

7. Scheduled Trees

7.1 Introduction

As well as enhancing the landscape, trees also help to reduce noise, provide shelter and habitats for birds and other animals; assist with the avoidance of natural hazards such as landslips and erosion; and provide 'natural' impact and contrast with the built elements of the environment. Trees are living, dynamic organisms that provide an identity and presence. Certain trees may also have value as botanical specimens or have historical or other cultural significance.

Trees are of particular importance in urban areas where they are the largest, most significant natural elements in the landscape at the level of the street environment and they provide a sense of scale and setting. The most visually attractive urban areas of the city are those where trees make a substantial visual impact. However, in populated urban areas, trees are often also perceived to have negative impacts, usually by those living adjacent to such trees who are concerned about shading and safety.

The importance of trees is not restricted to urban areas and it is recognised that trees also play an important role in rural areas in terms of protecting rural amenity through improving soil and slope stability.

Without protection important trees could be damaged or removed without an opportunity for the effects of the modification or removal being evaluated or alternative options explored.

In response to the issues, the Second Generation Plan (2GP) proposes to protect significant trees; promote the retention of trees; and promote new plantings in recognition of their important role in enhancing the urban environment while providing for individual landowners who may need to modify or remove trees that are no longer suitable in their location.

Using the 'Standard Tree Evaluation Method' (STEM), the schedule in the operative District Plan was audited in 2012 as part of the 2GP review of the District Plan to ensure that the list of protected trees is current, having been through a robust selection criteria.

The listing of a tree as a Scheduled Tree means that resource consent approval is required to prune the tree (with anything other than hand-operated pruning shears or secateurs), to remove a listed tree, or undertake construction work/earthworks within the drip-line of a tree: **{ST cl.16}**

7.2 Objectives and Policies

Objective 7.2.1	
The contribution made by significant trees to the visual landscape and history of neighbourhoods is maintained.	
Policy 7.2.1.1	Enable the removal of a scheduled tree where they are certified as being dead or in terminal decline by a suitably qualified arborist or where subject to an order for removal in terms of section 333 of the Property Law Act 2007.
Policy 7.2.1.2	<p>Avoid the removal of a scheduled tree (except as provided for in Policy 7.2.1.1) unless:</p> <ol style="list-style-type: none"> there is a significant risk to personal/public safety or <u>a risk to personal safety that is required to be managed under health and safety legislation</u> property; {ST 182.1 and others} <u>the tree poses a substantial risk to a scheduled heritage building or structure</u>; {ST 182.1} the tree is shading existing residential buildings to the point that access to sunlight is significantly compromised; or <u>there is a moderate to significant risk to buildings</u>; {ST 182.1} the removal of the tree is necessary to avoid significant adverse effects on <u>existing public</u> {ST 308.156} infrastructure and network utilities; and {ST 457.52}; or these adverse effects cannot be reasonably mitigated through pruning and the effects outweigh the loss of amenity from the removal of the tree. removal of the tree will result in significant positive effects in respect of the efficient use of land. {ST 308.156}
Policy 7.2.1.3	<p>Only allow the modification of a scheduled tree where:</p> <ol style="list-style-type: none"> the work is undertaken in accordance with best arboricultural practice; by a suitably qualified arborist and will maintain or improve the health of the tree; any adverse effects from the modification of the tree on amenity values are avoided or, if avoidance is not possible <u>practicable</u> {PO 908.3 and others}, no more than minor; and the modification is necessary to improve the health of the tree or to mitigate adverse effects of the tree on safety, sunlight access, or damage to property or infrastructure.
Policy 7.2.1.4	<p>Require earthworks, <u>public amenities</u>, {PA cl.16}¹ network utilities {ST cl.16} activities, new roads and additions and alterations to roads, buildings, structures, <u>additions and alterations</u> {ST cl.16} and site development <u>activities</u> {PO cl.16} that involves the laying of an impermeable surface, to be set back from a scheduled tree an adequate distance, <u>or, where appropriate, to use trenchless methods</u>, {ST 923.32 and others} to avoid:</p> <ol style="list-style-type: none"> damage to the scheduled tree; and potential future adverse effects caused by the tree on amenity values, structural integrity of buildings or infrastructure, or safety that may lead to future demand to remove the tree.

¹ **PA cl.16:** Rule included in Rule 3.5.6/3.6.3 but not referenced in policy.

Rules

Rule 7.3 Activity Status

7.3.1 Activity Status Introduction

1. The activity status table in Rule 7.3.2 shows the activity status of scheduled trees activities across all zones, provided any performance standards shown in the far right column are met. The activities in the scheduled trees activities category are listed in the Nested Tables in Section 1.3. {PO cl.16}
2. Performance standards apply to permitted, controlled, and restricted discretionary activities.
3. If a permitted or controlled activity does not meet one or more performance standards, then the activity status of the activity ~~will become restricted discretionary, unless otherwise indicated by the relevant performance standard is indicated in the relevant performance standard rule.~~ **{PO cl.16}**.
4. If a restricted discretionary activity does not meet one or more performance standards, then the activity status remains restricted discretionary, unless otherwise indicated in the performance standard.
5. Any site development activities associated with an activity provided for in the activity status table in Rule 7.3.2 is subject to the provisions of the relevant management zone section. {PO cl.16}
6. Any earthworks associated with an activity provided for in the activity status table in Rule 7.3.2 are subject to the provisions in Section 8A. {PO cl.16}
7. Any construction associated with an activity provided for in the activity status table in Rule 7.3.2 is subject to the provisions in Section 4. {PO cl.16}

Legend

Zone-key Acronym {PO cl.16}	Zone/overlay-zone-name Meaning {PO cl.16}
P	Permitted Activity
C	Controlled Activity
RD	Restricted Discretionary Activity
D	Discretionary Activity
NC	Non-complying Activity

7.3.2 Activity status table - scheduled trees

Activity	Activity status	Performance standards
1. Removal of a scheduled tree that is: dead, in terminal decline or with extreme failure, or subject to a court order for removal	RD	
2. Modification of a scheduled tree	RD	a. Best arboricultural practice
3. Removal and any other work on a scheduled tree that will lead to the death or terminal decline of a scheduled tree	NC	

Note 7.3A – Other relevant District Plan provisions {PO cl.16}

1. Earthworks are managed through the management and major facilities zone sections: {PO cl.16}

¹ **PO cl.16:** moved from Note 7.3A to Rule 7.3.1.6 and minor amendments to wording to clarify new location of earthworks provisions.

Rule 7.4 Notification

1. Applications for resource consent for the following activities will be publicly notified in accordance with section 95A of the RMA:
 1. Removal and any other work on a scheduled tree that will lead to the death or terminal decline of a scheduled tree, except where:
 - a. the tree is dead or in terminal decline;
 - b. and the application is accompanied by written documentation by a suitably qualified arborist to this effect.
2. All other activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.

Rule 7.5 Performance Standards

7.5.1 Best Arboricultural Practice

1. Work is undertaken by a suitably qualified arborist using best arboricultural practice.
2. ~~Modification of a scheduled tree that contravenes the performance standard for best arboricultural practice is a non-complying activity. Activities that contravene this performance standard are non-complying activities.~~
{ST cl.16}

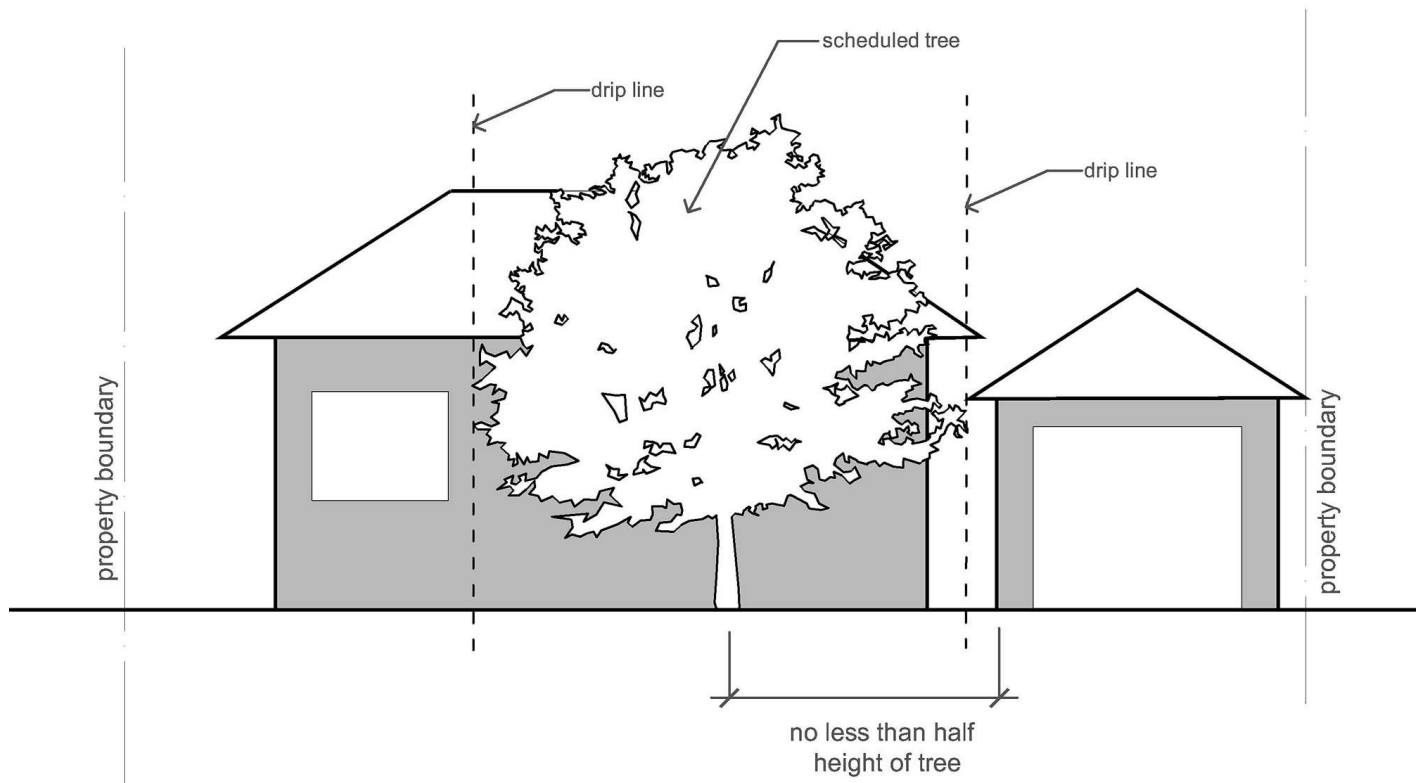
Note 7.5A – General advice {ST cl.16}

1. ~~An application for the modification of a scheduled tree that does not meet the performance standard for best arboricultural practice will be assessed as equivalent to an application to remove a scheduled tree.~~ **{ST cl.16}**

7.5.2 Setback from Scheduled Tree

1. The following activities must not take place under the dripline of a scheduled tree, or within a distance from the trunk equivalent to half the height of the tree, whichever is the greater, if they involve ground excavation or the installation of impermeable surfaces on the ground **{ST 308.161}** (See Figure 7.5A):
 - a. ~~new buildings and structures, or additions or alterations;~~ **{ST cl.16}**
 - b. ~~structures;~~ **{ST cl.16}**
 - c. ~~additions and alterations;~~ **{ST cl.16}**
 - d. public amenities;
 - e. ~~earthworks activities~~ **{ST cl.16}**;
 - f. new roads or additions or alterations to roads;
 - g. ~~network utilities utility~~ **{NU cl.16}** activities; and
 - h. ~~site development activities. that involve the installation of impermeable surfacing.~~ **{ST 308.161}**
2. Activities employing trenchless methods are exempt from this standard where all of the following are met: **{ST 923.32 and others}**
 - a. the entry and exit points are outside the dripline of a scheduled tree, or a distance from the trunk equivalent to half the height of the tree, whichever is the greater (See Figure 7.5A); **{ST 923.32 and others}**
 - b. the tunnel is a minimum of 1.0m below ground level; **{ST 923.32 and others}**
 - c. the work is undertaken under the supervision of a suitably qualified arborist, who has determined that the work will not damage the health or stability of the scheduled tree; and **{ST 923.32 and others}**
 - d. ten working days' notice of the work is provided to the DCC which includes the location of the work and the name of the supervising arborist. **{ST 923.32 and others}**
3. Activities that contravene this performance standard are restricted discretionary activities. **{PO cl.16}**

Figure 7.5.2A: Setback from a Scheduled Tree {ST cl.16}



Rule 7.6 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions)

Rule 7.6.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rule 7.6.2:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how consent applications will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.

7.6.2 Assessment of performance standard contraventions		
Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. Setback from scheduled tree	a. Effects on long term health of tree	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objective 7.2.1 ii. Earthworks, public amenities, {PA cl.16} new roads and additions and alterations to roads, network utilities activities, buildings, structures, <u>additions and alterations</u> {ST cl.16} and site development <u>activities</u> {PO cl.16} which <u>that</u> involves the laying of an impermeable surface, are set back from a scheduled tree an adequate distance, <u>or where appropriate trenchless methods are used</u>, {ST 923.32 and others} to avoid: <ol style="list-style-type: none"> 1. damage to the scheduled tree; and 2. potential future adverse effects caused by the tree on amenity values, structural integrity of buildings or infrastructure, or safety that may lead to future demand to remove the tree (Policy 7.2.1.4). <p><i>General assessment guidance:</i></p> <ol style="list-style-type: none"> i. In assessing effects on the scheduled tree, any consequential amenity effects from pressure to remove tree and tree removal will also be assessed.

¹ **PA cl.16:** Rule included in Rule 3.5.6/3.6.3 but not referenced in policy.

Rule 7.7 Assessment of Restricted Discretionary Activities

Rule 7.7.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rule 7.7.2:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how a consent application will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.
3. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in the Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.
4. Where a restricted discretionary activity does not meet a performance standard the following occurs:
 - a. if the contravention of the performance standard defaults to **restricted discretionary** ~~(which is the case, unless otherwise indicated in the performance standard)~~ **{PO cl.16}** then:
 - i. the activity, as a whole, will be treated as **restricted discretionary**; and
 - ii. the matters of discretion are expanded to include the areas of non-compliance with the performance standard; and
 - iii. the performance standard contravention will be assessed as indicated in Rule 7.6; and
 - iv. the matters of discretion in this section will be assessed as indicated.
 - b. if the contravention of the performance standard defaults to **discretionary** then:
 - i. the activity, as a whole, will be treated as **discretionary**; and
 - ii. the performance standard contravention will be assessed; and
 - iii. the assessment guidance in this section will also be considered.
 - c. if the contravention of the performance standard defaults to **non-complying** then:
 - i. the activity, as a whole, will be **non-complying**; and
 - ii. the performance standard contravention will be assessed as indicated in Rule 7.8; and
 - iii. the assessment guidance in this section will also be considered.

7.7.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
1. Modification of a scheduled tree	a. Effects on long term health of tree	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 7.2.1 ii. The work is undertaken in accordance with best arboricultural practice <u>by a suitably qualified arborist {ST cl.16}</u> and will maintain or improve the health of the tree (Policy 7.2.1.3.a). <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> iii. The assessment of the long term health of the tree in relation to modification will consider the report from a suitably qualified arborist (see Special Information Requirements - Rule 7.9).
	b. Adverse Effects {PO cl.16} on amenity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 7.2.1 ii. Any adverse effects from the modification of the tree on amenity values are avoided or, if avoidance is not possible <u>practicable {PO 908.3 and others}</u>, no more than minor (Policy 7.2.1.3.b). <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> iii. In assessing adverse effects on amenity values, Council will consider the information held in the STEM assessment for the tree. iv. The assessment of the long term health of the tree in relation to modification will consider the a report from a suitably qualified arborist (see Special Information Requirements - Rule 7.9).
	c. Positive effects of tree modification	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 7.2.1 ii. The modification is necessary to improve the health of the tree to mitigate adverse effects of the tree on safety, sunlight access, or damage to property or infrastructure (Policy 7.2.1.3.c). <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> iii. The assessment of the long term health of the tree in relation to modification will consider the a report from a suitably qualified arborist (see Special Information Requirements - Rule 7.9).
2. Removal of a scheduled tree that is: dead; in terminal decline or with extreme failure; or subject to a court order for removal.	a. Adverse Effects {PO cl.16} on amenity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 7.2.1 ii. Removal of a scheduled tree is enabled where it is certified as being dead or in terminal decline by a suitably qualified arborist or where subject to an order for removal in terms of section 333 of the Property Law Act 2007 (Policy 7.2.1.1). <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> iii. The assessment of the long term health of the tree in relation to modification will consider the a report from a suitably qualified arborist (see Special Information Requirements - Rule 7.9).

¹ **PO cl.16:** Wording of matter of discretion changed to standard phrasing.

² **ST cl.16:** Consistency with Policy 7.2.1.3.a.

Rule 7.8 Assessment of Non-complying Activities

Rule 7.8.1 Introduction

1. Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 7.8.2 provides guidance on how a consent application for the listed non-complying activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - b. general assessment guidance, including any effects that will be considered as a priority.
3. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in this Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.

7.8.2 Assessment of non-complying activities	
Activity	Guidance on the assessment of resource consents
1. <ul style="list-style-type: none"> • Removal and any other work on a scheduled tree that will lead to the death or terminal decline of a scheduled tree • Modification of a scheduled tree that does not meet <u>contravenes</u> the <u>best arboricultural practice</u> performance standard (Rule 7.5.1) for best arboricultural practice {ST cl.16} 	<p><i>Relevant objectives and policies (priority considerations)</i></p> <ol style="list-style-type: none"> a. Objectives 7.2.1, 2.4.1 b. Policy 2.4.1.2 c. Avoid the removal of a scheduled tree (except as provided for in Policy 7.2.1.1) unless: <ol style="list-style-type: none"> i. there is a significant risk to personal/public safety or <u>a risk to personal safety that is required to be managed under health and safety legislation</u> property {ST 182.1 and others}; or ii. <u>the tree poses a substantial risk to a scheduled heritage building or structure</u>; {ST 182.1} iii. the tree is shading existing residential buildings to the point that access to sunlight is significantly compromised <u>there is a moderate to significant risk to buildings</u> {ST 182.1 and others}; or iv. the removal of the tree is necessary to avoid significant adverse effects on public existing {ST 308.156} infrastructure <u>and network utilities</u>; and {ST 457.52}; or v. these adverse effects cannot be reasonably mitigated through pruning and the effects outweigh the loss of amenity from the removal of the tree <u>removal of the tree will result in significant positive effects in respect of the efficient use of land</u> {ST 308.156} (Policy 7.2.1.2).

Rule 7.9 Special Information Requirements

7.9.1 Arborist documentation

1. Any application for the removal of a scheduled tree due to the tree being dead or in terminal decline must ~~provide~~ include **{ST cl.16}** written documentation by a suitably qualified arborist to this effect.
2. Any application for the modification of a scheduled tree must ~~provide~~ include **{ST cl.16}** written documentation by a suitably qualified arborist that the modification will be in accordance with good arboricultural practice, and will not lead to the death or terminal decline of the scheduled tree.
3. Any application for the removal of a scheduled tree due to a court order must include a copy of that court order.

