

Plan Change H(b) Notable Trees

Right of Reply, Rochelle Waugh, 7 June 2023

As requested by the Hearings Panel, the following information is outlined below:

- Introduction and Summary of Evidence, R Waugh
- Amendment to the Notable Tree Schedule: Tree 8: Description of Values
- Right of Reply to submitters

1. Introduction and Summary of Evidence

I note that there are procedural issues that the Hearing Panel must determine in relation to:

1. The status of the submission relating to the list of concerned neighbours and the extent of submitters as part of the submission lodged by Geoworks on behalf of Mr and Mrs Hare, and
2. The further submission that was received by Mr Bruton via text / letter.

In relation to the submission received from Geoworks on behalf of Mr and Mrs Hare, it was unclear as to how the list of 'concerned neighbours' were to be treated: i.e. as a party to the submission, to remain as a concerned neighbour, or to not be considered as part of the submission, recognising that it is the Panel's decision to accept or not these submissions. Having not had clarification from the submitter's agent, I sent letters to each party asking if the intention was for them to be part of the submission or not. The following parties replied that they wished to be part of the submission (this correspondence is included in Appendix 5 to my evidence):

- Garry Wood and Barbara Wiley
- Max Bryant and Daniel Bryant
- Julie and Andrew White

Responses were also received from Patricia Ashton and John and Joan Key who did not want to be part of the submission, but provided some comments about the protection of the tree (included in Appendix 5).

In terms of accepting his further submission, my communications with Mr Bruton has always been through phone or letter. I do not consider that he should be disadvantaged from the process because he does not have email. I had ensured that he had the opportunity to be involved through passing the text received through the electronic submission process.

For the purpose of my evidence, I have considered these submitters and submissions as part of the submissions to be considered for this plan change.

I note that we have had few submissions on the provisions in the new chapter.

As outlined in my evidence, there are two matters in dispute for this plan change:

- Inclusion of Tree 6 (*Sequoiadendron giganteum* – Giant Sequoia), 28 Kimbolton Road, on the Notable Tree Schedule; and
- Inclusion of Tree 1 (*Sequoia sempervirens* – Coast Redwood), 11 South Street, on the Notable Tree Schedule.

The notable tree plan change inserts a very different policy and rule framework than what is currently in the operative District Plan for the management of notable trees.

The plan change includes rules which:

- Enable the removal of a notable tree where there are safety issues to people or property, or where the tree is dying or dead.
- Enable tree pruning to prevent damage/obstruction to buildings/roads, or to improve health and safety of the tree (removal of dead/diseased branches), or where there is a threat to safety of people or property.
- Consider as part of a resource consent ‘works’ within the RPA to ensure that the root system or canopy is not impacted, which could compromise the longevity, health and stability of the tree. ‘Works’ include earthworks, root pruning, construction, soil compaction, and laying of hard surfaces. Gardening is a permitted activity.

As identified in his evidence, Mr Partridge has assessed each notable tree according to the STEM assessment tool and has also undertaken a safety and condition assessment.

As part of these assessments, Mr Partridge has identified if there are any works required to the trees, and if regular inspections are required to monitor specific issues that have been identified. Those works are to be undertaken by the tree owner, which is the case with any other tree.

All reports from the tree assessments in 2021 have been provided to the tree owners.

The Council will ensure that the most recent assessments (March 2023) of the three trees raised in submissions will also be forwarded to the tree owners.

I note that we now have a lot more information on each tree than what was the case under the operative District Plan, through the STEM assessment, and safety and condition assessments undertaken by Mr Partridge.

Throughout the development of this plan change, I have been guided by the advice of Mr Partridge.

This advice, along with a much improved policy and rule framework for managing the health and safety of notable trees, has led to my recommendation to retain both Tree 1 and Tree 6 on the Notable Tree Schedule.

I am happy to take questions.

2. Amendment to the Notable Tree Schedule: Tree 8: Description of Values

Amend the Notable Trees Schedule 'Description of Values' for Tree 8 as follows:

Description of Values

This tree is located on the former Waituna West Hall site ~~at the rear of the section against the fence, adjacent to McLaren Road~~ on the road reserve of McLaren Road. This tree is over 100 years old and approximately 20.7 metres in height, with a crown spread of 19 metres. This tree is large, infrequently found tree and a good specimen.

3. Issues raised in submissions relating to responsibilities for Notable Trees, liability and relevant provisions:

As a general rule, responsibility for the maintenance of a notable tree lies with the owner. As would be the case with any tree owner, owners of notable trees still need to look at the vegetation on their property and management it.

Owners concerned about liability for injury or death are generally not founded as a tree falling on someone and injuring them would be a 'personal injury' within the meaning of the Accident Compensation Act 2001, and therefore any proceedings for damages arising from that injury would be barred by s317 of that Act.

The proposed amendments to the District Plan (Plan Change H(b): Notable Trees) enables safety concerns to be addressed without the need for resource consent, e.g.:

- Under proposed Rule 4: The removal of a notable tree as a permitted activity if there is an imminent threat to the safety of people or property, and/or the tree is dead or has less than five years life expectancy;
- Under proposed Rule 1: The pruning of branches as a permitted activity to prevent damage or obstruction to structures, buildings or paths/driveways/roads;
- Under proposed Rule 1: The removal of deadwood, diseased vegetation and broken branches to be removed without the need for a resource consent.

These amendments therefore enable any health and safety issues identified with notable trees to be addressed as a permitted activity, subject to some actions being undertaken, including the input by an Arborist.