considered to be consistent with the above provisions as the proposed objectives seek to preserve notable trees for their amenity, ecological, cultural and historic values to ensure natural character and amenity values are maintained, and where possible enhanced, while providing for appropriate ongoing use and development in the vicinity of notable trees, including network utilities operations.

4.7 WDP Plan Changes

156. A number of plan changes have been proposed as a part of the rolling review of the WDP. Those plan changes progressing at present include:
 - Change 131 Genetically Modified Organisms (GMO) - currently subject to appeal.
 - Change 114 Landscapes – subject to appeal.
 - Change 100 Sites of Significance to Maori - currently in preparation.
 - Change 94B Papakāinga – made operative on 27 February 2018.
 - Change 87 Coastal Area – subject to appeal.
 - Change 85, A-D and 86A and B: Rural Environment Plan Changes – subject to appeal.
 - Change 102: Minerals – subject to appeal.
 - Private Plan Change 135: GNLC Limited – plan change made operative on 1 November 2017.
 - Change 91 Hazardous Substances: pre-notification consultation period closed, seeking feedback from Council prior to proceeding to public notification.
157. Having reviewed the proposed plan changes above, the proposed objectives are not considered to conflict with the outcomes sought in these plan changes.

4.8 Whangarei District Council Public Places Bylaw 2014

158. Section 25 of the bylaw states: “No person shall plant or remove or damage any tree, shrub or flower on any public place except with the prior written consent of the Chief Executive Officer or delegate.”
159. The proposed objectives are not considered to be contrary to the Public Place Bylaw 2014, as they are consistent with the intent of the bylaw being the management and protection of notable trees, but acknowledging that physical works may be undertaken within the public realm that could impact upon notable trees, and to allow for controlled and carefully managed maintenance and installation works to occur.

4.9 Iwi Management Plans

160. The formally recognised iwi / hapu management plans for the Whangarei District are listed below:
 - Ngatiwai – “Te Iwi o Ngatiwai: Iwi Environmental Policy Document 2007”
 - Ngati Hine – “Ngati Hine Iwi Environmental Management Plan 2008”
 - Patuharakeke – “Patuharakeke Hapu Environmental Management Plan 2014”
 - Ngati Hau – “Hapu Environmental Management Plan 2016”
 - Te Uriroro Hapu Environmental Management Plan Whatiriri Hapu Environment Plan 2016.

161. The Iwi and hapu management plans identify the wellbeing of the environment and its inhabitants as being an important consideration. The objectives and policies refer to the management of natural resources and protection and restoration of the environment.
162. Generally, the relevant objectives of the Iwi and Hapu Management Plans highlighted above seek to identify and protect indigenous vegetation, and to promote the planting of indigenous species, with local sourcing of seeds/plants. Incentives are also identified as a way of promoting the maintenance and protection of indigenous vegetation.
163. Having reviewed each document and taking into account all of the provisions it is considered that the proposed objectives for PC129 are consistent with the intent of each of the Iwi and Management Plans. Furthermore, it is considered that proposed policies NPT.1.4.2.c and NPT.1.5.3.c specifically give effect to the desire to promote the planting of indigenous trees and vegetation to recognise existing uses and adjoining landowners.

4.10 Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016

164. Under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016, Sections 44 and 45 relate to the installation of telecommunication facilities (antennas, cabinets, telecommunication lines, or small cell units) in the vicinity of protected trees.
165. If a regulated activity under the NES for Telecommunications Facilities is being carried out within the dripline of protected trees within the road reserve (Section 44), or specifically scheduled trees (Section 45), then any tree protection measures stipulated in the district plan (or proposed district plan) take precedence and the installation of telecommunication facilities must comply with the measures.
166. Therefore, provisions relating to the management and protection of notable and public trees will also have an indirect impact upon the application of these regulations, as any proposal utilising the NES for Telecommunications Facilities may also need to comply with requirements proposed under PC129.

4.11 Non-Statutory Council Strategies and Guidelines

4.11.1 Whangarei District Growth Strategy: Sustainable Futures 30/50

167. The 'Whangarei District Growth Strategy: Sustainable Futures 30/50 ('30/50')' is Whangarei's strategic planning document, which was produced in response to growth in the District over the period 2001-2008. It was adopted by Council in 2010.
168. 30/50 developed three broad long-term development scenarios for Whangarei. After extensive consultation, a long term integrated strategic planning programme was developed based on the principles which will assist progress towards the sustainable development of the District over the next 30-50 years. 30/50 identifies four sustainability criteria – sustainable economy, environment, society and culture.
169. 30/50 notes that there are more trees that should be scheduled and protected in the District Plan. Within the 30/50 Implementation Plan, under Section 5.2 Historic/Cultural Heritage, an action point is identified to “ensure all heritage items are contained in the District Plan schedules and on the planning maps.”
170. The importance of public trees is also identified in an urban setting, particularly for Whangarei City. In Section 3 Whangarei City, under Action 1.8, 30/50 includes urban trees, and the presence of street trees for their importance in improving sense of place and amenity values, and introducing vegetation to “green up” the City and assist with biodiversity and ecosystem services such as assisting with water infiltration, air purification in an urban environment.
171. It is considered that the proposed objectives are consistent with and supported by the relevant provisions within 30/50.

4.11.2 Whangarei Urban Growth Strategy 2003

172. Adopted in 2003, the Whangarei Urban Growth Strategy (UGS) was developed to ensure the issues and opportunities raised by growth in the District are dealt with in a sustainable manner in accordance with the views and aspirations expressed by the community during consultation.
173. The UGS seeks to prevent the degradation and loss of historic trees from urban development by protecting trees from the adverse effects of urban development and subdivision.
174. It is considered that the proposed objectives are consistent with the relevant provisions within the UGS.

4.11.3 Whangarei Urban Design Strategy 2011

175. The Urban Design Strategy (UDS) adopts an ongoing incremental approach to building a high quality urban environment that will help develop Whangarei into a leading meeting place and destination and secure a sustainable future. To achieve this vision, urban development should be compact, connected, distinctive, diverse, attractive, appropriate, sustainable and safe. A number of design objectives, stakeholder responsibilities, and mechanisms have been identified and set according to their priorities for implementation.
176. The UDS outlines design objectives and elements that contribute to sustainable and safe places and recognises the contribution street trees make to these objectives.
177. Having reviewed the UDS, it is considered that the proposed objectives are consistent with the intentions and design principles contained within the UDS.

4.11.4 Coastal Management Strategy

178. The Coastal Management Strategy (CMS) was adopted by Council in 2003 and provides guidance for how we use and protect the District's unique coastal environment over the next 20 to 50 years. It contains nine specific study areas and a detailed Structure Plan has been developed for each area.
179. The CMS seeks to identify and protect resources and areas of high amenity value, environmental quality and heritage value that contribute to a diverse sense of place, including notable trees.
180. Overall it is considered that the proposed objectives are consistent with the relevant provisions within the CMS.

4.11.5 Rural Development Strategy

181. The Rural Development Strategy (RDS) was adopted by Council in 2013 and examines the rural issues that are relevant to the District and create a strategic vision for the role Council and communities want our rural environments to play in the future in accordance with the direction of Sustainable Futures 30/50. The RDS specifically applies to those areas outside Whangarei City.
182. The RDS acknowledges the particular values in the rural areas and proposed a hierarchy or range of 'Environments' within the rural areas of the District. Many of these Environments have been reflected in the rural plan changes which seek to replace the existing zoning in rural parts of the region with revised Environments.
183. The RDS seeks to recognise and protect heritage resources in the rural environment.
184. It is considered that the proposed objectives are consistent with the relevant provisions within the RDS.

4.11.6 Whangarei District Council Environmental Engineering Standards 2010

185. Council's Environmental Engineering Standards 2010 (EES 2010) is a guidance document for land development set out the minimum acceptable levels for engineering design and construction within the District. The EES 2010 is incorporated into the District Plan by reference under Chapter 47 Road Transport Rules at Rule 47.2.11 Engineering Standards, which states that an activity is a permitted activity if: a) It complies with all the relevant Standards set out in the EES 2010. Otherwise an activity falls to a restricted discretionary status.

186. In relation to trees, the EES 2010 provides guidance in two main areas. Primarily the EES 2010 provides guidance on works in proximity to existing public trees. Direction is given to avoid excavation for services within the dripline of public trees where practicable (section 1.10.9), otherwise approval is required to build inside the dripline. The EES 2010 also specifies a requirement to provide extra protection to pipes in the vicinity of existing trees in order to avoid future damage to pipes.
187. Section 7 of the EES 2010 covers the requirements for the design of landscaping within parks, recreation and other reserves in the District. Section 7 notes that the Whangarei District Reserves Strategy sets out Council's intentions for the provision of reserves and levels of service within those reserves. However, at present there is no Reserves Strategy to guide the scale and location of future reserves, and no requirement within the District Plan to provide reserve space within developments of any size.
188. The objectives proposed under PC129 seek to assist with the protection of trees within road reserves, while allowing some flexibility for other services that have a functional need to be located within the road reserve.
189. The proposed objectives also aim to ensure that future development considers the ongoing need for trees, which supports the consideration for street planting and reserve provision in future development.
190. It is considered that the proposed objectives do not conflict with the EES 2010.

4.11.7 Blue-Green Network Strategy

191. A key aspect of the Blue-Green Network Strategy (BGNS) is to create and strengthen ecological corridors along and between waterways through Whangarei City. There are multiple benefits of doing this including environmental factors such as improved water quality and biodiversity, and improvements to urban amenity and sense of place.
192. The BGNS specifically highlights the importance of trees in urban areas as "stepping stones" for native fauna between larger reserve areas and ecological corridors, and the use of trees in the streetscape providing benefits for air purification, stormwater infiltration, shading of pedestrian routes, and general streetscape amenity.
193. The BGNS does not specify that all plant species should be native, as this can limit potential food sources for bird species (pg. 61).
194. The proposed objectives of PC129 are considered to be consistent with the BGNS as they seek to encourage the protection, and further provision of trees in the urban area.

4.11.8 Project Crimson

195. Project Crimson is an initiative that supports local communities undertake conservation projects, particularly replanting. The Crimson Coast initiative refers to a nationwide project aiming to re-plant locally sourced pohutukawa, and northern or southern rata trees where relevant in coastal areas. There are a number of community planting events that have occurred around the Whangarei District, as a direct result of support from the Project Crimson initiative.

4.11.9 Other Community Initiatives

196. Other community-led and voluntary planting initiatives are also organised by locally-based organisations such as the local NZ Landcare Trust office (which includes Biodiversity Northland), and the Whitebait Connection which focuses on riparian vegetation.

4.11.10 Northland Regional Council Plant Pest Management Strategy 2010-2015

197. The primary mechanisms available to the Northland Regional Council (NRC) for the control of pests are Regional Pest Management Strategies which are developed under the Biosecurity Act 1993. Under the Biosecurity Act, Regional Councils are the agencies responsible for processing and approving regional pest management strategies. While Regional Councils have no statutory obligation to undertake pest management, most have significant roles in this field.

198. The purpose of the Regional Pest Management Strategies (RPMS) is to provide a strategic and statutory framework for the efficient and effective management of pests in Northland. The primary objective of the Strategies is to reduce or eliminate the impact of introduced pests on environmental, economic and social values. Long-term management of pests extends far beyond simply controlling those that currently infest the region. It also includes management to reduce susceptibility to infestation by pests, control operations to prevent reinvasion and to control the mechanisms by which pests enter and are spread within the region.
199. The current Plant Pest Management Strategy is operative until 20 July 2017, while a new strategy is currently being developed. The Plant Pest Management Strategy indicates control of plants at four levels, depending on how well established species are. Pest plant species that are not currently established but considered a biosecurity threat are excluded, through to thoroughly established species such as gorse and wild ginger, where exclusion or eradication is now impossible and suppression of these species is the primary aim of the strategy.
200. The proposed objectives of PC129 are considered to be consistent with this strategy as they will not promote the use of any pest species, and enable their ongoing management.

4.12 Conclusion

201. The previous sections have considered the proposed objectives against Part 2 of the RMA and settled overarching objectives in existing plans and relevant non-statutory Council strategies.
202. The proposed objectives give effect to the purpose of the RMA by enabling present and future generations to provide for their social, cultural and economic wellbeing. In particular, the proposed objectives seek to ensure the ongoing management and protection of notable and public trees recognising the historical, ecological, cultural or amenity values that notable trees possess, and their importance to the character of a place, while providing for appropriate use and development to continue. The objectives recognise the need for works to reasonably occur in the vicinity of notable trees, with community health and safety being a priority.
203. Overall, for these reasons it is considered that the proposed objectives are the most appropriate way to achieve the purpose of the RMA.

5.0 Analysis of Efficiency and Effectiveness of Provisions (Policies and Rules)

204. Council must evaluate in accordance with section 32 of the Act, the benefits and costs of policies and methods, and the risk of acting or not acting where there is uncertainty of outcome. It is important to determine whether the preferred approach will be more effective and efficient than other alternatives and whether this effectiveness and efficiency comes at a higher cost than other alternatives. It is also important that the Council considers whether the costs potentially outweigh the benefits. The following sections of this report will analyse the efficiency and effectiveness of the preferred provisions and alternative ways of achieving the proposed objectives.

5.1 Summary of Proposed Provisions

205. PC129 proposes a number of new provisions regarding Notable and Public Trees (see **Appendix B** for copy of new NPT Chapter) and the deletion of a number of existing provisions in the Plan (See **Appendix C** for consequential changes to existing District Plan provisions). The proposed provisions of the NPT Chapter are summarised below.

5.1.1 One Chapter

206. It is proposed that all tree provisions from Chapter 14, 59 and Appendix 2 are combined into one chapter titled Notable and Public Trees (NPT). This proposed change generally aligns with the direction of the structure of the rolling review topics such as Noise and Vibration (NAV) and Historic Heritage (HH) have been consolidated into overall District Wide chapters.

5.1.2 Chapter Title

207. It is proposed that the new combined chapter be titled Notable and Public Trees (NPT) instead of Heritage Trees, as the current provisions in the WDP are titled. The new chapter title acknowledges that the proposed provisions include scope for the protection of specifically identified notable trees or groups of trees in road reserves, parks and reserves.

5.1.3 NPT.1.1 Description and Expectations

208. A new overall description and expectations section is proposed. This section provides general discussion of the issues and approach provided throughout the NPT Chapter.

5.1.4 NPT.1.2 Eligibility

209. In line with other recently operative chapters (e.g. Noise and Vibration), an eligibility provision is proposed which clarifies that the provisions of the proposed NPT chapter apply District wide in addition to any other provisions in the WDP applicable to the same area or site. Further eligibility rules are proposed, clarifying the default activity status for land use and subdivision activities not requiring resource consent, and clarifying that the Notable Tree provisions take precedence when the tree is located in a road reserve, park or reserve.

5.1.5 NPT.1.3 Objectives

210. Three new objectives are proposed which relate to the protection of notable trees and notable groups of trees, the protection and maintenance of trees in road reserves, parks and reserves and the provision of trees in future subdivision, use and development. These have been assessed in section 4 of this report as being the most appropriate to achieve the purpose of the RMA.

5.1.6 NPT.1.4 Policies

211. In order to achieve the proposed objectives, three policies (including a number of sub-points) are proposed. The proposed policies are designed to provide a coherent link between the proposed objectives to the methods and rules outlined in proceeding sections.

5.1.7 NPT.1.5 Discretionary Activities (Land Use)

212. In accordance with the structure of the WDP under the Rolling Review, discretionary activity rules are specified in this section. The land use discretionary activity rules are split into two sub headings, Notable Trees and Public trees. While the rules under both sub headings are similar and address activities such as trimming or alteration, works within the dripline of trees and damage or removal to trees, there are some subtle differences, with the rules for Public trees being more permissive in some instances. These rules are designed to achieve proposed objective 1 and 2.

5.1.8 NPT.1.6 Discretionary Activities (Subdivision)

213. Three discretionary activity subdivision rules are proposed. These relate specifically to the subdivision of sites which contain identified Notable trees or any public trees. These provisions are designed to achieve objective 3.

5.1.9 NPT.1.7 Assessment Criteria

214. A number of assessment criteria for discretionary activity consent applications are included. This aligns with the structure of the WDP under the Rolling Review where discretionary activity assessment criteria are provided in recently operative chapters (such as the NAV and KWE chapters). The proposed criteria are designed to give guidance to applicants and consent planners about what matters to consider when determining a resource consent application pursuant to the discretionary land use and subdivision rules.

5.1.10 NPT.1.8 Criteria for Notable Tree Classification

215. The identification and scheduling of Notable Trees is proposed to be done in accordance with the STEM™ criteria.

5.1.11 NPT.1.9 Schedule of Notable Trees

216. This section includes a table with identified Notable Trees that are currently considered Heritage Trees in Appendix 2 of the WDP. Trees that were removed via resource consent have been deleted from the list. Changes to the schedule have been proposed in light of the feedback received from pre-notification consultation (see further details in section 1.4). This primarily relates to updated STEM™ scores as a result of the revised STEM™ assessments undertaken by Mr Miller, although some additional trees have been added and several deleted where they are no longer present. Through the public notification and submission process, submitters will be able to make requests for the addition of new trees for protection or the deletion of existing trees.

5.1.12 NPT.1.10 Public trees

217. This section provides an explanation of what constitutes public trees and includes a number of exemptions relating to pest species.

5.2 Efficiency and Effectiveness of Proposed Provisions

218. Section 32 assessments must determine whether the proposed provisions are the most appropriate way to achieve the proposed objectives. In this instance, PC129 proposes three objectives and this section 32 assessment must assess whether the proposed provisions are the most appropriate to achieve these proposed objectives. This must include the identification of alternatives, and cost benefit analysis of the economic, social, environmental and cultural effects of the provisions including, whether opportunities for economic growth and employment are reduced or increased. The risk of acting or not acting where uncertain information exists must also be considered.
219. PC129 proposes a number of new provisions (see **Appendix B** for copy of the proposed provisions). These provisions are discussed generally in section 5.1 of this report. The following sections of this report will assess the efficiency and effectiveness of the preferred provisions and compare them to other reasonably practicable options.

5.2.1 One Chapter

220. It is proposed that all of the provisions relating to notable and public trees be located in one chapter.
221. Reasonably practicable options for the chapter structure are as follows:
- **Option 1:** Status Quo – retain the objectives and policies in Chapter 14, rules in Chapter 59 and the schedule of notable trees in Appendix 2.
 - **Option 2:** Proposed Provisions (see **Appendix B**) – combine objectives, policies and rules into one chapter titled Notable and Public Trees with the abbreviation NPT.
 - **Option 3:** Separate Chapters – follow the Auckland Unitary Plan approach and have separate chapters for notable trees, trees in Open Space zones, and trees in roads.
222. It is considered that option 2 represents the most efficient and effective option for the following reasons:
- Option 2 is consistent with the structure of the WDP under the rolling review. Other plan changes that have been recently made operative, such as Noise and Vibration (NAV) and Historic Heritage (HH) have incorporated all provisions for their relevant topic area into one comprehensive chapter. This is desirable as all provisions relating to a particular topic are located in one chapter without the need to cross reference to different chapters as is the case with Option 1 and Option 3. This enables better understating of what is to be achieved, locating the explanation and objectives and policies alongside the rules, and will eliminate the need for lengthy appendices which can be overlooked when referring to the WDP provisions. This makes it easier for plan users to navigate the plan and to determine requirements for a specific area or topic.
 - There are no other perceivable economic, social, environmental or cultural costs with this option.
 - There are no economic growth and employment opportunities arising from the options for this component of PC129.

- There is no risk due to insufficient information.

5.2.2 Chapter Title

223. It is proposed that the chapter be titled “Notable and Public Trees” with the acronym NPT applied throughout the chapter.
224. Reasonably practicable options for the chapter title are as follows:
- **Option 1:** Status Quo – retain “Heritage Trees” chapter title.
 - **Option 2:** Notable and Public Trees – change the chapter title to Notable and Public Trees and use the abbreviation NPT.
225. It is considered that option 2 represents the most efficient and effective option for the following reasons:
- The existing title Heritage Trees is misleading as it implies that scheduled trees in Appendix 2 of the WDP are protected only for their heritage values. However, assessment of the STEM™ criteria and feedback from Council staff has demonstrated that scheduled trees are protected for a number of other reasons, such as for ecological, cultural or amenity values. With proposed objective NPT.1.3.1 referring to “significant amenity, historical, ecological or cultural values” and NPT.1.3.2 also referring to “trees in road reserves, parks and reserves” it is important that the chapter title is revised to more accurately reflect its content.
 - This is a simple change in wording with no perceivable economic, social, environmental or cultural costs.
 - There are no economic growth and employment opportunities arising from the options for this component of PC129.
 - There is no risk due to insufficient information.

5.2.3 NPT.1.1 Description and Expectations

226. A new description and expectations section is proposed that discusses the issues and approach provided in the NPT chapter.
227. Reasonably practicable options for the description and expectations section are as follows:
- **Option 1:** Status Quo – duplicate 14.2 Overview from Chapter 14 and 59.1 Introduction from Chapter 59 of the WDP.
 - **Option 2:** No description and expectations.
 - **Option 3:** Proposed Provisions NPT.1.1 Descriptions and Expectations (**Appendix B**) – more detailed description and expectations.
228. It is considered that Option 3 represents the most efficient and effective option for the following reasons:
- Option 3 will ensure that the expectations and reasons for the NPT chapter are clear, thus making the subsequent provisions easier to understand for plan users. This is also consistent with the structure of the WDP under the rolling review where each chapter has its own description and expectations section.
 - Option 1 is not an efficient or effective option as the expectations for the NPT chapter would not be updated to match the new approach which incorporates notable and public trees, thus making the subsequent provisions more difficult to understand for plan users.
 - Option 2 is not an efficient or effective option as it would represent a lack of consistency with the new WDP structure and would make the expectations and reasons unclear for plan users.
 - There are no economic growth and employment opportunities arising from the options for this component of PC129.
 - There is no risk due to insufficient information.

5.2.4 NPT.1.2 Eligibility

229. It is proposed to include an Eligibility rule to referring to the application of other provisions in the WDP.
230. Reasonably practicable options for the Eligibility rule are as follows:
- **Option 1:** Status Quo – no eligibility rule.
 - **Option 2:** Proposed Provisions NPT.1.2 Eligibility – specifically states that the NPT provisions shall apply district wide in addition to any other provisions in the WDP applicable to the same area or site, identifies the default activity statuses for land use and subdivision activities and clarifies that the Notable Tree provisions take precedence when the tree is located in a road reserve, park or reserve.
231. It is considered that Option 2 represents the most efficient and effective option for the following reasons:
- Option 2 is efficient and effective as the structure of the proposed eligibility rule is consistent with the structure of other WDP chapters progressed under the Rolling Review. Furthermore, it will provide clarity as to the application of other provisions in the WDP, identifies the default activity statuses and clarifies that the Notable Tree provisions take precedence when the tree is located in a road reserve, park or reserve. This will make it easier for plan users utilising an interpreting the NPT provisions, and ensure that special characteristics (e.g. flooding hazards, outstanding landscapes) are provided for in accordance with the WDP.
 - Option 1 is neither efficient nor effective as the lack of an eligibility rule will be inconsistent with the structure of other WDP chapters progressed under the Rolling Review. There will be no clarity as to the application of other provisions in the WDP which would make it more difficult for plan users utilising and interpreting the WDP.
 - There are no economic growth and employment opportunities arising from the options for this component of PC129.
 - There is no risk due to insufficient information.

5.2.5 NPT.1.4 Policies

232. The proposed objectives in NPT.1.3 seek to protect notable trees and notable groups of trees and trees in road reserves, parks and reserves from inappropriate subdivision, use and development while enabling the safe and efficient provisions of the roading network and network utilities and ensuring that future subdivision, use and development provide new trees. These objectives are achieved through the application of policies and methods, in this case the use of land use and subdivision rules and the identification and scheduling of certain trees.
233. The policies proposed for inclusion (see NPT.1.4 in **Appendix B**) are considered to achieve the objectives through:
- Establishing a clear process through which notable trees and groups of trees are identified and scheduled.
 - Providing a policy framework to avoid the removal of identified trees, enable necessary trimming and alteration in accordance with arboricultural best practice and promote education and advice to the general public.
 - Specifying that trees over a certain size in road reserves, parks and reserves are attributed protection, while enabling ongoing maintenance and ensuring appropriate selection and location of species that recognises existing uses in the vicinity and encourages the use of indigenous trees and vegetation in public spaces.
 - Requiring future subdivision and development to protect scheduled notable trees and groups of trees and to assess the need for new trees.
234. The proposed policies are considered the most efficient and effective for achieving the objectives and provide a coherent link to the methods and rules in the proceeding sections of the NPT chapter. The use of clear and direct policies also aligns with the policy driven approach applied to the Rolling Review.

5.2.6 NPT.1.5 Discretionary Activities (Land Use)

235. The proposed provisions include rules for discretionary land use activities in NPT.1.5 relating to both notable trees and public trees. These provisions are assessed below in terms of their efficiency and effectiveness under the following sub headings.

Separate Provisions for Notable Trees & Public trees

236. Structurally, proposed discretionary rules for notable trees and public trees have been separated under different subheadings in NPT.1.5. While the provisions themselves are largely the same, there are some subtle differences which generally afford more protection to Notable Trees over public trees.

237. Reasonably practicable options for the structure of the rules are as follows:

- **Option 1:** Status Quo – Only rules for Heritage Trees (which include public trees via a note on page 12 of Appendix 2)
- **Option 2:** Proposed Provisions – separate provisions for Notable Trees (equivalent of heritage trees in WDP) and public trees.
- **Option 3:** No rules – include no rules for notable trees or public trees.

238. It is considered that Option 2 represents the most efficient and effective option for the following reasons:

- Option 2 allows for different provisions for Notable Trees and public trees. It is considered that Notable Trees should be attributed different protection than public trees because scheduled Notable Trees have been subject to a comprehensive assessment under the STEM™ criteria which determines that they have significant amenity, historical, ecological or cultural values worthy of protection in accordance with proposed objective NPT.1.3.1. Given the overall importance of trees in road reserves, parks and reserves, trees greater than 6.0m in height or with a girth (measured 1.4m above the ground) greater than 600mm located within a road reserve or reserve administered by WDC have been identified for general protection in NPT.1.10.1. These trees have not been subject to the same rigorous assessment as scheduled Notable Trees in NPT.1.9.1 and due to their location in road reserves, parks and reserves, there is more of a need to allow certain works, such as tree works required to maintain sightlines and specified in NPT.1.4.4.e and thrusting for the installation of network utilities specified in NPT.1.5.5.a, to be allowed.
- Option 1 is not efficient nor effective as it classifies trees greater than 6.0m in height or with a girth (measured 500mm above the ground) greater than 600mm located within a road reserve or reserve administered by WDC as Heritage Trees. Therefore, these trees are afforded the same level of protection as scheduled Heritage Trees that have been subject to comprehensive assessment under the STEM™ criteria in the Plan. Further, this approach does not allow different provisions for public trees which, due to their location, generally have more of a requirement for trimming, alteration or works within the dripline to facilitate works in the roading corridor and network utilities.
- Option 3 is not efficient nor effective as having no rules would potentially result in the damage or removal of Notable Trees and public trees. This would not achieve the proposed objectives which seek to protect these trees for the significant amenity, historical, ecological or cultural values they provide.
- There are no economic growth and employment opportunities arising from the options for this component of PC129.
- There is no risk due to insufficient information.

NPT.1.5.1 and NPT 1.5.4 – Trimming and Alteration

239. Proposed rules for the trimming and alteration of Notable Trees are contained in NPT.1.5.1 and for public trees are contained in NPT.1.5.4. The rules for both are similar but with some subtle differences, with generally more flexibility provided for trimming and alteration of Public Trees compared to Notable Trees.

240. Reasonably practicable options for the rules for trimming and alteration are identified below and assessed in detail in table 2:

- **Option 1:** Status Quo – Rule 59.2.1 Trimming of trees.
- **Option 2:** Proposed Provisions – NPT.1.5.1 and NPT.1.5.4.
- **Option 3:** All trimming or alteration requires discretionary resource consent.
- **Option 4:** All trimming or alteration is permitted with no controls.

TABLE 2: EVALUATION OF TRIMMING AND ALTERAION OPTIONS		
Option	Costs	Benefits
Option 1: Status Quo	<p><u>Environmental</u></p> <p>Allowing trimming to Notable Trees and public trees could result in significant damage if not undertaken correctly. This could threaten the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u></p> <p>There is an economic cost to landowners and Council (with regard to public trees) in engaging a contractor approved under the New Zealand Arboricultural Association to undertake the trimming works.</p> <p><u>Social</u></p> <p>Allowing trimming to Notable Trees and public trees could result in significant damage if not undertaken correctly. This could threaten the historical benefits that the tree(s) provide.</p> <p>Council staff have identified concerns with the current provisions.</p> <p><u>Cultural</u></p> <p>Allowing trimming to the tree(s) could result in significant damage if not undertaken correctly. This could threaten the cultural benefits that the tree(s) provide.</p>	<p><u>Environmental</u></p> <p>Trimming and alteration is sometimes required to ensure the long-term health of a tree(s). The trimming of tree(s) is controlled in a manner which will ensure this. This will protect the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u></p> <p>Tree(s), and more specifically generally protected trees, improve the attractiveness and amenity of public spaces which can have positive economic benefits.</p> <p>Tree(s) can interfere with overhead wires and network utilities. Allowing appropriate trimming to facilitate the ongoing operation of these services is important to the local and regional economy.</p> <p><u>Social</u></p> <p>Tree(s) can present risks to life and property. Allowing emergency tree works is necessary to protect people and their properties.</p> <p>Tree(s) can interfere with overhead wires and network utilities. Allowing appropriate trimming to facilitate the ongoing operation of these services is important to the social wellbeing of communities.</p> <p>Consistency in application with existing Heritage Tree provisions / structure.</p> <p><u>Cultural</u></p> <p>None known.</p>
Option 2: Plan Change	<p>The potential costs for Option 2 are the same as those identified above for Option 1, with the exception that Council staff have identified concerns with the current provisions which do not apply to Option 2.</p>	<p>The benefits for Option 2 are the same as those identified above for Option 1, with the exception being that there will not be consistency of application with the existing Heritage Tree provisions. The main additional benefits of Option 2 are:</p> <ul style="list-style-type: none"> • The proposed provisions will match the structure of the new WDP Chapters under the Rolling Review. • NPT.1.5.4.e makes an allowance for tree works on public trees required to maintain visibility of road safety signage, maintain sight lines for traffic safety and to maintain legal clearance height.

		<p>Council's Roding Department has identified that such work is necessary to comply with roading standards in other legislation and to maintain overall safety of the roading network. This provision avoids the cost of applying for resource consent for such instances and allows Council's Roding Department to undertake positive maintenance of the roading corridor to maintain traffic safety.</p> <ul style="list-style-type: none"> • Council's arborist has identified that it is not necessary to get a qualified arborist to undertake trimming and alteration of Notable and Public Trees. He has highlighted that greater flexibility can be provided for in order to facilitate a better relationship between landowners and protected trees and allowance of more tree works provided that they comply with arboricultural best practice and the other specified limits.
<p>Option 3: Discretionary RC</p>	<p><u>Environmental</u> Trimming and alteration is sometimes required to ensure the long-term health of a tree(s). Requiring discretionary consent for all trimming or alteration could discourage people from undertaking necessary works to protect the tree(s).</p> <p><u>Economic</u> Tree(s) can interfere with overhead wires and network utilities. Not allowing trimming to facilitate the ongoing operation of these services could have an adverse effect on the local and regional economy.</p> <p>There would be a considerable cost associated with landowners, network utility operators and Council obtaining resource consents for trimming and alteration works.</p> <p><u>Social</u> Tree(s) can present risks to life and property. Not allowing trimming including emergency tree works could result in danger to people and their properties.</p> <p>Tree(s) can interfere with overhead wires and network utilities. Not allowing trimming to facilitate the ongoing operation of these services could have an adverse effect on the social wellbeing of communities.</p> <p><u>Cultural</u> Trimming and alteration is sometimes required to ensure the long-term health of a tree(s). Not permitting the trimming of trees could affect the long-term health of the tree and the cultural benefits it provides.</p>	<p><u>Environmental</u> Trees would be able to grow and exist without disruption.</p> <p>Allowing trimming to tree(s) could result in significant damage if not undertaken correctly. Not allowing trimming could protect the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u> None known.</p> <p><u>Social</u> Allowing trimming to the tree(s) could result in significant damage if not undertaken correctly. Not allowing trimming could protect the historical benefits that the tree(s) provide.</p> <p><u>Cultural</u> Allowing trimming to the tree(s) could result in significant damage if not undertaken correctly. Not allowing trimming could protect the cultural benefits that the tree(s) provide.</p>
<p>Option 4: Permitted Activity</p>	<p><u>Environmental</u> Allowing uncontrolled trimming to the tree(s) could result in significant damage if not</p>	<p><u>Environmental</u> None known.</p>

	<p>undertaken correctly. This could threaten the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u> None known.</p> <p><u>Social</u> Allowing uncontrolled trimming to the tree(s) could result in significant damage if not undertaken correctly. This could threaten the historical benefits that the tree(s) provide.</p> <p><u>Cultural</u> Allowing uncontrolled trimming to the tree(s) could result in significant damage if not undertaken correctly. This could threaten the cultural benefits that the tree(s) provide.</p>	<p><u>Economic</u> Landowners, network utility operators and Council would not need to engage arborists or obtain resource consents to undertake trimming which would reduce costs.</p> <p><u>Social</u> More freedom to landowners, network utility operators and Council to undertake trimming when they deem it necessary.</p> <p><u>Cultural</u> None known.</p>
Option	Efficiency & Effectiveness	
Option 1:	Option 1 is not as efficient and effective as Option 2. While the current provisions are very similar to the proposed provisions, the current provisions are inconsistent with the structure of the WDP under the Rolling Review, inconsistent with best practice, and Council staff have identified issues with application of the current provisions.	
Option 2:	Option 2 is the most efficient and effective option as it presents the same benefits of protection as Option 1 while providing additional benefit through consistency with the structure of the WDP under the Rolling Review, closer alignment to recent best practice and more flexibility for landowners and Council to undertake tree works on public trees to maintain traffic safety.	
Option 3:	Option 3 is not an efficient and effective option. Requiring discretionary resource consent for all trimming and alteration is too restrictive. There would be a considerable financial cost associated with landowners, network utility operators and Council obtaining resource consents for all trimming and alteration works while also limiting the ability for necessary trimming for dead or dying branches, emergency works or works to facilitate network utilities.	
Option 4:	Option 4 is not an efficient and effective option. Permitting all tree trimming would mean that anyone could undertake unlimited tree works which could result in potential damage to the long-term health of the trees. This would go against the intent of the objectives which seek to protect Notable trees and public trees from inappropriate subdivision, use and development.	
Option	Economic Growth and Employment Opportunities	
Option 1:	There are no economic growth and employment opportunities arising from the options for this component of PC129.	
Option 2:		
Option 3:		
Option 4:		
Risk of acting and not acting if there is uncertain or insufficient information		
There is no risk due to insufficient information.		

241. Option 2 is the most efficient and effective option.

NPT.1.5.2 and NPT.1.5.5 – Works within the Dripline

242. Proposed rules for works within the dripline of Notable Trees are contained in NPT.1.5.2 and for public trees are contained in NPT.1.5.5. Both proposed rules are similar, however NPT.1.5.5 has an exception for “thrusting for the installation of network utilities supervised by a qualified arborist.” Apart from this exception the proposed rules are identical to existing rule 59.2.3 Activities Near a Heritage Tree in the WDP.

243. Reasonably practicable options for the rules for works within the dripline are identified below and assessed in detail in table 3:

- **Option 1:** Status Quo – Rule 59.2.3 Activities Near a Heritage Tree.
- **Option 2:** Proposed Provisions – NPT.1.5.2 and NPT.1.5.5.
- **Option 3:** All works within the dripline are permitted with no controls.

TABLE 3: EVALUATION OF WORKS WITHIN THE DRIPLINE OPTIONS		
Option	Costs	Benefits
Option 1: Status Quo	<p><u>Environmental</u> None known.</p> <p><u>Economic</u> There is a financial cost associated with landowners, network utility operators and Council obtaining resource consents for works within the dripline of trees.</p> <p><u>Social</u> Landowners, network utility operators and Council do not have the freedom to undertake works within the dripline of trees without resource consent.</p> <p><u>Cultural</u> None known.</p>	<p><u>Environmental</u> Appropriate resource consent conditions can be enforced which ensure that the trees will be protected from significant damage from any activities in the dripline. This will protect the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u> None known</p> <p><u>Social</u> Trees are protected from inappropriate works being undertaken in their dripline. This will protect the historical benefits that the tree(s) provide.</p> <p>Consistency in application with existing Heritage Tree provisions / structure.</p> <p><u>Cultural</u> Trees are protected from inappropriate works being undertaken in their dripline. This will protect the cultural benefits that the tree(s) provide.</p>
Option 2: Plan Change	<p>The potential costs for Option 2 are the same as those identified above for Option 1.</p>	<p>The benefits for Option 2 are the same as those identified above for Option 1, with the exception being that there will not be consistency of application with the existing Heritage Tree provisions. The main additional benefits of Option 2 are:</p> <ul style="list-style-type: none"> • The proposed provisions will match the structure of the new WDP Chapters under the Rolling Review. • The proposed provisions are more closely aligned with current best practice. • NPT.1.5.5 provides an exception for thrusting works to a depth of greater than 650mm⁴ for the installation of network utilities supervised by a qualified arborist. This more directly enables the installation and operation of network utilities in road reserves in accordance with proposed objective NPT.1.3.3.
Option 3: Permitted Activity	<p><u>Environmental</u> Allowing uncontrolled works within the dripline of tree(s) could result in significant damage.</p>	<p><u>Environmental</u> None known.</p>

⁴ This depth was recommended by the Park's Department's arborist as an appropriate depth to reasonably protect the health of public trees.

	<p>This could threaten the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u> None known.</p> <p><u>Social</u> Allowing uncontrolled works within the dripline tree(s) could result in significant damage. This could threaten the historical benefits that the tree(s) provide.</p> <p><u>Cultural</u> Allowing uncontrolled works within the dripline tree(s) could result in significant damage. This could threaten the cultural benefits that the tree(s) provide.</p>	<p><u>Economic</u> Landowners, network utility operators and Council would not need to engage arborists or obtain resource consents to undertake works within the dripline of trees which will reduce costs.</p> <p><u>Social</u> More freedom to landowners, network utility operators and Council to undertake works within the dripline of tree(s) when they deem it necessary.</p> <p><u>Cultural</u> None known.</p>
Option	Efficiency & Effectiveness	
Option 1:	Option 1 is not as efficient and effective as Option 2. While the current provisions are very similar to the proposed provisions, the current provisions are inconsistent with the structure of the WDP under the Rolling Review, inconsistent with best practice, and do not allow works for the installation of network utilities supervised by an arborist.	
Option 2:	Option 2 is the most efficient and effective option as it presents the same benefits of protection as Option 1 while providing additional benefit through consistency with the structure of the WDP under the Rolling Review, closer alignment to recent best practice, and more directly enables the installation and operation of network utilities in road reserves in accordance with proposed objective NPT.1.3.3.	
Option 3:	Option 3 is not an efficient and effective option. Permitting all works within the dripline of trees would mean that all manner of works could be undertaken without the supervision from an arborist which could result in potential damage to the long-term health of trees. This would go against the intent of the objectives which seek to protect Notable trees and public trees from inappropriate subdivision, use and development.	
Option	Economic Growth and Employment Opportunities	
Option 1:	There are no economic growth and employment opportunities arising from the options for this component of PC129.	
Option 2:		
Option 3:		
Risk of acting and not acting if there is uncertain or insufficient information		
There is no risk due to insufficient information.		

244. Option 2 is the most efficient and effective option.

NPT.1.5.3 and NPT.1.5.6 Damage or Removal

245. Proposed rules for damage and removal of Notable Trees are contained in NPT.1.5.3 and for public trees are contained in NPT.1.5.6. Both proposed rules are the same. Apart from this exception and reference to “damage” instead of “destruction”, the proposed rules are the same as existing Rule 59.2.2 Removal of Trees in the WDP.

246. Reasonably practicable options for the rules for works within the dripline are identified below and assessed in detail in table 4:

- **Option 1:** Status Quo – Rule 59.2.2 Removal of Trees.
- **Option 2:** Proposed Provisions – NPT.1.5.3 and NPT.1.5.6.
- **Option 3:** Removal of Notable Trees and public trees is permitted.

TABLE 4: EVALUATION OF TRIMMING AND ALTERAION OPTIONS

Option	Costs	Benefits
<p>Option 1: Status Quo</p>	<p><u>Environmental</u> None known.</p> <p><u>Economic</u> There is a financial cost associated with landowners, network utility operators and Council obtaining resource consents for the removal of any Notable Trees or public trees.</p> <p><u>Social</u> Landowners, network utility operators and Council do not have the freedom to undertake removal of any Notable Trees or public trees without resource consent.</p> <p><u>Cultural</u> None known.</p>	<p><u>Environmental</u> Trees are protected from damage and removal. This will protect the ecological and amenity benefits that they provide. If a tree needs to be removed (e.g. for safety purposes or to accommodate important infrastructure), then Council can impose appropriate conditions to mitigate or offset (e.g. require planting of additional trees) the environmental effects of removal.</p> <p><u>Economic</u> None known.</p> <p><u>Social</u> Council has the ability to decline consent to the removal of any trees. Trees will only be allowed to be removed following due consideration in a resource consent process. If the effects are assessed to be more than minor, then public notification would be required and there would be an opportunity for the public to make submissions. Trees are protected from damage and removal. This will protect the historical benefits that the tree(s) provide. Consistency in application with existing Heritage Tree provisions / structure.</p> <p><u>Cultural</u> Trees are protected from damage and removal. This will protect the cultural benefits that the trees provide.</p>
<p>Option 2: Plan Change</p>	<p>The potential costs for Option 2 are the same as those identified above for Option 1.</p>	<p>The benefits for Option 2 are the same as those identified above for Option 1, with the exception being that there will not be consistency application with the existing Heritage Tree provisions. The main additional benefits of Option 2 are:</p> <ul style="list-style-type: none"> • The proposed provisions will match the structure of the new WDP Chapters under the Rolling Review. • The proposed provisions are more closely aligned with current best practice. •
<p>Option 3: Permitted Activity</p>	<p><u>Environmental</u> Allowing uncontrolled removal of Notable Trees and public trees could result in significant removal across the District. This would severely threaten the ecological and amenity benefits that the tree(s) provide.</p> <p><u>Economic</u> None known.</p> <p><u>Social</u> Allowing uncontrolled removal of Notable Trees and protected public trees could result</p>	<p><u>Environmental</u> None known.</p> <p><u>Economic</u> Landowners, network utility operators and Council would not need to obtain resource consents to remove Notable Trees or public trees which would reduce costs.</p> <p><u>Social</u> More freedom to landowners, network utility operators and Council to remove trees when they deem it necessary.</p>

	in significant removal across the District. This would severely threaten the historical benefits that the tree(s) provide. <u>Cultural</u> Allowing uncontrolled removal of Notable Trees and public trees could result in significant removal across the District. This would severely threaten the cultural benefits that the tree(s) provide.	<u>Cultural</u> None known.
Option	Efficiency & Effectiveness	
Option 1:	Option 1 is not as efficient and effective as Option 2. While the current provisions are very similar to the proposed provisions, the current provisions are inconsistent with the structure of the WDP under the Rolling Review, inconsistent with best practice and do not allow for the removal of trees when in accordance with an approved reserve management plan.	
Option 2:	Option 2 is the most efficient and effective option as it presents the same benefits of protection as Option 1 while providing additional benefit through consistency with the structure of the WDP under the Rolling Review and closer alignment to recent best practice.	
Option 3:	Option 3 is not an efficient and effective option. Permitting removal of Notable Trees and public trees could result in significant removal across the District. This would go against the intent of the objectives which seek to protect Notable trees and public trees from inappropriate subdivision, use and development.	
Option	Economic Growth and Employment Opportunities	
Option 1:	There are no economic growth and employment opportunities arising from the options for this component of PC129.	
Option 2:		
Option 3:		
Risk of acting and not acting if there is uncertain or insufficient information		
There is no risk due to insufficient information.		

247. Option 2 is the most efficient and effective option.

5.2.7 NPT.1.6 Discretionary Activities (Subdivision)

248. Three discretionary subdivision rules are proposed in NPT.1.6. These rules will replace those currently included in the WDP relating 'Other Significant Features' which link to the items scheduled in Appendix 2.

249. Reasonably practicable options for the discretionary activity subdivision rules in NPT.1.6 are as follows:

- **Option 1:** Status Quo – retention of subdivision rules in the subdivision Environment chapters
- **Option 2:** Proposed Provisions – NPT.1.6 which provides three rules for subdivision relating to Notable Trees and public trees.

250. It is considered that Option 2 represents the most efficient and effective option for the following reasons:

- The current WDP provisions locate rules relating to 'other significant features' within the body of the subdivision provisions. The rule refers to the need to locate features identified in Appendix 2 (as well as other appendices) within one of the allotments produced by the subdivision and ensure that building areas avoid the feature. Option 1 is considered to be an inefficient way of identifying the presence of a notable tree on a given site and does not provide clear links to the policy direction in NPT which underpin the outcomes sought for notable trees. For these reasons, Option 1 is not identified as an efficient or effective option.
- Option 2 provides a clear direction clearly linked to the NPT provisions and policy framework. The discretionary activity status gives Council the ability to decline consent where necessary or

grant consent subject to suitable conditions (such as consent notices) to ensure the ongoing protection of any Notable Trees or public trees.

- There are no economic growth and employment opportunities arising from the options for this component of PC129.
- There is no risk due to insufficient information.

251. Consequential changes to the subdivision rules are required to implement this option. Amendments to the Other Significant Features rules (74.3.16 and 71.3.15) in chapters 71 and 74 are required to delete reference to Appendix 2 as this will be replaced by the provisions in NPT. This is reflected in the consequential changes attached at **Appendix C**.

5.2.8 NPT.1.5 and NPT.1.6 – Discretionary Activity Status

252. NPT.1.5 and NPT.1.6 propose a discretionary activity status for the activities specified within them. This is generally consistent with the activity status specified in Chapter 58, with the trimming of trees pursuant to Rule 59.2.1 and the removal of trees pursuant to Rule 59.2.2 providing a discretionary activity status, however Rule 59.2.3 activities near a heritage tree specifies a restricted discretionary activity status. It is appropriate to consider what activity status should apply.

253. Reasonably practicable options for the discretionary activity status in NPT.1.5 and NPT.1.6 are as follows:

- **Option 1:** Status Quo – discretionary activity status for trimming of trees pursuant to Rule 59.2.1 and the removal of trees pursuant to Rule 59.2.2, and restricted discretionary activity status for activities near a heritage tree pursuant to Rule 59.2.3.
- **Option 2:** Proposed Provisions – discretionary activity status for all activities specified in NPT.1.5 and NPT.1.6.
- **Option 3:** Permitted activity status for all activities specified in NPT.1.5 and NPT.1.6.
- **Option 4:** Controlled activity status for all activities specified in NPT.1.5 and NPT.1.6.
- **Option 5:** Restricted discretionary activity status for all activities specified in NPT.1.5 and NPT.1.6.
- **Option 6:** Non-complying activity status for all activities specified in NPT.1.5 and NPT.1.6.
- **Option 7:** Prohibited activity status for all activities specified in NPT.1.5 and NPT.1.6.

254. It is considered that Option 2 represents the most efficient and effective option for the following reasons:

- A discretionary activity status (Option 2) is appropriate as it allows Council to consider any relevant matter when deciding whether to grant or decline a resource consent. Assessment criteria is provided in NPT.1.7 to provide clear indication as to what matters Council would consider when reviewing a resource consent application, whilst not unnecessarily restricting the ability to consider other matters that could arise from various situations. Furthermore, the proposed discretionary activity status is consistent with the architecture of the WDP under the Rolling Review, which sees most new chapters utilising a discretionary activity status for activities that require resource consent.
- A permitted activity status (Option 3) is not efficient nor effective as the uncontrolled trimming or alteration, works within driplines and removal of Notable Trees and public trees could result in significant removal across the District. This would go against the intent of the proposed objectives which seek to protect Notable trees and public trees from inappropriate subdivision, use and development.
- A controlled activity status (Option 4) is not an efficient nor effective option because a controlled activity resource consent must be granted, albeit with the ability of Council to impose conditions relating to specified matters of control. This would allow trimming or alteration, works within driplines and removal of Notable Trees and public trees with Council only able to specify

conditions of consent. This would go against the intent of the proposed objectives which seek to protect Notable trees and public trees from inappropriate subdivision, use and development.

- A restricted discretionary activity status (Option 5 and part Option 1) is not efficient or effective. The architecture of the WDP under the rolling review is generally seeing restricted discretionary activity status phased out in favour of permitted, discretionary, non-complying and prohibited activity statuses. This is intended to reduce the size and complexity of the WDP and to avoid unnecessarily restricting the ability to consider other matters that could arise from various situations. There are many matters that need to be considered for the trimming or alteration, works within driplines and removal of Notable Trees and public trees, and it is not considered appropriate to restrict the discretion of Council in this regard.
- A non-complying activity status (Option 6) is not efficient nor effective as a non-complying activity status assumes that the activity is not provided for by the objectives and policies and is generally utilised in situations where it is intended that consents only be granted in exceptional circumstances. The proposed objectives and policies recognise that in certain instances it may be necessary to allow trimming or alteration, works within driplines and removal of Notable Trees and public trees.
- A prohibited activity status (Option 7) is not efficient nor effective as it would prohibit any activity without exception. This is not appropriate as the proposed objectives and policies recognise that in certain instances it may be necessary to allow trimming or alteration, works within driplines and removal of Notable Trees and public trees.
- There are no economic growth and employment opportunities arising from the options for this component of PC129.
- There is no risk due to insufficient information.

5.2.9 NPT.1.7 Assessment Criteria for Discretionary Activities

255. NPT.1.7 proposes assessment criteria for discretionary activities pursuant to the rules in NPT.1.5 and NPT.1.6.
256. Reasonably practicable options for the assessment criteria for discretionary activities in NPT.1.7 are as follows:
- **Option 1:** Status Quo – no assessment criteria.
 - **Option 2:** Proposed Provisions – assessment criteria for discretionary activities pursuant to NPT.1.7.
257. Option 2 is considered the most efficient and effective option for the following reasons:
- The current provisions (Option 1) specify a discretionary activity status for trimming of Heritage Trees (Rule 59.2.1) and the removal of Heritage Trees (Rule 59.2.2) but do not give any assessment criteria to applicants and resource consent planners as to what the likely matters of concern are. Activities near a heritage tree (Rule 59.2.3) are considered a restricted discretionary activity so matters of discretion are provided. However, as outlined in the assessment in section 5.2.8 above, the discretionary activity status for all trimming and alteration, works within driplines and removal of Notable Trees and public trees has been assessed as the most efficient and effective option, therefore the matters for discretion in Rule 59.2.3 are proposed to be deleted.
 - Providing assessment criteria for discretionary activities pursuant to the rules in NPT.1.5 and NPT.1.6 (Option 2) gives a clear indication as to what matters Council would consider when reviewing a resource consent application, whilst not unnecessarily restricting the ability to consider other matters that could arise from various situations. It is considered that the proposed assessment criteria will give direct guidance which will help achieve the proposed objectives.

- The proposed utilisation of assessment criteria is consistent with the architecture of the WDP under the Rolling Review, which sees most new chapters utilising assessment criteria for discretionary activities that require resource consent.
- There are no economic growth and employment opportunities arising from the options for this component of PC129.
- There is no risk due to insufficient information.

5.2.10 NPT.1.8 Criteria for Notable Tree Classification

258. NPT.1.8 provides criteria for Notable Tree Classification.

259. Reasonably practicable options considered for Notable Tree Classification include:

- **Option 1:** Status Quo – retain the existing criteria in Schedule 14A of the WDP.
- **Option 2:** Amend existing criteria or provide new criteria.
- **Option 3:** Proposed Provisions – Simply refer to the STEM™ publication⁵.

260. It is considered that Option 3 is the most efficient and effective option for the following reasons:

- During consultation with Council staff, no concerns were raised from Council's perspective with the existing criteria in Schedule 14A of the WDP (Option 1). There was some concern expressed in pre-notification consultation regarding the fairness of the STEM™ criteria and the ability to take into account restrictions that a scheduled tree places on a private landowner. An explanation of the criteria is provided in section 1.2.4 of this report. The STEM™ criteria are considered to be comprehensive and generally consistent with recent district plan reviews undertaken in other areas (see general discussion in section 1.3 of this document). The issue with Option 1, it is unclear what link the criteria in Schedule 14A have to the STEM™ criteria in the relevant publication and how the individual criteria are scored.
- Amending the existing criteria or providing new criteria (Option 2) is not an efficient nor effective option. It would consequently require the revisiting of every existing scheduled tree in Appendix 2 to ensure that it met any new / amended criteria. While there would be some benefit in terms of ensuring that the criteria were consistent with current best practice, this would be offset by the significant financial burden to Council in terms of engaging a suitably qualified arborist and requiring them to visit every tree. This is considered unnecessary given that no concerns from Council were expressed with the existing criteria and because it is understood that all of the scheduled trees in Appendix 2 were reviewed in 2010. The draft pre-notification consultation process has enabled landowners with scheduled trees currently on them to submit on their existing trees and obtain revised STEM assessments from Council's arborist Mr Miller. Furthermore, the Schedule 1 public notification process for Plan Changes means that landowners, network utility operators and the general public can make submissions on PC129 and the criteria in NPT.1.8. This will enable Council to consider any requests for changes if they are made, and further engage an arborist to consider these requests following the completion of the public notification process.
- Option 3 is very similar to Option 1 in that it refers to the STEM™ criteria in the relevant publication. However, it is different in that it simply directs the assessment to the STEM™ publication rather than attempting to interpret or paraphrase the relevant criteria in Schedule 14A. It is considered that this is more efficient and effective option as this will avoid any confusion about the applicability of the STEM™ criteria.
- There are no economic growth and employment opportunities arising from the options for this component of PC129.
- There is no risk due to insufficient information.

⁵ Flook, R. 1996: A Standard Tree Evaluation Method, published by Ron Flook, Lower Hutt, New Zealand.

5.2.11 NPT.1.9 Schedule of Notable Trees

261. NPT.1.9.1 includes the schedule of trees that are considered Notable Trees (formally those included at Appendix 2) in the NPT Chapter as opposed to referring to them as an Appendix. This schedule replicates Appendix 2, however trees which had been removed or their location has been determined to be inaccurate have been deleted or updated. Further changes have also been made as a result of the revised STEM™ assessments undertaken by Mr Miller in response to the feedback received during pre-notification consultation.
262. Reasonably practicable options considered for Notable Tree Classification include:
- **Option 1:** Status Quo – retain the existing Schedule of Trees in Appendix 2 of the WDP.
 - **Option 2:** Proposed Provisions – retain the existing Schedule of Trees amending to reflect tree removals, clarifications around tree location and revised STEM™ assessments undertaken by Council's arborist in response to feedback received during pre-notification consultation.
 - **Option 3:** Review all existing trees to see if they still warrant protection and consider new trees for addition to the schedule prior to notification.
263. It is considered that Option 2 is the most efficient and effective option for the following reasons:
- Option 1 and Option 2 achieve the same outcome, the difference being that Option 2 removes trees from the existing list which have already been removed or their details updated (e.g. some trees had the wrong legal description in terms of their location) and in response to the revised STEM™ assessments undertaken by Mr Miller in response to feedback received during pre-notification consultation. It makes sense and is more efficient to update the details of these trees and delete any trees that are known to have been removed. Therefore Option 2 is considered the most efficient and effective option.
 - Option 3 is not an efficient and effective option. It would require the revisiting of every existing scheduled tree in Appendix 2. While there would be some benefit in terms of ensuring that the currently scheduled trees still exist and that they still maintained a STEM™ score over 100, this would be offset by the significant financial burden to Council in terms of engaging a suitably qualified arborist and requiring them to visit each and every tree. This is also considered unnecessary as it is understood that the scheduled trees in Appendix 2 were reviewed in 2010. Landowners and adjoining properties with scheduled trees listed on them were informed of the draft provisions and pre-notification consultation process that was undertaken. A number of submissions were received and site visits undertaken by Mr Miller in response to the instances where a site visit was required with revised STEM™ assessments being undertaken. Furthermore, the Schedule 1 public notification process for Plan Changes means that landowners, Council departments, network utility operators and the general public can make submissions requesting the removal of existing scheduled trees or the addition of unprotected trees. This will enable the appropriate consideration of any requests, and allow Council to further engage an arborist if additional requests for the removal or addition of additional trees to the schedule in NPT.1.9 are made.
 - There are no economic growth and employment opportunities arising from the options for this component of PC129.
 - There is no risk due to insufficient information.

5.2.12 NPT.1.10 Public trees

264. NPT.1.10.1 states which trees are considered public trees. This includes trees greater than 6.0m in height or with a girth (measured 1.4m above the ground) greater than 600mm located within a road reserve, park and reserve administered by Whangarei District Council with exclusions relating to pest species in the Northland Regional Council Pest Management Strategy and Surveillance list and specific pest species identified by the Council. These exceptions have been included based on the blanket consent (RC40898 and as amended by LU0840898.02 which is available from Council on request) for unscheduled heritage trees granted to the Council's Parks Department.

265. Reasonably practicable options considered for Notable Tree Classification include:

- **Option 1:** Status Quo – retain the general protection Note on page 12 of Appendix 2 of the WDP.
- **Option 2:** Proposed Provisions – retain the general protection note and parameters, but include exclusions relating to pest species in the Northland Regional Council Pest Management Strategy and Surveillance list and specific pest species identified by Council.
- **Option 3:** No general protection for trees located within a road reserve, park and reserve administered by Whangarei District Council.

266. it is considered that Option 2 is the most efficient and effective option for the following reasons:

- Option 1 is not an efficient or effective option. Council has had to obtain a resource consent (RC40898 and as amended by LU0840898.02) to allow blanket approval for certain activities relating to generally protected trees. This is not efficient as the consent has only a limited duration and reapplication for this consent is a costly process. Furthermore, the Parks Department's arborist has advised that measuring the girth of the tree at 500mm is not appropriate for a public tree and advised that current best practice is Diameter at Breast Height which is generally 1.4m. Alternatively, it is also costly for Council to apply for consent to undertake certain activities and to remove pest species on a case by case or site specific basis. It is logical to incorporate scope for the removal of pest species into the WDP provisions to enable this activity and support regional biosecurity outcomes.
- Option 2 retains the majority of the size parameters for general protection, but increases the girth measurement from 500mm above ground to 1.4m above ground and includes exclusions relating to pest species in the Northland Regional Council Pest Management Strategy and Surveillance list and specific pest species identified by Council. This avoids the cost of Council having to apply for consent to remove these pest species and also allows greater scope to network utility providers to undertake works where these species are located.
- Option 3 is not an efficient or effective option as it could result in the widespread removal of trees in road reserves or reserves administered by the Council. These trees contribute to ensuring the streetscape is visually appealing while improving pedestrian amenity and public health. These trees also provide an important environmental function in terms of storing carbon, providing habitat and food for wildlife, improving air quality and contributing to character and amenity values. Not providing general protection for these trees would not achieve the objectives which seek to protect these trees which contribute to historical, ecological, cultural and amenity values.
- There are no economic growth and employment opportunities arising from the options for this component of PC129.
- There is no risk due to insufficient information.

5.2.13 Consequential Changes

267. As a result of providing a combined chapter for Notable and Public Trees a revision of the provisions and controls across the WDP is required.

268. Broadly this involves:

- The deletion of Part C Policies – Chapter 14 Heritage Trees. All objectives and policies for Notable and Public Trees are now proposed to be located in NPT.1.3 and NPT.1.4 with the criteria for heritage tree classification located in NPT.1.8.
- The deletion of Part E Resource Areas – Chapter 59 Heritage Tree Resource Area Rules. All rules for Notable and Public Trees are now proposed to be located in NPT.1.5 and NPT.1.6.
- The deletion of Appendix 2 – Heritage Trees. The schedule of Notable and Public trees is now proposed to be located in NPT.1.9.

- Amendment to the REF – Referenced Documents Chapter to incorporate reference to the STEM™ publication referred to in the text of the NPT chapter.
- Amendment to the Other Significant Features Rules in Part F – Subdivision Rules – Living 1, 2 and 3 Environments and Part F – Subdivision Rules - Business 1, 2, 3, 4, Town Basin, Marsden Point Port, Port Nikau and Airport Environments to remove reference to Appendix 2.
- Consequential change to matters of control and assessment criteria for subdivision:
 - The expansion of matters at 70.3 ‘Additional Matters Over Which Control Has Been Reserved’ to refer to “...the identification, accommodation and protection of any trees or groups of trees which are considered to be notable or of value in terms of their form; occurrence of the species; vitality; function; age; stature; visibility; proximity of other trees; role in setting; climatic influence; special feature; historic value and’ scientific and botanical value,...”

269. A detailed summary of these changes is provided at Appendix C. These changes are considered to be required to implement the proposed NPT provisions which have been identified as the most efficient and effective way for achieving the objectives. An analysis of the options associated with plan structure is discussed in previous sections.

270. It is considered that these consequential changes are necessary and represent the most efficient and effective approach to achieving the proposed objectives.

6.0 Summary and Conclusion

271. Plan Change 129 has been developed to review the existing Heritage Tree Provisions in the WDP. The review of these provisions has identified that the existing provisions require some amendment and restructuring.

272. Three key objectives have been developed, which have been considered in relation to; Part 2 of the RMA, the relevant National Environmental Standards and National Policy Statements, the relevant objectives in the Regional Policy Statement and in the Regional Plan, the overarching objectives in the WDP, and the relevant Iwi Management Plans and non-statutory documents applicable for the District. Pursuant to Section 32 of the RMA, and subject to the above review, these objectives have been assessed to be the most appropriate way to achieve the purpose of the RMA.

273. The proposed provisions have been detailed and compared against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of section 32 of the RMA. It is considered that the proposed provisions represent the most efficient and effective means of achieving the proposed objectives and for addressing the underlying resource management issues relating to notable and public trees.