

NOTABLE TREES

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1 Scope of Report

- [1] This Recommendation Report relates to the Notable Trees chapter of the PDP and contains the Hearing Panel's recommendations to Council on the submissions and further submissions received on that chapter.
- [2] The Hearing Panel members for the Notable Trees chapter were:
 - Yvette Couch-Lewis
 - Gary Rae (Chair)
 - Nicole Reid
 - Andrew Willis
- [3] The initial Section 42A Report and the end of hearing Section 42A Report (Reply Report) for this topic were:
 - Historic Heritage and Notable Trees, 13 September 2021, Andrew Mactier
 - Historic Heritage and Notable Trees, 27 October 2021, Andrew Mactier
- [4] Prior to the scheduled hearing the reporting officer also provided a report entitled 'Officer's Response to Questions from The Hearings Panel', received on 7 October 2021.
- [5] The Section 42a Report for Notable Trees was informed by a technical report prepared by Mr Christopher Walsh, arboriculturist, of Treotech Specialist Treecare Ltd.
- [6] The Section 42A Report addressed both heritage and trees issues. However, the submissions on Historic Heritage were addressed at a separate hearing, and a separate Recommendations Report has been prepared on that topic.
- [7] The Hearing Panel's recommended amendments to the notified provisions of the Notable Trees chapter are set out in Appendix 1. Amendments recommended by the Section 42A Report author, both in the Section 42A report and in the Reply Report, that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.
- [8] We note that some of the numbering of individual clauses in the rule and rule requirement provisions will need to be consequentially amended and not all such amendments are shown in Appendix 1. We understand that will occur in the amended version of the entire PDP that will accompany the release of all of the Recommendation Reports.
- [9] Readers should also note that we have, at their request, amended all references to 'Trustpower' to 'Manawa Energy'.
- [10] Further submitters are not listed in the tables in this Recommendation Report because further submissions are either accepted or rejected in conformance with our recommendations on the original submissions to which they relate.

2 Hearing and Submitters Heard

- [11] A Notice of Hearing was issued to submitters advising of the scheduled hearing date of 14th October 2021. However, the only submitters who had indicated they wish to appear at the

hearing then subsequently advised that they no longer wished to appear. Accordingly, it was determined that a hearing was not required to be held.

- [12] The Panel then met on 13th October 2021 to consider the submissions and tabled statements of evidence (as listed in Appendix 2), including the Section 42A Report. Subsequently the Panel issued further questions to the Section 42A Report author to address in the Officer's Reply Report. We also sent some written questions to Orion, and suggested that Orion's planner, Ms Foote, liaised with Mr Mactier, the Section 42A Report author, and to prepare a Joint Witness Statement (JWS) to respond to our specific questions. A JWS was subsequently provided, dated 28 October 2021.
- [13] Copies of all the legal submissions and evidence (expert and non-expert) received are held by the Council. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report.
- [14] We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether they were represented by expert witnesses.

3 Sub-topic Recommendations

- [15] In this part of the Recommendation Report we assess the submissions by sub-topic, using the same headings as the initial Section 42A Report.

3.1 Whole of Chapter submissions

- [16] For the following submitters and their submission points below we generally accept and adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0207	SDC	010, 022
DPR-0358	RWRL	188
DPR-0384	RIDL	195
DPR-0407	Forest and Bird	006
DPR-0441	Manawa Energy	083

- [17] We note here that the Definitions Chapter was subject to its own Hearing (Hearing 2), however there are a number of submissions relating to definitions that were more appropriately considered as part of the other chapters, including the Notable Trees chapter.
- [18] Submission points from SDC requested a new definition be added for 'Qualified Arborist' to clarify the meaning of the term, as well as consequential changes to the rules. The Section 42A Report advised that there is not a consistent approach to the use of the terms 'qualified technician or arborist'; 'suitably qualified and experienced arborist' and other similar terms in the Notable Trees chapter. We accept that having a single defined term used throughout this chapter will provide a consistent approach and improve clarity about who is, at a minimum, suitably qualified to provide the required advice, or carry out the work.
- [19] In considering SDC's related submission points with respect to various rules addressed below under '3.3 Management and Protection of Notable Trees', we have determined that a new definition of 'Tree Protection Area' is appropriate. This is derived from *AS 4970-2009 Protection of Trees on development sites*, as referenced in SDC's submission point DPR-0207.026.

- [20] In terms of s32AA of the RMA, for these submissions and submission points we adopt the Section 42A Report author's assessment of effectiveness and efficiency, costs and benefits, the risk of acting or not acting, and conclusions as to the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

3.2 Identification and Listing of Notable Trees

- [21] For the following submitters and their submission points below we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0058	Glentunnel Library	001
DPR-0207	SDC	023
DPR-0378	MoE	018, 019
DPR-0407	Forest and Bird	008, 009
DPR-0448	NZDF	050

- [22] In particular we consider that:

- TREE-P1 needs to be amended to remove the phrase 'including likely future risk', as it is unnecessary, noting that all identifiable risks and benefits are considered whenever a tree is subject to a STEM assessment;
- TREE-SCHED1 does not need to be amended to include '*d. Suitability as habitat for indigenous fauna*', as Mr Walsh's evidence is accepted that any arborist competent in carrying out STEM assessments will consider habitats as part of 1. Condition – Health; (d) Function;
- TREE-SCHED2 does not need to be amended, based on Mr Walsh's STEM evaluation of trees in the garden of the Glentunnel Public Library, and on the Rolleston College grounds at Springston Rolleston Road. In relation to Rolleston College we also consider there is no conflict in the listing of these trees on a designated site; and
- The process for compiling TREE-SCHED2 was robust, and it is noted that indigenous vegetation is specifically protected through the provisions of the Ecosystems and Indigenous Biodiversity Chapter of the PDP.

- [23] We are satisfied with the Section 42A Report's advice that the change to TREE-P1 is not of a scale that requires a s32AA assessment.

3.3 Management and Protection of Notable Trees

- [24] For the following submitters and their submission points below we generally accept the recommendations and reasons of the Section 42A Report author, including in the Officer's Response to Questions from The Hearings Panel, and in the Reply Report.

- [25] We have however made some refinements to some of the recommended amended provisions as explained below, and accordingly with respect to the following submission points our recommendations are set out below.

Sub #	Submitter	Submission Points	Accept	Accept in Part	Reject
DPR-0207	SDC	024			✓
DPR-0207	SDC	025		✓	

Sub #	Submitter	Submission Points	Accept	Accept in Part	Reject
DPR-0207	SDC	026 - 030		✓	
DPR-0367	Orion ¹	036, 037	✓		
DPR-0367	Orion	038		✓	
DPR-0367	Orion	039			✓
DPR-0367	Orion	040 - 043		✓	
DPR-0407	Forest and Bird	007			✓
DPR-0441	Manawa Energy	084			✓
DPR-0441	Manawa Energy	085	✓		
DPR-0441	Manawa Energy	086, 087, 089		✓	

- [26] In relation to TREE-P2, we note that the amended wording (to include safety of the road network and network utilities as a consideration for trimming, alteration or removal of trees) has been agreed to by Orion².
- [27] The Section 42A Report had recommended no change to respond to Manawa Energy's request for 'regionally significant infrastructure' to be included in this policy (which was to allow for the maintenance and efficient operation of the Coleridge HEPS). We note Ms Macfarlane-Hill's evidence for Manawa Energy correctly pointed out that Manawa Energy is not a network utility provider and so its assets are not covered by TREE-P2 as notified.
- [28] However, the Panel for Hearing 4 (Energy and Infrastructure) has recommended broadening the definition of 'network utilities' to: *"A project, work, system or structure that is undertaken by a network utility operator, or any person who owns or operates the Coleridge Hydro Electric Power Station"*. On that basis, we accordingly accept the Section 42A Reporting Officer's recommendation to not further amend TREE-P2, as the reference in clause 5 to 'network utilities' will now effectively grant the relief sought by Manawa Energy.
- [29] We consider this amendment to the definition of 'network utility' should also effectively meet the concern of Manawa Energy with respect to other provisions where this term is used, including the recommended amendment, in the Reply Report, to TREE-P4, clause 3 as follows:
- 3. is necessary to improve public safety, sunlight access, or prevent damage to property or network utilities infrastructure.*
- [30] The Section 42A Report had recommended, in response to a submission point by SDC, that the inclusion of 'sunlight access' in TREE-P4 has the potential for unwarranted pruning or modifications of notable trees listed in TREE-SCHED2. However, in the Officer's Response to Questions from The Hearings Panel, the officer advised that there are unlikely to be any issues if 'sunlight access' was to remain. We accept the officer's reasons, in particular that the focus of the policy pertains to the destruction or removal of trees, and any modification is required to be undertaken in accordance with best arboricultural practice by an arborist and will maintain or improve the health of the tree.
- [31] We concur with the Section 42A Report, in relation to a submission point by Orion, that there is no need for a new policy pertaining to the particular requirements for network utilities. The rules that we have recommended to be amended in the EI Chapter will adequately provide for

¹ Commissioner Reid recused herself from consideration of the Orion submission points due to a conflict of interest.

² Ms Foote, EIC, paragraph 11

pruning and removal of trees affecting installation, operation, maintenance, or repair of network utilities, as well as where network utilities are required to locate within the dripline of a significant tree.

- [32] In relation to other submission points by Orion, we accept the thrust of the agreements reached in the JWS prepared by Ms Foote and Mr Mactier to resolve the issue relating to duplication of rules for network utilities between the Energy and Infrastructure chapter and the Notable Trees chapter.
- [33] We accept that, as a general principle, there is a need to streamline the provisions between those two chapters so that the Energy and Infrastructure chapter provides all the relevant provisions for the activities of network utilities, and the TREES chapter manages works affecting the notable trees themselves. On that basis, the Panel has accepted the need to make a number of amendments to the Energy and Infrastructure chapter and to rules in the Notable Trees chapter. However we consider the JWS provides a steer but does not quite provide a full set or workable provisions and so we have developed these further, as set out in Appendix 1. We note the comment by Mr Mactier in the JWS that the changes recommended by Orion may not have scope, but we consider the overall suite of changes are consistent with the broader context of Orion's submission points.
- [34] In relation to a submission point³ from Forest and Bird, we accept the evidence in the Section 42A Report that a requirement for a tree listed in TREE-SCHED2 to be assessed by an ecologist before any pruning is carried out would be unnecessarily onerous and inefficient. The management of indigenous flora and fauna habitat is addressed in the Ecosystems and Indigenous Biodiversity Chapter.
- [35] We accept the Section 42A Report author's advice, based on Mr Walsh's expert evidence, that amendments to various rules, rule requirements, and assessment matters are also needed to ensure clarity, and that the use of arboricultural industry best practice standards are applied consistently within the PDP, and to appropriately recognise the role that important infrastructure has to the community.
- [36] In terms of s32AA of the RMA, for these submissions and submission points we adopt the Section 42A Report author's assessment of effectiveness and efficiency, costs and benefits, the risk of acting or not acting, and conclusions as to the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

3.4 Energy and Infrastructure Chapter

- [37] For the following submitter and their submission points below we adopt the recommendations and reasons of the Section 42A Report author, including in the Reply Report.

Sub #	Submitter	Submission Points
DPR-0441	Manawa Energy	088, 090, 091

³ DPR-0407.007 Forest and Bird

[38] In relation to the three submission points from Manawa Energy we accept the advice of the Section 42A Report that there is no scope to amend EI-R29 such that EI-REQ3 can be included for consideration under that rule.

[39] However, we note here that the Panel has accepted the need for other changes to the EI Chapter, in particular to EI-REQ3, as explained above in relation to '3.3 Management and Protection of Notable Trees' in order to appropriately provide for the needs of network utility operators.

3.5 Subdivision

[40] For the following submitters and their submission points below we adopt the recommendations and reasons of the Section 42A Report author, noting also that no contrary planning evidence was presented by the submitters on these points. We provide some additional commentary on the key points below.

Sub #	Submitter	Submission Points
DPR-0205	Lincoln University	035
DPR-0358	RWRL	221
DPR-0363	Iport Rolleston Holdings Limited	210
DPR-0374	Rolleston Industrial Holdings Limited	216
DPR-0384	RIDL	228
DPR-0414	Kāinga Ora	113

[41] We consider that SUB-R19 has an important role because, whilst notable trees are protected through the Notable Trees chapter, subdivision is a fundamental precursor to further development including with regard to open space and the future character of an area.

[42] There is no need to amend SUB-R19 as notified as the term 'site' is a defined term introduced into the PDP by the National Planning Standards, and the effects of subdivision on any Notable Tree listed in TREE-SCHED2 can be properly considered without the need to refer to 'land' rather than 'site'.

[43] We do not consider it appropriate to include non-notification clauses in the Subdivision Chapter (i.e. in SUB-R19) as there is the potential for adverse effects to be more than minor from any subdivision affecting Notable Trees identified in TREE-SCHED2, and for neighbouring properties, communities, or the wider district.

3.6 Non-Notification Clauses

[44] For the following submitters and their submission points below we do not accept the recommendations and reasons of the Section 42A Report author.

[45] The Section 42A Report had recommended against including non-notification clauses as it was stated there is the potential for adverse effects on notable trees identified in TREE-SCHED2 arising from activities which do not meet the Permitted Activity Rule Requirements set out in TREE-R1, TREE-R2, TREE-R3, and from activities managed by TREE-R6 to potentially be more than minor.

[46] However, in the Reply to Questions from the Panel, the officer had subsequently advised:

"As noted above, other Chapters of the PDP do have non-notification and limited notification clauses for various 'minor' works. As such I accept that in the case of minor works associated

with Notable Trees (TREE-R2 Gardening and Cultivation, TREE-R3 Activities Close to Scheduled Notable Trees) that it is appropriate for non-notification clauses to be provided for.”

- [47] We note that the officer did not carry that recommendation through to the Reply Report amendments, which we consider was an oversight.
- [48] We accept that it is appropriate, in response to the submissions and on the above evidence of the reporting officer, to have a rule to exclude full public notification for applications in breach of TREE-R2 and TREE-R3.
- [49] Accordingly, our recommendations with respect to the submission points requesting non-notification clauses are:

Sub #	Submitter	Submission Points	Accept in Part
DPR-0358	RWRL	403	✓
DPR-0363	Iport Rolleston Holdings Limited	428	✓
DPR-0374	Rolleston Industrial Holdings Limited	474	✓
DPR-0384	RIDL	507	✓

4 Other Matters

- [50] The recommended amendments to the PDP provisions contained in Appendix 1 are those that result from this Hearing Panel’s assessment of submissions and further submissions. However, readers should note that further or different amendments to these provisions may have been recommended by:
- Hearing Panels considering submissions and further submissions on other chapters of the PDP;
 - the Hearing Panels considering rezoning requests, and
 - the Independent Hearing Panel (IHP) considering submissions and further submissions on Variation 1 to the PDP
- [51] Any such further or different amendments are not shown in Appendix 1 of this Recommendation Report. However, the Chair⁴ and Deputy Chair⁵ of the PDP Hearing Panels have considered the various recommended amendments and have ensured that the overall final wording of the consolidated version of the amended PDP is internally consistent.
- [52] In undertaking that ‘consistency’ exercise, care was taken to ensure that the final wording of the consolidated version of the amended PDP did not alter the intent of the recommended amendments contained in Appendix 1 of this Recommendation Report.
- [53] There are no other matters arising from our consideration of the submissions and further submissions or that arose during the hearing.

⁴ Who is also the Chair of the IHP.

⁵ Who chaired one stream of hearings.

Appendix 1: Recommended Amendments

Note to readers: Only provisions that have recommended amendments are included below. All other provisions remain as notified. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.

Amendments to the PDP Maps

There are no amendments recommended to PDP Planning Maps arising from our recommendations on the submissions and further submissions covered by this Recommendation Report.

Amendments to the PDP Text

Part 1 – Introduction and General Provisions

Interpretation

Definitions	
<u>QUALIFIED ARBORIST</u>	in relation to Notable Trees, means a person who: a. <u>by possession of a recognised arboriculture degree, diploma or certificate and on the job experience, is familiar with the tasks, equipment and hazards involved in arboriculture operations; and</u> b. <u>has demonstrated competency to Level 4 NZQA Certificate in Horticultural Services (Arboriculture) standard (or be of an equivalent arboriculture standard).</u> ⁶
<u>TREE PROTECTION AREA</u>	<u>a circle taken from the centre of the trunk with a radius equal to 12 times the diameter of the trunk measured at 1.4m above ground level of a tree</u> ⁷ .

⁶ DPR-0207.010 SDC

⁷ DPR-0207.026 SDC

Part 2 – District Wide Matters

Historical and Cultural Values

TREE – Notable Trees

TREE-Objectives and Policies

TREE-Policies	
TREE-P1	<p>Schedule trees where they are assessed as having significant values in terms of meeting the threshold used in <u>TREE-SCHED1</u> and the tree/s are structurally sound and healthy for its species, unless:</p> <ol style="list-style-type: none"> 1. the tree poses any unacceptable risk, including likely future risk,⁸ to the health and safety of people, property, buildings, strategic infrastructure or electricity distribution lines, taking into account potential mitigation measures and their costs 2. scheduling the tree may unreasonably restrict the reinstatement of buildings and/or property required to remedy damage incurred as a result of the Canterbury earthquakes of 2010 and 2011 3. the location and characteristics of the tree are such that it does or will: <ol style="list-style-type: none"> a. compromise either the reasonable use and/or amenity values of a property and surrounds; or b. unreasonably restrict development potential of the site.
TREE-P2	<p>Protect trees and groups of trees listed in <u>TREE-SCHED2</u> from inappropriate subdivision, use and development, by considering:</p> <p>.....</p> <ol style="list-style-type: none"> 5. whether the trimming, alteration or removal of a tree is necessary to accommodate <u>the safe and</u>⁹ efficient operation of the road network, or network utilities; <p>.....</p>
TREE-P4	<p>Ensure any modification of a listed tree or trees:</p> <ol style="list-style-type: none"> 1. is undertaken in accordance with best arboricultural practice by a suitably qualified and experienced arborist; 2. will maintain or improve the health of the tree; 3. is necessary to improve public safety, sunlight access, or prevent damage to property or <u>network utilities</u>¹⁰ important¹¹ infrastructure.

⁸ DPR-0207.023 SDC

⁹ DPR-0367.036 Orion

¹⁰ DPR-0441.086 Manawa Energy

¹¹ DPR-0441.086 Manawa Energy

TREE-Rules

TREE-R2 Gardening and cultivation		
Tree-Rule	Activity status: PER	Activity status when compliance not achieved:
All Zones	<p>1. Gardening or cultivation within 5m of the base <u>the tree protection area</u>¹² of a tree listed in TREE-SCHED2.</p> <p>Where this activity complies with the following rule requirements: TREE-REQ2</p>	<p>2. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirements.</p> <p>Notification: 3. Any application arising from TREE-R2.1 shall not be subject to public notification¹³.</p>
TREE-R3 Activities close to scheduled notable trees		
Tree-Rule	Activity status: PER	Activity status when compliance not achieved:
All Zones	<p>1. Any earthworks or digging of holes for fence posts, or for the purpose of installing underground network utilities, including customer connections within 5m of the base¹⁴ <u>the tree protection area</u>¹⁵ of a tree listed in TREE-SCHED2, except where provided for by TREE-R2.</p> <p>Where this activity complies with the following rule requirements: TREE-REQ2</p>	<p>2. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirements.</p> <p>Notification: 2a. Any application arising from TREE-R3.1 and TREE-R3.3 shall not be subject to public notification¹⁶.</p>
All Zones	<p>Activity status: PER</p> <p>3a. Any buildings or structures within 5m of the base <u>the tree protection area</u>¹⁷ of a tree listed in TREE-SCHED2.</p> <p>Where this activity complies with the following rule requirements: TREE-REQ2</p>	<p>Activity status when compliance not achieved:</p> <p>4. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirements.</p> <p>Notification: 5. Any application arising from TREE-R3.1 and TREE-R3.4 shall not be subject to public notification¹⁸.</p>

¹² DPR-0207.026 SDC¹³ DPR-0358.403, DPR-0363.428, DPR-0374.474, DPR-0384.507¹⁴ DPR-0367.039-041 Orion¹⁵ DPR-0207.027 SDC¹⁶ DPR-0358.403, DPR-0363.428, DPR-0374.474, DPR-0384.507¹⁷ DPR-0207.028 SDC¹⁸ DPR-0358.403, DPR-0363.428, DPR-0374.474, DPR-0384.507

TREE-R4	Unsafe scheduled notable trees	
All Zones	<p>Activity status: PER</p> <p>1. Removal of a tree listed in TREE-SCHED2</p> <p>Where:</p> <p>a. The removal is required in an emergency; or</p> <p>It is certified by a suitably qualified and experienced arborist <u>qualified arborist</u>¹⁹ as dead, in terminal decline, at risk of extreme failure or having a significant loss of structural integrity</p>	<p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of TREE-R4.1 is not achieved: DIS</p>
TREE-R5	Scheduled notable trees close to power lines	
All Zones	<p>Activity status: PER</p> <p>1. Any work to a tree listed in TREE-SCHED2 that are works required under, and carried out in accordance with clause 14 of the Electricity (Hazards from Trees) Regulations 2003, or clause 128 of the Telecommunications Act 2001</p> <p>Where:</p> <p>a. The works are undertaken by, or under the supervision of, a suitably qualified and experienced arborist <u>qualified arborist</u>²⁰ employed or contracted by the Council or a network utility operator.</p>	<p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of TREE-R5.1 is not achieved: DIS</p>

TREE-Rule Requirements

TREE-REQ1	Pruning of a scheduled notable tree	
All Zones	<p>1. Pruning of any part of the tree is limited to one or more of the following:</p> <p>a. Pruning of roots less than 25mm in diameter at the point of severance; or</p> <p>b. Removal of broken branches, deadwood, or diseased vegetation; or</p> <p>c. Removal of branches physically interfering with existing buildings or pedestrian and vehicle access ways, where such work is</p>	<p>Activity status when compliance not achieved:</p> <p>4. When compliance with any of TREE-REQ1 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p>5. The exercise of discretion in relation to TREE-REQ1.4 is restricted to the following matters:</p> <p><u>a.</u> TREE-MAT2</p>

¹⁹ DPR-0207.022 SDC

²⁰ DPR-0207.022 SDC

	<p>carried out by, or in accordance with advice from, a qualified technician or arborist <u>qualified arborist</u>²¹; or</p> <p>d.</p> <p>2. Pruning in the bottom third of the tree (tree height is measured from ground level to the top of the canopy) is limited to the following:</p> <p>a. Removal of any branches less than 50mm in diameter at the point of severance, where the natural shape, form and branch habit of the tree is retained; or</p> <p>b. Removal of any branches between 50mm and 100mm in diameter at the point of severance, where the natural shape, form and branch habit of the tree is retained, and the work is carried out by, or in accordance with advice from suitably qualified and experienced arborist <u>a qualified arborist</u>²².</p> <p>3. Pruning in the top two thirds of the tree (tree height is measured from ground level to the top of the canopy) is limited to the removal of foliage of no more than 10% over any three-year period, with the maximum amount of foliage removed in any one year limited to no more than 5%, where:</p> <p>a. The work is undertaken, or supervised, by a suitably qualified and experienced arborist <u>qualified arborist</u>²³; and</p> <p>b. The natural shape, form and branch habit of the tree is retained.</p>	
TREE-REQ2	Gardening, Cultivation, Earthworks, Buildings, and Structures in the vicinity of a scheduled notable tree	
	<p>1. Gardening, cultivation, earthworks, digging of holes for fence posts, buildings and structures, and repairing, replacing or maintaining existing network utility structures²⁴ within 5m of the base <u>the tree protection area</u>²⁵ of a tree listed in TREE-SCHED2 do not:</p> <p>a. involve mechanical cultivation</p> <p>b. include sealing or paving (excluding earthworks)</p> <p>c. involve the storage of materials, vehicles, plant, or equipment</p> <p>d. involve the release, injection or placement of chemicals or toxic substances</p>	<p>Activity status when compliance not achieved:</p> <p>3. When compliance with any of TREE-REQ2 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p><u>4.</u> The exercise of discretion in relation to TREE-REQ2.3 is restricted to the following matters:</p> <p>a. TREE-MAT3</p>

²¹ DPR-0207.022 SDC

²² DPR-0207.022 SDC

²³ DPR-0207.022 SDC

²⁴ DPR-0367.042 Orion

²⁵ DPR-0207.029 SDC

	<p>e. Involve planting of trees</p> <p>f. Involve altering of existing ground levels or the disturbance of land other than to the extent necessary to undertake gardening, cultivation or digging holes for fence posts or existing network utility pole repair, replacement or maintenance works²⁶.</p> <p>2. Earthworks within 5m of the base a circle taken from the centre of the trunk with a radius equal to 12 times the diameter of the trunk measured at 1.4m above ground level the tree protection zone²⁷ of a tree listed in TREE SCHED2, undertaken for the purpose of installing, replacing, repairing and maintaining²⁸ underground network utilities, including customer connections, shall:</p> <p>a. be at least 1m below ground level; and</p> <p>b. be installed by hand digging or trenchless means (such as air spade, hydro vac²⁹ or directional drilling methods); and</p> <p>c. have an entry point that either:</p> <p>i. is located outside of the root protection area; or</p> <p>ii. has an area of less than 1m².³⁰</p>	
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TREE-Matters for Control or Discretion

TREE-MAT3	Activities in the Vicinity of a Notable Tree
	...
	8. <u>Whether the works are necessary for the maintenance, and repair of existing, network utilities.</u> ³¹

²⁶ DPR-0367.042 Orion²⁷ DPR-0207.030 SDC²⁸ DPR-0367.042 Orion²⁹ DPR-0207.025 SDC³⁰ DPR-0207.025 SDC³¹ DPR-0367.043 Orion

Energy, Infrastructure and Transport

EI – Energy and Infrastructure

EI-Rule Requirements

EI-REQ3	Works to and around Notable Trees
All Zones	<p>1. Any work to or within 5m of a tree listed in TREE SCH 2 is required for:</p> <p>a. <u>the installation, operation, maintenance, or repair of an a new or existing network utility; or</u></p> <p>b. <u>is required under and is carried out in accordance with clause 14 of the Electricity (Hazards from Trees) Regulations 2003.</u></p> <p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of EI-REQ3.1 is not achieved: Refer to:</p> <p>a. <u>TREE-R1 Maintenance pruning</u></p> <p>b. <u>TREE-R3 Activities close to scheduled notable trees</u></p> <p>c. <u>TREE-R4 Unsafe scheduled notable trees</u></p> <p>d. <u>TREE-R6 Fixing to a scheduled notable tree</u></p> <p>e. <u>TREE-R7 Harts Arboretum</u></p> <p>f. <u>TREE-R8 Destruction or removal</u></p>
All Zones	<p>3. Any work undertaken under EI-REQ3.1 shall be carried out by, or under the supervision of a works arborist employed or contracted by a network utility operator.</p> <p>Activity status when compliance not achieved:</p> <p>4. When compliance with any of EI-REQ3.3 is not achieved: NC</p>
All Zones	<p>1. <u>Any pruning of a tree listed in TREE-SCHED2 for the installation, operation, maintenance, or repair of a new or existing network utility carried out by, or under the supervision of, a qualified arborist employed or contracted by a network utility operator.</u></p> <p>Activity status when compliance not achieved:</p> <p>2. <u>When compliance with any of EI-REQ3.1 is not achieved: RDIS</u></p> <p>Matters for discretion:</p> <p>3. <u>The exercise of discretion in relation to EI-REQ3.2 is restricted to the following matters:</u></p> <p>a. <u>TREE-MAT2</u></p>
All Zones	<p>4. <u>Any removal of a tree listed in TREE-SCHED2 for the installation, operation, maintenance, or repair of a new or existing network utility shall only occur where:</u></p> <p>a. <u>it is required in an emergency; or</u></p> <p>b. <u>the tree is certified by a qualified arborist as dead, in terminal decline, at risk of extreme failure or having a significant loss of structural integrity</u></p> <p>Activity status when compliance not achieved:</p> <p>5. <u>When compliance with any of EI-REQ3.4 is not achieved: DIS</u></p>
	<p>6. <u>No structure or object shall be fixed to a tree listed in TREE-SCHED2.</u></p> <p>Activity status when compliance not achieved:</p> <p>7. <u>When compliance with any of EI-REQ3.6 is not achieved: RDIS</u></p> <p>Matters for discretion:</p>

		<p><u>8. The exercise of discretion in relation to EI-REQ3.7 is restricted to the following matters:</u></p> <p><u>a. TREE-MAT3</u></p>
All Zones	<p><u>9. Earthworks within the tree protection area of a tree listed in TREE-SCHED2, undertaken for the purpose of installing new underground network utilities including customer connections, shall:</u></p> <p><u>a. be at least 1m below ground level;</u></p> <p><u>b. be installed by hand-digging or trenchless means (such as air spade or directional drilling methods); and</u></p> <p><u>c. have an entry point that is located outside of the tree protection area.</u></p>	<p><u>Activity status when compliance not achieved:</u></p> <p><u>10. When compliance with any of EI-REQ3.9 is not achieved RDIS.</u></p> <p><u>Matters for discretion:</u></p> <p><u>10a. The exercise of discretion in relation to EI-REQ3.10 is restricted to the following matters:</u></p> <p><u>a. TREE-MAT3</u></p>
All Zones	<p><u>11. Earthworks within the tree protection area of a tree listed in TREE-SCHED2, undertaken for the purpose of repairing, replacing or maintaining an existing network utility, shall not involve any of:</u></p> <p><u>a. mechanical cultivation;</u></p> <p><u>b. sealing or paving (excluding earthworks);</u></p> <p><u>c. the storage of materials, vehicles, plant, or equipment;</u></p> <p><u>d. the release, injection or placement of chemicals or toxic substances;</u></p> <p><u>e. planting of trees; or</u></p> <p><u>f. altering of existing ground levels or the disturbance of land other than to the extent necessary to undertake gardening, cultivation or digging holes for fence posts or existing network utility pole repair, replacement or maintenance works.</u></p>	<p><u>Activity status when compliance not achieved:</u></p> <p><u>12. When compliance with any of EI-REQ3.11 is not achieved RDIS.</u></p> <p><u>Matters for discretion:</u></p> <p><u>13. The exercise of discretion in relation to EI-REQ3.12 is restricted to the following matters:</u></p> <p><u>a. TREE-MAT3</u></p>

Appendix 2: Tabled Evidence

Sub #	Submitter	Author	Role
DPR-0367	Orion	Melanie Foote	Planner
DPR-0378	Ministry of Education	Portia King	Planner
DPR-0422	Federated Farmers of NZ	Elisha Young-Ebert	Policy Advisor
DPR-0441	Manawa Energy	Shelby Macfarlane-Hill	Environmental Advisor
DPR-0446	Transpower New Zealand Limited	Rebecca Eng	Planner