

**Chapter 60****TREES****60.1 RESOURCE MANAGEMENT ISSUES:**

The following resource management issues have been identified as significant throughout Napier City:

**60.1.1 The identification and protection of both individual and groups of trees of historic, cultural, scientific and/or horticultural significance.**

In previous planning documents and reports, there are very few trees that have been identified with historic, cultural, scientific and/or horticultural significance within Napier City. The trees that have been identified were identified and scheduled under the Napier City Transitional Plan. A review of the District Plan has enabled the further identification and protection of other trees within the City that are considered to have historic, cultural, scientific and/or horticultural significance. With the identification of notable trees, suitable protection can be applied to ensure that current and future generations are able to enjoy the benefits of significant trees.

**60.1.2 The contribution of trees to the amenity and environmental quality of the City.**

The Act requires the Council to have particular regard to the maintenance and enhancement of amenity values and the quality of the environment. Trees make a significant contribution to the amenity of Napier City. In general, trees enhance visual amenity throughout the whole City. Trees also contribute to the environmental quality of the City in terms of acting as a noise buffer between residential sites and land uses in the City. Trees act as weather shields providing shelter from rain, wind and sun. Trees are excellent land stabilisers in areas prone to erosion and trees also contribute to the control of atmospheric effects such as pollution. Trees can also become an identifying feature for the City. Napier is well known for its avenues of Phoenix Palms (along Kennedy Road) and Norfolk Pines (along Marine Parade). Therefore the Council seeks to retain appropriate trees throughout the City..

**60.1.3 The need to achieve a balance between the protection of trees and private property rights.**

The preservation and protection of trees for public enjoyment, amenity, historic, cultural, scientific and horticultural purposes is important for the City. However, this must be balanced with the right of property owners to utilise their land and to alleviate adverse effects, such as fire risk or excessive shading, that trees may have on their own sites and on adjacent sites.

Trees can have adverse effects on people living in close proximity to them. The reasonable expectations of adjacent residents to a satisfactory living environment must be provided for. Any perceived or actual negative impacts i.e. leaf drop, shading, blockage of views and safety threats should be balanced against the benefits of tree retention, ie visual amenity, ecological benefit, particularly to the wider environment and for the individual concerned.

**60.1.4 The identification and use of appropriate tree species for roads.**

Napier City has encountered problems due to the planting of inappropriate tree species on roads, including adverse effects on affected on some network utility operations, roads and footpaths. To avoid problems occurring in the future, the Council will develop a list of appropriate trees that will reduce adverse effects on the infrastructure of the City and will result in enhanced amenity for the City.

**OBJECTIVES, POLICES AND METHODS**

The following objectives, policies and methods apply to all zones throughout the City.

**Objective 60.2**

To identify and protect trees (individual and groups) which significantly contribute to the City's character and amenity.

*This objective relates to Issues 60.1.1; 60.1.2 and 60.1.4.*

**Policies**

To achieve this objective, the Council will:

- 60.2.1 Identify significant historic, cultural, scientific and horticultural features of trees that contribute to the City's character and amenity.
- 60.2.2 Identify and protect notable trees in public ownership,
- 60.2.3 Encourage the protection of significant trees in private ownership.
- 60.2.4 Encourage and promote the preservation of significant trees that add to the City's amenity.
- 60.2.5 Encourage the retention of trees that contribute to the amenity values of the area where this is compatible with site development.

***Principal Reasons for Adopting Objective and Policies***

*Identification of significant trees serves several functions. It helps inform and educate people about the existence of the tree. It allows people to appreciate the tree and reduces the risk of it being destroyed through ignorance. Identification provides a framework for regulation of land uses affecting a tree, according to its relative importance. Also it is a requirement of the Act for the Council to have particular regard to amenity and environmental quality.*

*Trees with historic, cultural, scientific and horticultural characteristics are considered to contribute to differing aspects of amenity and environmental quality in the City. Trees located throughout the City on public land need to be clearly identified in order maintain the City's amenity and environmental quality. Also there are other trees in the City which do not have the significant characteristics described above, but add value to the City and contribute to the amenity, and character of the City. These may require some form of protection of their value as recognition of their contribution to the City's amenity.*

*The Council recognises the financial obligations that result from imposing protection mechanisms on trees on private property. Unfortunately the Council does not have the resources to commit to such measures and therefore will protect significant trees on public land while encouraging land owners to take voluntary protection measures for significant trees on private property.*

## Methods

- (1) Standard Tree Evaluation Method (STEM).
- (2) District Plan Rules.
- (3) Scheduling of notable trees in the District Plan and identification on Planning Maps.
- (4) Voluntary covenants to protect trees.
- (5) Education and Information.

### **Reasons for Methods**

*The Standard Tree Evaluation Method is recognised by the Environment Court and is widely used by other local authorities as an objective and consistent evaluation method for identifying significant trees. STEM will be used to identify public trees of historic, cultural, scientific, and horticultural significance within Napier City. The identified trees on public property will then be protected by rules in the District Plan. Rules are considered necessary in the district plan to achieve certainty that a level of protection of the City's tree resource will be met. Such certainty will be enhanced by the scheduling of identified notable trees in the Plan and on the Planning Maps. Concurrently, owners of significant trees on private property will be encouraged to apply methods such as covenants to ensure the trees' continued protection. Such encouragement will occur through education about trees and information on methods available to protect trees.*

### **Objective 60.3**

To improve the public awareness of the effects of trees.

*This objective relates to Issue 60.1.3.*

## Policies

To achieve this objective, the Council will:

- 60.3.1 Provide information on the positive effects of trees.
- 60.3.2 Provide information on managing any negative effect of a tree.
- 60.3.3 Provide advice on the management of different species of trees.
- 60.3.4 Identify and protect trees and/or undertake new plantings where necessary for the purposes of avoiding and mitigating the adverse effects of natural hazards.

### **Principal Reasons for Adopting Objective and Policies**

*Increasing public awareness of the importance of trees for the quality of the urban and rural environment is necessary to encourage individuals and groups to work towards tree protection and preservation. The identification of any notable tree or other tree will be accompanied by the provision of information and advice to the community on how to further protect and manage trees.*

*Information will be provided on the benefits of trees, as well as methods to manage/control any negative effects of trees, ie through the promotion of planting suitable species to minimise adverse effects on roads. It is envisaged that through education the community will increase their appreciation for trees, and will undertake steps to maintain existing trees, and undertake plantings of appropriate new species through out the City and in its rural environment.*

*Trees have a valuable role in soil stabilisation, in particular areas through out the City (Napier Hill) and rural areas (including Taradale Hills) trees are very necessary to counter react land slippage (erosion). In order to preserve the quality of soil, the protection and replanting of trees in these hazard prone areas is a vital step towards minimising the adverse effects of natural hazards.*

**Methods**

- (1) District Plan Rules.
- (2) Education.
- (3) Scheduling of notable trees.
- (4) Promotion of voluntary protection of trees.

**Reason for Methods**

*Rules in the district plan, the scheduling of notable trees in the district plan and their identification on planning maps goes some way towards increasing the public awareness of trees within the City. However, further measures are required to ensure the positive and negative effects of trees are fully recognised. Education in the form of information and advice on the effects of trees and voluntary measures that can be undertaken to protect trees, will help ensure that trees are preserved and maintained.*

**Objective 60.4**

To encourage the community and private landowners to undertake their own initiatives for the protection of trees.

*This objective relates to Issue 60.1.3.*

**Policies**

To achieve this objective, the Council will:

- 60.4.1 Provide flexibility in development controls on sites containing notable trees where:
  - a) The significant values of the tree are not adversely effected by the development.
  - b) Any adverse effects on adjoining sites are minor.
  - c) There is a compensatory environmental benefit from protection of the tree.
- 60.4.2 Promote other methods available for tree protection.
- 60.4.3 Provide information on the methods available to individuals and landowners for protecting trees they consider to be significant/important.

**Principal Reasons for Adopting Objective and Policies**

*These policies indicate that there are many ways that trees can be protected, other than through the regulatory mechanism of the district plan. The Council wishes to promote these other regulatory and non-regulatory methods in order to provide alternatives for the management of trees within the City.*

*Depending on the circumstances of the case, the Council will consider providing an incentive to owners to protect trees. Incentives such as flexibility or waiving of development controls where they enable a significant tree to be preserved and the effects of such preservation are minor. Such flexibility could be in the form of being allowed to exceed building coverage, site size, parking or depart from other rules in this Plan. However, an important part of the policies is that any incentives granted in the process should not adversely effect the values of the notable tree(s).*

## Methods

- (1) Information and advice about the regulatory and non-regulatory methods available to protect trees.
- (2) Promote voluntary methods available for tree protection.

### **Reasons for Methods**

*Information and advice about the regulatory and non-regulatory methods available to protect trees will ensure that landowners and the general public are fully aware of their ability to protect the trees that they consider to be important. This allows the public to have a greater responsibility in the area of tree protection, assisting the tree protection/preservation work undertaken by Napier City Council.*

## **Objective 60.5**

To encourage new plantings of appropriate tree species in appropriate locations.

This objective relates to Issue 60.1.4.

## **Policies**

To achieve this objective, the Council will:

- 60.5.1 Encourage the planting of appropriate trees species during land development and subdivision.
- 60.5.2 Maintain a proactive role for the Council in planting trees.
- 60.5.3 Continue the practice of planting appropriate trees on roads and public reserves and protecting these from unnecessary interference or destruction.
- 60.5.4 Ensure that tree planting does not give rise to the disruption of network utilities or other service operations.

### **Principal Reasons for Adopting Objective and Policies**

*To further enhance the amenity, character and environmental quality of the City, the Council needs to be proactive in the planting of trees in public places i.e. on road reserves and public reserves. These trees require the chance to establish themselves in the environment and therefore need to be protected from unnecessary interference, destruction or vandalism.*

*It is also important to promote new plantings in recognition of their important role in enhancing the urban environment, whilst recognising and providing for individual landowners who need to modify or remove trees no longer suitable for their location.*

*In addition, much of Napier City has trees planted in the road reserve. Development of lateral root structures of some of the tree species are damaging the footpath as well as the kerb and channel. To offer an acceptable level of safety for pedestrians via a smooth footpath, free of potholes, removal of some trees may be necessary. The need for action may also arise from deterioration in functionality of drainage channels, with consequent effect on the life of the surrounding pavement. Many trees are located between the kerb and the road centre line or on the central median strip, these have the potential to affect the roads smoothness and its safety for vehicle travel. Such disruption to network utility operations, including roads and footpaths, power lines, needs to be minimised and one method is the removal or pruning of the trees causing the problems. This may result in the loss of visual amenity, however the Council will undertake replacement planting of appropriate species in appropriate locations in order to reinstate some of the benefits of trees including visual amenity and ecological benefit.*

**Methods**

- (1) District Plan Rules.
- (2) Information about the positive and adverse effects of trees.

**Reasons for Methods**

*Rules in the district plan will ensure that the Council maintains a consistent policy on the planting of trees in public places, and that the importance of such plantings to the amenity, character and environmental quality of the City is recognised. The provision of information about the effects of trees in general, will ensure adverse effects are minimised and positive effects are encouraged and enhanced.*

**60.6 ANTICIPATED ENVIRONMENTAL RESULTS**

- (1) The retention and maintenance of trees with significant historic, cultural, scientific and horticultural features/characteristics.
- (2) Identification of trees important to the City.
- (3) Greater public awareness of the effects of trees.
- (4) Greater public awareness of suitable trees in the City.
- (5) Recognition and protection of amenity values created by trees in the City.
- (6) Increased knowledge by the public and property owners of the value of trees.
- (7) Recognition of the amenity, landscape and environmental value of trees and appreciation of the need to properly manage trees.

## INTRODUCTION TO RULES

This chapter contains rules for notable trees throughout the City. All rules apply to all areas of the City and are in addition to the specific zone rules and district wide rules unless otherwise stated. The notable trees are scheduled in Appendix 14 and identified on the Planning Maps.

### 60.7 Summary of Rules for Notable Trees

The following is a quick reference guide that summarises the Trees Activity Table. It is intended as a guide only and should not be used in place of the Trees Activity Table elsewhere in this chapter.

Rule Number and Description		Classification	Page Number
Rule 60.8	Trimming, pruning and treatment of a notable tree.	Permitted	8
Rule 60.9	Removal or destruction of a notable tree.	Permitted	8
Rule 60.10	Vehicles within the dripline of a notable tree.	Permitted	8
Rule 60.12	Any subdivision, use or development in rules 60.8 to 60.10 that does not comply with all of the relevant conditions in the Trees Activity table and condition table	Restricted Discretionary	9
Rule 60.13(a)	The removal or destruction of a notable tree that is not dead, or does not have a potentially fatal disease and/or does not have the potential to create severe adverse effects on the health and safety of people.	Discretionary	9
Rule 60.13(b)	Construction of, or alteration to, any building or structure within the dripline of any notable tree.	Discretionary	9
Rule 60.13(b)	Any new network utility operations within the dripline of any notable tree.	Discretionary	9
Rule 60.13(b)	Earthworks within the dripline of any notable tree.	Discretionary	9
Rule 60.13(b)	Storage of any structure, machinery or vehicles within the dripline of any notable tree.	Discretionary	9
Rule 60.13(b)	Discharge or dispersal of any hazardous substance within the dripline of any notable tree.	Discretionary	9
Rule 60.13(c)	Any land use not specifically provided for elsewhere in this Plan as a prohibited activity, permitted activity, controlled activity or a restricted discretionary activity.	Discretionary	9

## DISTRICT WIDE NOTABLE TREES – ACTIVITY TABLE

PERMITTED ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p><b>60.8 Trimming, Pruning and Treatment of Notable Trees</b></p> <p>1. The trimming or pruning of a notable tree is a permitted activity provided that:</p> <ol style="list-style-type: none"> <li>It is not detrimental to the health of the tree.</li> <li>It does not significantly alter the size or shape of the tree, except where there are actual or potential adverse effects on the health and safety of people.</li> <li>The work is done in accordance with accepted arboricultural practice and is undertaken by Napier City Council</li> <li>The trimming or pruning of a notable tree complies in all respects with the relevant conditions of the respective zone's activity table and condition table.</li> </ol>	<p>Matters:</p> <ul style="list-style-type: none"> <li>- The condition of the notable tree.</li> <li>- The valuation of the tree under STEM.</li> <li>- Whether the tree is causing or is likely to cause serious damage to people or buildings and structures.</li> <li>- The effects of excessive shading and other nuisances on the property and adjoining properties.</li> <li>- The ecological benefit of the tree to the surrounding ecosystem.</li> </ul>
<p><b>60.9 Removal or Destruction of a Notable Tree</b></p> <p>1. The removal or destruction of a notable tree is a permitted activity provided that:</p> <ol style="list-style-type: none"> <li>The tree is either dead, has a potentially fatal disease, or has the potential to create severe adverse effects on the health and safety of people.</li> <li>It is undertaken by Napier City Council and approved by the Reserves Asset Manager and the Chief Executive Officer.</li> <li>It complies with the Napier City Council Tree Removal Policy in the Reserve Management Plan March 2000.</li> <li>The removal or destruction of a notable tree complies in all respects with the relevant conditions of the respective zone's activity table and condition table.</li> </ol>	<p>Matters:</p> <ul style="list-style-type: none"> <li>- The condition of the notable tree.</li> <li>- The valuation of the tree under STEM.</li> <li>- Whether the tree is causing or is likely to cause serious damage to people or buildings and structures.</li> <li>- Whether a replacement tree can be established and maintained.</li> <li>- Whether the tree is an individual tree or forms part of a group of trees and how this affects the landscape value.</li> <li>- The value of the tree in respect of ecological processes and habitat value</li> </ul>
<p><b>60.10 Vehicles within the dripline of a notable tree.</b></p> <p>1. Vehicles within the dripline of the following notable trees is a permitted activity provided that it is on a sealed marked parking area:</p> <ol style="list-style-type: none"> <li>Kennedy Road: Phoenix Palms.</li> <li>Marine Parade: Norfolk Pines.</li> <li>Corner Jull Street and Carnell Street: Pohutukawa.</li> </ol>	<p>Matters:</p> <ul style="list-style-type: none"> <li>- The health of the notable tree.</li> <li>- The effect on the root system of the tree.</li> <li>- The effects of compressed soil, oil contamination on quality and condition of the soil.</li> <li>- The availability of alternative locations for the vehicle.</li> </ul>
CONTROLLED ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p><b>60.11 Controlled Activities</b></p> <p>1. There are no controlled activities in respect of notable trees.</p>	



RESTRICTED DISCRETIONARY ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p><b>60.12 Land Uses Not Complying With Conditions</b></p> <p>1. Any subdivision, use or development in rules 60.8 to 60.10 that does not comply with all of the relevant conditions in the Trees Activity table and condition table is a restricted discretionary activity, unless stated by a rule elsewhere in this Plan.</p>	<p>The Council will have regard to the relevant objectives and policies of the Plan and will restrict its discretion to:</p> <ul style="list-style-type: none"> <li>- The matters identified in the second column of the Trees activity table.</li> <li>- The cumulative effect of non-compliance with more than one condition.</li> <li>- In respect of a controlled activity failing to comply with all of the relevant conditions, those matters the Council had reserved its control over.</li> <li>- The matters set out in Chapter 1.6.5.</li> <li>- The assessment criteria in 60.15 of this Plan where applicable.</li> </ul>
DISCRETIONARY ACTIVITIES	
<p><b>60.13 Discretionary Activities</b></p> <p>1. The following land uses are discretionary activities. A resource consent application must be made and consent may be declined or granted with or without conditions. The Council will have regard to the objectives and policies of this Plan and the assessment criteria in this Chapter. The Council's discretion is unrestricted.</p> <p>a) The removal or destruction of a notable tree that is not dead, or does not have a potentially fatal disease and/or does not have the potential to create severe adverse effects on the health and safety of people.</p> <p>b) Within the dripline of any notable tree, whether or not the activity is on the same site as the notable tree.</p> <ul style="list-style-type: none"> <li>i) The construction of, or addition to, any building or structure.</li> <li>ii) Any new network utility operations.</li> <li>iii) Any earthworks</li> <li>iv) Storage of any structure, machinery or vehicles (unless provided for elsewhere in this activity table).</li> <li>v) Discharge or dispersal of any hazardous substance.</li> </ul> <p>c) Any land use not specifically provided for elsewhere in this Chapter as a prohibited activity, a permitted activity, a controlled activity or a restricted discretionary activity.</p>	
PROHIBITED ACTIVITIES	
<p><b>60.14 Prohibited Activities</b></p> <p>1. There are no prohibited activities in respect of trees.</p>	

**60.15 ASSESSMENT CRITERIA**

Some discretionary activity and restricted discretionary rules refer to assessment criteria to assist the Council in considering resource consent applications. The Council will have regard to the Assessment Criteria outlined below for Trees when considering an application under Sections 104 and 105 of the Act.

**1. General**

The following criteria will be used by the Council in considering a resource consent application for a Discretionary Activity or a Restricted Discretionary Activity for non-compliance with one or more conditions in the relevant activity table and/or condition table.

- a) Any unusual circumstances including, but not limited to, those listed below:
  - i) Inherent site considerations: including unusual size, shape, topography, substratum, vegetation or flood susceptibility;
  - ii) Particular site development characteristics: including the location of existing buildings or their internal layout, achievement of architectural harmony, compliance with engineering or bylaw standards, enhancement of private open space, achievement of a better relationship between the site and the road, building renovation or restoration of demonstrable merit, the design and arrangement to facilitate access for the disabled, or legal impediments;
  - iii) Unusual environmental circumstances: including adverse topography, unusual use or location of buildings on adjacent sites, improved amenity for neighbouring sites, the presence of effective adjacent screening.

**2. Trees**

The Council will have regard to the relevant objectives and Policies of this Plan and in addition will consider:

*Health*

- a) Whether the tree has a potentially fatal disease or has been damaged beyond recovery.
- b) Whether the activity can be undertaken without adversely affecting the health of the tree, or compromising the appearance and setting of the tree.
- c) The ability to undertake the proposed land use in a different location or manner, to reduce adverse effects on the tree.
- d) Whether a suitable replacement tree can be established and maintained on the site.

*Amenity*

- e) The effects of proposed land use on the visibility of the tree from a road or any public open space.
- f) Whether the contribution of the tree to the amenity of the surrounding area, or to any habitat or ecosystem will be adversely affected.

*Safety and Infrastructure*

- g) Whether the tree is causing or is likely to cause significant damage to buildings, structures, services or property.
- h) Whether the tree significantly restricts the development potential of the site, widening of a road, or is a hazard to traffic.

**60.16 PRINCIPAL REASONS FOR RULES****1. General**

The notable trees have been listed in the plan because of their level of significance. There is a general assumption that any land use that has the potential to adversely affect these trees will not be permitted. Any activity that is not listed as a prohibited, permitted or restricted discretionary activity will be a discretionary activity to ensure that the Council has the opportunity to fully assess the effects of the land use on the tree. This is necessary to ensure that these trees will remain for future generations.

**2. Trimming, Pruning and Treatment of Notable Trees**

The trimming, pruning and treatment of trees, when undertaken by a trained arbourist can improve the health of the tree and reduce any actual or potential nuisance effects the tree can have on the roading system, property and people. The Council recognises the importance of trees and thus the treatment of all notable trees is permitted to ensure the health of the trees is maintained.

**3. Removal or Destruction of Notable Trees**

All trees are subject to a variety of factors that can threaten their health including diseases, adverse weather conditions, inappropriate land use and the natural ageing of a tree. When any one or a combination of factors leads to the death of a notable tree, or when it becomes a safety hazard, it is appropriate that the Council is able to remove or destroy the tree provided that it complies with Napier City Council Tree Removal Policy<sup>1</sup>. When trees are removed, the Council will consider the establishment of an appropriate replacement tree in the same location, or a suitable alternative location.

To destroy or remove a notable tree for any other reason, will require a resource consent. This is to ensure all aspects have been carefully considered, reflecting the historical, cultural, horticultural, amenity, and ecological importance of these trees.

**4. Landuses within the Dripline of Notable Trees**

The dripline of a tree can be defined as the area underneath the spread of a tree's branches or canopy. The dripline provides a good indication of the spread of the root system and provides a useful basis for management of land uses. Land uses such as buildings and structures, earthworks, storage of structures, machinery and vehicles and the dispersal of hazardous substances can have severe adverse effects on the root system, through the compaction of earth and contamination of the soil.

The Council considers that the effects of these land uses must be considered carefully. Thus the Council has unrestricted discretion when considering a resource consent for a land use within the dripline of a notable tree. The exception to this rule is the permitted status for vehicles to park within the drip line of the notable trees on Kennedy Road and Marine Parade. This recognises the importance of parking spaces on these streets being the status quo situation.

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<sup>1</sup> Reserves Management Plan, March 2000 pg12.