

## **Section 32 Evaluation Report**

### **Protected Trees**

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# Section 32 Evaluation Report: Protected Trees

## 1. Purpose of the report

Section 32 of the *Resource Management Act 1991* (the Act) requires objectives in plan change proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their efficiency, effectiveness and risk in achieving the objectives (MFE, 2014).

Accordingly, this report provides an analysis of the key issues, objectives and policy response to be incorporated within the protected tree chapter of the Proposed District Plan.

As required by section 32 of the RMA, this report provides the following:

- An overview of the applicable **Statutory Policy Context**
- Description of the **Non-Statutory Context** (strategies, studies and community plans) which have informed proposed provisions
- Description of the **Resource Management Issues** which provide the driver for proposed provisions
- An **Evaluation** against Section 32(1)(a) and Section 32(1)(b) of the Act, that is:
  - Whether the objectives are the most appropriate way to achieve the RMA's purpose (s32(1)(a)).
  - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives (S32(1)(b)), including:
    - identifying other reasonably practicable options for achieving the objectives,
    - assessing the efficiency and effectiveness of the provisions in achieving the objectives, and
    - summarising the reasons for deciding on the provisions.
- A **level of detail** that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal (s32(1)(c))
- Consideration of **Risk**

## 2. Statutory Context

### Resource Management Act 1991

The purpose of the Act requires an integrated planning approach and direction, as reflected below:

#### **5 Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The assessment contained within this report considers the proposed provisions in the context of advancing the purpose of the Act to achieve the sustainable management of natural and physical resources. The District's landscapes and natural environment are highly recognised and valued. The District's protected

trees, including within urban areas contributes to this, the oak trees located along Buckingham Street in Arrowtown being one example. The Council's Economic Development Strategy 2015 states:

*'The outstanding scenery makes the District a highly sought after location as a place to live and visit.' And, 'The environment is revered nationally and internationally and is considered by residents as the area's single biggest asset.'*

Section 31 of the Act outlines the function of a territorial authority in giving effect to the purpose of the Act:

*31 Functions of territorial authorities under this Act*

*(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*

*(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district*

Section 31 provides the basis for objectives, policies, and methods within a District Plan, to manage the effects of development.

Section 31 provides the basis for objectives, policies, and methods within a District Plan, to manage the effects of use, development or protection of land and associated natural and physical resources of the district.

## **76 District rules**

*(4) A rule may—*

*(a) apply throughout a district or a part of a district:*

*(b) make different provision for—*

*(i) different parts of the district; or*

*(ii) different classes of effects arising from an activity:*

*(c) apply all the time or for stated periods or seasons:*

*(d) be specific or general in its application:*

*(e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.*

*(4A) A rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if, in a schedule to the plan,—*

*(a) the tree or trees are described; and*

*(b) the allotment is specifically identified by street address or legal description of the land, or both.*

*(4B) A rule may prohibit or restrict the felling, trimming, damaging, or removal of trees on 2 or more urban environment allotments only if—*

*(a) the allotments are adjacent to each other; and*

*(b) the trees on the allotments together form a group of trees; and*

*(c) in a schedule to the plan,—*

*(i) the group of trees is described; and*

*(ii) the allotments are specifically identified by street address or legal description of the land, or both.*

*(4C) In subsections (4A) and (4B),—*

**group of trees** means a cluster, grove, or line of trees

**urban environment allotment** or **allotment** means an allotment within the meaning of [section 218](#)—

*(a) that is no greater than 4000 m<sup>2</sup>; and*

- (b) that is connected to a reticulated water supply system and a reticulated sewerage system; and*
- (c) on which there is a building used for industrial or commercial purposes or as a dwelling house; and*
- (d) that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.*
- (4D) To avoid doubt, subsections (4A) and (4B) apply—*
  - (a) regardless of whether the tree, trees, or group of trees is, or the allotment or allotments are, also identified on a map in the plan; and*
  - (b) regardless of whether the allotment or allotments are also clad with bush or other vegetation.*

The proposed provisions have been prepared to comply with s76 of the Act.

## Local Government Act 2002

### Section 14 - Principles relating to local authorities

Sections 14(c), (g) and (h) of the Local Government Act 2002 are also of relevance in terms of policy development and decision making:

- (c) when making a decision, a local authority should take account of—*
  - (i) the diversity of the community, and the community's interests, within its district or region; and*
  - (ii) the interests of future as well as current communities; and*
  - (iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):*
- (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and*
- (h) in taking a sustainable development approach, a local authority should take into account—*
  - (i) the social, economic, and cultural interests of people and communities; and*
  - (ii) the need to maintain and enhance the quality of the environment; and*
  - (iii) the reasonably foreseeable needs of future generations*

As per Part II of the RMA, the provisions emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.

Section 14(g) is of relevance in so far as a planning approach emphasising that trees contribute to the heritage, amenity and identity of the District, while having regard to the efficient use of land including any modification to it for economic wellbeing.

### **3. Iwi Management Plans**

When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

The following iwi management plans are relevant:

- *The Cry of the People, Te Tangi a Tauria*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008)
- *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)

#### **4. Regional Planning Documents**

The Regional Policy Statement 1998 (RPS) is the operative regional policy statement. In May 2015 the Proposed Regional Policy Statement was notified.

The District Plan (the Plan) must *give effect to* the operative RPS and must *have regard to* any proposed RPS.

##### Operative RPS 1998

The operative RPS contains a number of objectives and policies that both promote and potentially discourage tree protection.

Policy 9.5.2 seeks to promote and encourage efficiency in the development and use of Otago's infrastructure, while Policy 9.5.3 is to promote and encourage the sustainable management of Otago's transport network.

Policy 9.5.3 seeks to minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through a/voiding remedying or mitigating: (d) significant irreversible effects on (v) Heritage values, or (vi) Amenity Values.

These policies set a basis to manage trees that contribute to the District's amenity and heritage values. The proposed plan change provisions are consistent with, and give effect to, the relevant operative RPS provisions.

##### Proposed RPS 2015

The following objectives are relevant to the management of trees:

*Objective 4.2 – Historic Heritage resources are recognised and contribute to the region's character and sense of identity.*

*Objective 4.6 – Adverse effects of using and enjoying Otago's natural and built environment are minimised.*

#### **5. Resource Management Issues**

This review seeks to address a number of key issues (detailed below), whilst also strengthening the existing provisions by providing more targeted objectives and policies, making the Plan easier to understand and improving certainty to what activities are permitted in the zones and whether they require a resource consent.

The resource management issues set out in this section have been identified from the following sources:

- Plan Change 3 – Heritage Operative 2008.

- The plan change identified trees that were assessed at the time but did not qualify as a scheduled tree<sup>1</sup>.
  - As part of the survey of the existing scheduled trees, a number of the trees identified in Plan Change 3 have been surveyed to determine whether they qualify.
- Heritage Monitoring Report - Heritage Trees. December 2011
  - Monitor the efficiency and effectiveness of the existing heritage trees provisions.
  - Outline the history of and the current provisions of the District Plan for the protection of heritage trees;
  - Records and analyses all the resource consent applications for alterations or removal of heritage trees since 2003 (when Chapter 13 and Appendix 3 of the District Plan became operative);
  - Analyses the efficiency and effectiveness of the heritage tree objective, policies and methods including rules;
  - Summarizes the issues that result from the above analysis;
  - Recommends actions, including alterations to the District Plan through the review process, to address the issues raised.
- Consultation Brochure - Heritage trees. June 2012
  - Was sent to all landowners who own land which has a heritage tree on and heritage stakeholders, to encourage public feedback on the issues identified in the monitoring report.
- Summary of feedback received from the public on consultation brochures.
  - Feedback considered as part of preparing this section 32 report and amendments to plan provisions.
- Tree protection in urban environments. Ministry For the Environment. Publication date December 2013. Publication Reference INFO 704.

### Consultation

Consultation prior to 2014 was undertaken with Gordon Bailey, Manager Parks at the Council and David Glenn, Arborist, about the protected tree provisions and in particular the definition for routine maintenance pruning for hedges.

Consultation also included the Consultation Brochure and feedback received. Feedback discussed the desire for clarification on permitted pruning and works within the root protection zone of scheduled trees.

Consultation since 2014 included advice from the Council's arborist David Spencer from Arborlab. Trees identified on the existing schedule were surveyed to determine if they qualify in terms of stature and health, and to confirm the correct location. All landowners with a scheduled tree on their property were notified of the survey. As part of this process comments were also obtained from landowners whom have scheduled trees on their property.

Consultation has been undertaken with landowners within the Residential Arrowtown Historic Management Zone who have a tree on their property that has been identified, through the Council's arborist's survey that qualifies as a protected tree.

The key issues are:

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<sup>1</sup> Attachment 5

[http://www.gldc.govt.nz/assets/OldImages/Files/District\\_Plan\\_Changes/Plan\\_Change\\_3\\_downloads/Council\\_Decision/PC\\_3\\_Decision\\_May\\_07.pdf](http://www.gldc.govt.nz/assets/OldImages/Files/District_Plan_Changes/Plan_Change_3_downloads/Council_Decision/PC_3_Decision_May_07.pdf)

### **Issue 1: The effective and efficient management of protected trees.**

A number of issues have been identified with the administration of the Operative District Plan provisions. These include:

- Overlapping policies
- Providing the ability to remove a dead, damaged or diseased tree without the need to obtain a resource consent
- The rules refer to significant trimming but there is no definition of significant trimming
- Identifying the difference between maintenance/trimming of a hedge and a tree
- Rules relating to works within close proximity to the tree need to be improved to assist with administration, interpretation and avoiding the potential for adverse effects to the root system of trees

Changes can be made to provide provisions that have clear parameters as to what constitutes an activity to a scheduled tree that would require resource consent. These would be more appropriate than the existing provisions.

### **Issue 2: The identification and management of trees in the Residential Arrowtown Historic Management Zone**

The proposed management of trees in this zone is separated into three groups:

- Character trees identified and scheduled in the District Plan – these will partially replace the 'blanket' tree protection rules currently provided by rule 7.6.3.3.i.
  - There are approximately 65 items consisting of single trees or groups of trees.
- Protected trees identified and scheduled in the District Plan. These trees have been identified as significant specimens, have a STEM score of 120 or greater and qualify as a protected tree (referred to as a Heritage Tree in the Operative District Plan). There are approximately 17 trees in the ARHMZ that are recommended for scheduling. Scheduling these trees as protected trees will partially replace the 'blanket' tree protection rules currently provided by rule 7.6.3.3.i.
- Trees located within the road or public places owned by the Council.

#### **Character Trees**

Currently, the removal of any tree greater than 2.5 meters high and the pruning, trimming or topping of any trees greater than 4 meters high requires resource consent as a discretionary activity (Operative District Plan Rule 7.6.3.3.i).

In 2009, changes to the Resource Management Act (Simplifying and Streamlining) Amendment Act 2009 removed the ability for councils to impose 'blanket' tree protection rules such as those currently in the District Plan for the Residential Arrowtown Historic Management Zone.

Following a declaration by the Environment Court, the provisions were changed and trees can be identified and scheduled by Councils under the following terms<sup>2</sup>, set out in Section 76(4A) – 764(D) of the RMA:

- Councils can protect trees on 'urban allotments' (<4000m<sup>2</sup> with reticulated services)
- There are no restrictions on the types of trees to be protected
- Protected trees must be described and the location identified by way of address and/or legal description in a schedule in the District Plan

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<sup>2</sup> <http://www.mfe.govt.nz/publications/rma/tree-protection-urban-environments/html/index.html>

- A group of trees on adjoining allotments can be included as a single group and, where a group is identified the group of trees can be described collectively

Territorial authorities such as the QLDC should review their district plan to ensure tree protection rules comply with the amendments to the RMA and the plan changes notified by 4 September 2015.

The existing tree protection rules in the Arrowtown Residential Historic Management Zone (ARHMZ) will no longer apply by 4 September 2015 and any trees in this zone which the Council wish to be protected will need to be identified and scheduled in the District Plan.

There is no question that the trees of Arrowtown within the ARHMZ contribute to amenity values and cultural heritage. It is considered appropriate to identify and manage this important resource.

There are trees (and hedges) in the ARHMZ which, on their own would not be likely to attain a STEM score to qualify as a protected tree, however, contribute to the character, amenity, and historical status of Arrowtown. Trees with potential for scheduling as 'character' trees in the Proposed District Plan will need to be identified (species and location) and supporting information provided (such as a description of amenity values or historical context) to provide a justification for their inclusion in the District Plan as a scheduled tree/group of trees.

The Council has engaged Blakely Wallace Landscape Architects to undertake a survey of the potential character trees. The firm have local experience and were also involved with the formulation of the Arrowtown Design Guidelines.

#### Trees in the road and public places owned by the Council within the ARHMZ

The trees located within the road and public places collectively make a significant contribution to the amenity, character and heritage values of the ARHMZ.

Council Officers have identified that more transparency and protection is favoured for the management of trees within the road and on Council land within the zone.

Primarily, matters include the process and management of trimming and works within the root protection area of trees.

It is proposed to introduce provisions that manage these trees in a more transparent and effective way. Furthermore, the removal of protection for all trees currently over 2.5 meters high increases the important role of trees located within the road and public places as contributors to the amenity and heritage character of the ARHMZ.

#### **Issue 3: The accurate identification and listing of the District's scheduled trees**

The planning maps do not accurately show the location of trees. In addition, the maps indicate groups or avenues of trees, but the schedule does not provide guidance on the trees that form the group.

The Operative District Plan schedule of 'heritage trees' (Scheduled trees) has been surveyed by an arborist using the systematic tree evaluation method (STEM). The qualifying score for a scheduled tree 120.

The survey included a confirmation of the existence, species, health and location of trees. The survey itemised individual trees located within existing scheduled avenues or groups.



## 6. Purpose and Options

Trees have an important environmental, heritage and cultural role and collectively endow the rural and urban landscape with distinctive environmental quality and character.

The purpose of the proposed provisions is to protect trees that have been identified as having high botanical, amenity and heritage values from avoidable removal. The provisions also recognise and provide for the retention and maintenance of trees that contribute to the amenity, character and heritage values of the Arrowtown Residential Historic Management Zone.

The focus is on the protection of trees from inappropriate removal or trimming, and to manage works within the root protection zone. However, it is recognised that there may be circumstances when substantial pruning or removal are unavoidable due to poor health or damage.

### Strategic Directions

The following goals, objectives and policies from the Strategic Directions chapter of the draft Plan are relevant to this assessment:

<b>Goal 3.2.1: Develop a prosperous, resilient and sustainable economy.</b>	
Objective 3.2.1.1	Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand's premier alpine resorts and the District's economy.
Policy 1.1	Provide a planning framework for the Queenstown and Wanaka central business areas that enables quality development and enhancement of the centres as the key commercial hubs of the District, building on their existing functions and strengths.
<b>Goal 3.2.3: A quality built environment taking into account the character of individual communities</b>	
Objective 3.2.3.2	Protect the District's cultural heritage values and ensure development is sympathetic to them.
Policy 3.2.3.2.1	Identify heritage items and ensure they are protected from inappropriate development.

In general terms, and within the context of this review, these goals and objectives are met by:

- Ensuring the schedule of protected trees is correct and up to date, and providing for their appropriate management.
- Providing appropriate management of the trees in the ARHMZ, recognising its unique qualities.
- Providing rules that are efficient, effective and provide certainty.

Determining the most appropriate methods to resolve the issues identified will enable the Plan to give effect to the RPS, the relevant parts of the Strategic Directions chapter, and ultimately meet the purpose of the RMA.

As required by section 32(1)(b) RMA, the following section considers various broad options considered to address each issue, and makes recommendations as to the most appropriate course of action in each case.

## Broad options considered to address issues

### Issue 1: The effective and efficient management of protected trees.

### Issue 3: The accurate identification and listing of the District's scheduled trees

Option 1: Retain the operative provisions.

Option 2: Maintain the majority of the provisions with modification where necessary (**Recommended**).

Option 3: Comprehensive modification to the operative provisions.

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Amend operative provisions</b>	<b>Option 3: Comprehensive changes</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>Does not address all the identified issues nor address the lack of clarity and ambiguity in some of the rules.</li> <li>The operative District Plan schedule is not as accurate as it could be. This leads to deficiencies in administration of the District Plan and insufficient protection and management of the resource.</li> </ul>	<ul style="list-style-type: none"> <li>Costs associated with going through the District Plan Review process (but this is required by legislation).</li> </ul>	<ul style="list-style-type: none"> <li>Costs associated with going through the District Plan Review process (but this is required by legislation).</li> <li>A new framework may have little gain relative to the cost or uncertainty from a new management regime.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Retains the established approach which parties are familiar with.</li> </ul>	<ul style="list-style-type: none"> <li>Retaining but improving the existing provisions will remove ambiguity with the application of the existing rules.</li> <li>More accurate mapping will help improve plan administration and certainty with the location and status of scheduled trees.</li> </ul>	<ul style="list-style-type: none"> <li>None identified over and above option 2, the overarching framework and method to identify and schedule protected trees is considered to be appropriate.</li> </ul>
<b>Ranking</b>	<b>3</b>	<b>1</b>	<b>2</b>

## **Issue 2: The identification and management of trees in the Arrowtown Residential Historic Management Zone**

Option 1: Retain the operative provisions.

Option 2: Maintain the majority of the provisions with modification where necessary.

Option 3: Comprehensive modification to the operative provisions **(Recommended)**.

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Amend provisions where necessary</b>	<b>Option 3: Comprehensive changes</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>Significant costs associated with the management of trees from a retention/conservation perspective because the blanket tree protection rules will be removed.</li> </ul>	<ul style="list-style-type: none"> <li>Potential loss of opportunity to investigate opportunities to manage all trees in the zone that contribute to Arrowtown's character and heritage, including roads and council parks, not just those on 'urban allotments'.</li> </ul>	<ul style="list-style-type: none"> <li>Has potential to create a requirement for more resource consents.</li> <li>Potential for more stringent protection for new protected trees.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Would Provide more flexibility to landowners to trim or remove trees.</li> <li>No benefits from a trees retention/conservation perspective.</li> </ul>	<ul style="list-style-type: none"> <li>None identified.</li> </ul>	<ul style="list-style-type: none"> <li>Provides an opportunity for a broad overview and assessment of trees in the ARHMZ irrespective of location.</li> <li>Provides an opportunity to evaluate the management of trees in the context of the following circumstances:</li> <li>A survey of the potential 'character tree's' would mean that a number of trees previously protected under the 'blanket tree protection' rules will no longer be protected. This reinforces the importance and contribution of trees in streets and public places.</li> <li>Provides an opportunity to identify potential protected trees that have significant stature.</li> <li>Provides an opportunity to provide greater transparency and management of trees in streets and public places.</li> </ul>
<b>Ranking</b>	<b>3</b>	<b>2</b>	<b>1</b>

## **7. Scale and Significance Evaluation**

The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions. In making this assessment, regard has been had to the following, namely whether the objectives and provisions:

- Result in a significant variance from the operative District Plan.
- Have effects on resources that are considered to be a matter of national importance in terms of section 6 of the Act.
- Adversely affect those with specific interests, e.g., persons who have an existing scheduled tree on their property.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

The level of detail of analysis in this report is moderate-high. Trees identified for protection are of importance to the District.

A number of the provisions take general existing approaches further in terms of implementation. For example, the Operative District Plan sets out a framework regulation of trees that are considered worthy of protection and the proposed chapter is not a significant departure from that. The scale and significant of the evaluation is based on the changes to the operative District Plan provisions. Examples include providing more certainty with respect to permitted maintenance or trimming and works within the root protection zone of trees.

## 8. Evaluation of proposed Objectives Section 32 (1) (a)

<i>Proposed Objective</i>	<i>Appropriateness</i>
<b>32.2.1 Protect scheduled trees and groups of trees from avoidable removal or damage</b>	<p>The objective is the most appropriate way to meet the purpose of the RMA because it provides a basis to manage the District's protected trees. The objective emphasises that the protection of these trees is the principal reason for their scheduling, while acknowledges that there may be circumstances where the removal of a protected tree, or protected tree status of a tree will be unavoidable due to the tree being diseased or damaged.</p> <p>Meets the purpose of the RMA in terms of Section 5.</p> <p>Gives effect to RPS objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Has regard to Proposed RPS 2015 objective</p> <ul style="list-style-type: none"> <li>• Objective 4.2 – Historic Heritage resources are recognised and contribute to the region's character and sense of identity.</li> <li>• Objective 4.6 – Adverse effects of using and enjoying Otago's natural and built environment are minimised.</li> </ul> <p>Consistent with the following Strategic Direction Policies:</p> <ul style="list-style-type: none"> <li>• Objective 3.2.1.1 Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand's premier alpine resorts and the District's economy.</li> <li>• Objective 3.2.3.2 Protect the District's cultural heritage values and ensure development is sympathetic to them.</li> </ul>
<b>32.2.2 Protect trees in streets and public spaces within the Arrowtown Residential Historic Management Zone</b>	<p>The objective is the most appropriate way to give effect to the purpose of the RMA because it recognises the contribution trees located in streets and public places make to Arrowtown.</p> <p>The objective provides the platform for a policy framework to manage these trees and protect them from avoidable damage or removal.</p> <p>Gives effect to RPS Objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p>

	<p>Meets the purpose of the RMA in terms of Section 5.</p> <p>Gives effect to RPS objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Meets the purpose of the RMA in terms of Section 5.</p> <p>Gives effect to RPS objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Has regard to Proposed RPS 2015 objective</p> <ul style="list-style-type: none"> <li>• Objective 4.2 – Historic Heritage resources are recognised and contribute to the region’s character and sense of identity.</li> <li>• Objective 4.6 – Adverse effects of using and enjoying Otago’s natural and built environment are minimised.</li> </ul> <p>Consistent with the following Strategic Direction Policies:</p> <ul style="list-style-type: none"> <li>• Objective 3.2.1.1 Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand’s premier alpine resorts and the District’s economy.</li> <li>• Objective 3.2.3.2 Protect the District’s cultural heritage values and ensure development is sympathetic to them.</li> </ul>
<b>32.2.3 Protect and manage character trees and groups of trees within the Arrowtown Residential Historic Management Zone</b>	<p>The objective meets the purpose of the RMA because it provides a basis to protect and manage the maintenance of trees and groups of trees within urban allotments in accordance with the requirements of Section 76(4A) – 764(D) of the RMA.</p> <p>Has regard to Operative District Plan Objective 7.4.3.1 <i>‘Development undertaken in the historic residential area to retain or enhance the present character and avoid any adverse effects on the amenity values of the area’</i>.</p> <p>Gives effect to RPS Objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Gives effect to RPS Objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Meets the purpose of the RMA in terms of Section 5.</p>

	<p>Gives effect to RPS objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Meets the purpose of the RMA in terms of Section 5.</p> <p>Gives effect to RPS objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Has regard to Proposed RPS 2015 objective</p> <ul style="list-style-type: none"> <li>• Objective 4.2 – Historic Heritage resources are recognised and contribute to the region’s character and sense of identity.</li> <li>• Objective 4.6 – Adverse effects of using and enjoying Otago’s natural and built environment are minimised.</li> </ul> <p>Consistent with the following Strategic Direction Policies:</p> <ul style="list-style-type: none"> <li>• Objective 3.2.1.1 Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand’s premier alpine resorts and the District’s economy.</li> <li>• Objective 3.2.3.2 Protect the District’s cultural heritage values and ensure development is sympathetic to them.</li> </ul>
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## 9. Evaluation of the proposed provisions Section 32 (1) (b)

The following tables consider whether the proposed provisions are the most appropriate way to achieve the relevant objectives. In doing so, it considers the costs and benefits of the proposed provisions and whether they are effective and efficient. For the purposes of this evaluation the proposed provisions are grouped by the resource management issue.

(Also refer to the Table detailing broad options considered in Section 5, above)

**Issue 1: The effective and efficient management of protected trees.**

**Issue 3: The accurate identification and listing of the District's scheduled trees.**

Objective 32.2.1 Protect scheduled trees and groups of trees from avoidable removal or damage

Proposed Policies to give effect to the objective.

- 32.2.1.1 Identify and schedule in the District Plan the District's protected trees.
- 32.2.1.2 Protect scheduled trees from the avoidable removal, or the removal of the protected tree status from a tree, inappropriate trimming or destruction, recognising them as an important part of the character, amenity and heritage values of the District.
- 32.2.1.3 Recognise where genuine circumstances exist, the removal or significant trimming of protected trees may not be avoidable because the values of the tree for which it was protected have significantly deteriorated, or the tree is causing a hazard to life or property.
- 32.2.1.4 Permit works and maintenance to be undertaken on protected trees where the work will assist in maintaining the health of the tree.

**Summary of proposed provisions that give effect to these objectives:**

Rules: 32.3

All rules associated with Table 1, including:

- The requirement for a discretionary class of resource consent, similar to the Operative District Plan rules, to undertake significant trimming, removal, or works within the root protection area of a protected tree or hedgerow scheduled in the District Plan. Noting the following new provisions:
  - Provide clarification on what constitutes minor trimming, including minor trimming of hedgerows.
  - Provide a definition of root protection zone and clarification of what constitutes works within that would require a resource consent.
  - The ability to remove a protected tree as a permitted activity where the tree is diseased, dead or likely to cause an imminent hazard to life or property.
- Operative District Plan Rules 13.2.3.2.iii(a) and (b)
  - The exemption for existing scheduled item 209 will be removed because this is addressed by the proposed district wide permitted activity that



<p>would enable the removal of trees as a permitted activity where the tree is dead or diseased and likely to cause an imminent hazard to life or property.</p> <ul style="list-style-type: none"> <li>The exemption for scheduled item 208 will be removed because this is addressed by the proposed district wide permitted activity for minor trimming to hedgerows.</li> </ul>		
<b>Costs</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The rules retain the ability to apply for a resource consent to remove or modify trees. The provisions do not protect the tree in perpetuity.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Retains (and introduces for new listings) a protection regime for protected trees that imposes resource consent application costs on owners of protected trees.</li> <li>Has potential to constrain the ability to develop properties or construct buildings.</li> <li>Maintenance costs could be higher than for trees that are not scheduled where resource consents granted to undertake significant trimming to protected trees require an arborist to undertake the work.</li> </ul> <p><b>Social &amp; Cultural</b></p> <ul style="list-style-type: none"> <li>Costs for the council for the identification of protected trees on the schedule.</li> <li>May restrict the ability to undertake development within close proximity to the tree.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>The character and amenity of the district will be protected for future generations.</li> <li>Protection of protected trees adds to the attractiveness of the District.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>Adds to economic growth and employment through tourism as it retains the amenity and character of the district.</li> <li>Allows for maintenance of protected trees as a permitted activity.</li> <li>Allows for removal of damaged or diseased trees as a permitted activity.</li> </ul> <p><b>Social &amp; Cultural</b></p> <ul style="list-style-type: none"> <li>The retention of trees with stature and that make a contribution to amenity values provides for social and cultural wellbeing and assists with identity and a sense of place.</li> <li>Enables the protection of safety of people and</li> </ul>	<ul style="list-style-type: none"> <li>The rules will be effective at ensuring the District's protected trees are managed and that proposals to modify or remove the trees have regard to their contribution to the District's amenity and heritage values.</li> <li>The provisions introduce efficiencies by clarifying what can be undertaken as a permitted activity.</li> <li>The provisions create efficiencies by providing the ability to remove or undertake significant trimming to a tree that is diseased or damaged, without the need to obtain a resource consent.</li> </ul>

	property from dangerous protected trees.	
<b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b>		
<i>Option 1: None considered. The identification of protected trees using the STEM criteria, and requiring a resource consent for the removal, works within the root protection area or significant trimming is an accepted method and used throughout the country.</i>		

## **Issue 2: The identification and management of trees in the Residential Arrowtown Historic Management Zone**

32.2.2 Protect trees in streets and public spaces within the Arrowtown Residential Historic Management Zone.

32.2.3 Identify, protect and manage character trees and groups of trees within the Arrowtown Residential Historic Management Zone

### **Proposed Policies to give effect to the objectives.**

13.1.1.2 32.2.2.1 Provide efficiencies to the Council where it is responsible for the conservation, maintenance and management of trees within streets and public spaces.

13.1.1.3 32.2.2.2 Recognise that trees within streets and public spaces provide a significant contribution to the amenity, heritage and biodiversity values of the Arrowtown Residential Historic Management Zone.

32.2.2.3 Protect trees within streets and public places in the Arrowtown Residential Historic Management Zone while acknowledging the primary function of streets and public spaces.

32.2.3.1 Identify and schedule in the District Plan trees and groups of trees within the Arrowtown Residential Historic Management Zone that contribute to the zone's unique character and heritage values.

32.2.3.2 Protect or enhance Arrowtown's unique character and amenity by recognising the contribution trees and groups of trees make to Arrowtown's landscape, cultural identity and historic heritage values.

- 32.2.3.3 Acknowledge the important role trees and groups of trees have in contributing to the character and historic heritage of Arrowtown, despite that on an individual basis a tree or group of trees may not be significant in stature.
- 32.2.3.4 Have regard to the reasonable and efficient use of land anticipated in the Arrowtown Residential Historic Management zone, while ensuring the removal or modification of trees or groups of trees does not lead to the cumulative loss of Arrowtown's heritage character and amenity values.

Assessment matters for the Significant trimming, removal, destruction or damage for restricted discretionary activities:

- (a) The significance of the character, cultural and amenity values of the tree(s) and the degree to which the proposed trimming, works or removal would impact on those values.
- (b) The efficient use of land and resources, including reasonable sunlight into dwellings and building maintenance.
- (c) Whether the proposed works would maintain the values for which it was protected.
- (d) The merits of any substitute or compensating tree planting or landscaping.
- (e) Whether the removal of the tree or group of trees would create a cumulative adverse effect due to previous tree removals, whether on the same property or not.

Works within the root protection zone:

- (f) Potential effects on the health or stability of the tree or hedgerow
- (g) Whether best practice methods will be used
- (h) Whether any alternatives are available

**Summary of proposed provisions that give effect to these objectives:**

Rules 32.3 – clarification

Rules 32.4 Tables 2-3

- Character Trees: Identification and scheduling in the District Plan the trees within urban allotments that contribute to the character, amenity and heritage of the zone. To require a restricted discretionary class of resource consent to undertake significant trimming, removal or works within the root protection area of these trees.
- Trees located in the road or within public places: to require a discretionary class of resource consent in the following circumstances:
  - Works by the Council or its agent

- Removal or significant trimming of a tree more than 4 metres high
- Works by any other person
  - Removal or significant trimming
  - Works within the root protection zone

Trees located in this zone are managed by the Council's Parks team with a conservation focus. The Council as manager of the trees would not usually remove or undertake significant trimming to a tree. Where works within the root protection zone or significant trimming is required the Council would do so in accordance with accepted arborist practice.

Therefore, efficiencies to the Council as manager of these trees are proposed to not require a resource consent to remove or undertake significant trimming to trees less than 4 metres in height. To provide transparency of process, and in recognition that trees over 4 metres are likely to provide higher amenity values. A resource consent would be required where the Council wish to remove or undertake significant trimming.

To provide appropriate protection and transparency of decision making processes associated with modification to trees in streets and public places, any person other than the Council who wishes to remove, undertake significant trimming or works within the root protection zone would be required to obtain a resource consent.

- Provide clarification on what constitutes minor trimming, including minor trimming of hedgerows.
- Provide a definition of root protection zone and clarification of what constitutes works within that would require a resource consent.
- The ability to remove a protected tree as a permitted activity where the tree is diseased, dead or likely to cause an imminent hazard to life or property.
- Provide clarification on what constitutes a public place in the context of the matter.

<b>Costs</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<b>Environmental</b> <ul style="list-style-type: none"> <li>• The rules retain the ability to apply for a resource consent to remove or modify trees. The provisions do not protect the tree from removal or significant trimming. Only this could be provided</li> </ul>	<b>Environmental</b> <ul style="list-style-type: none"> <li>• The character and amenity of the zone will be protected for future generations.</li> <li>• Protection of trees adds to the attractiveness of</li> </ul>	<ul style="list-style-type: none"> <li>• The rules will be effective at ensuring the District's protected trees are managed and that proposals to modify or remove the trees have regard to their contribution to the District's amenity and heritage values.</li> </ul>

<p>by a prohibited status.</p> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• Imposes a cost to the Council to apply for resource consent to undertake works to trees over 4 metres high.</li> <li>• Imposes a cost for persons to obtain a resource consent where the tree is located on the road, public place, or within an urban allotment and scheduled as a Character Tree.</li> <li>• Protected tree status of a character tree or a tree on the road has the potential to impact on the ability to develop land.</li> <li>• Maintenance costs may be higher than for trees that are not scheduled where resource consents granted to undertake significant trimming to protected trees require an arborist to undertake the work.</li> </ul> <p><b>Social &amp; Cultural</b></p> <ul style="list-style-type: none"> <li>• May restrict the ability to undertake development within close proximity to the tree. Resulting in a social through lost economic benefits.</li> </ul>	<p>the zone and District.</p> <ul style="list-style-type: none"> <li>• Encourages persons to develop in a manner that is sympathetic to the Arrowtown Design Guidelines.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• Adds to economic growth and employment through tourism as it retains the amenity and character of Arrowtown.</li> <li>• Allows for maintenance of protected trees as a permitted activity.</li> <li>• Allows for removal of damaged or diseased trees as a permitted activity.</li> </ul> <p><b>Social &amp; Cultural</b></p> <ul style="list-style-type: none"> <li>• The conservation and management of trees that make a contribution to amenity values provides for social and cultural wellbeing and assists with identity and a sense of place.</li> <li>• Allowing the removal of dead or diseased trees as a permitted activity provides for the protection of safety of people and property.</li> </ul>	<ul style="list-style-type: none"> <li>• The provisions introduce efficiencies by clarifying what can be undertaken as a permitted activity.</li> <li>• The provisions create efficiencies by providing the ability to remove or undertake significant trimming to a tree that is diseased or damaged, without the need to obtain a resource consent.</li> </ul>
<p><b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b></p>		
<p><i>Option 1: Retain the status quo with no rules for trees in streets or public places</i></p>	<ul style="list-style-type: none"> <li>• <i>Would not appropriately manage the tree resource in Arrowtown.</i></li> <li>• <i>The trees in streets and public places are an important resource and the status quo method of management would benefit from being more transparent</i></li> </ul>	

## **10. Efficiency and effectiveness of the provisions**

The above provisions are drafted to specifically address the resource management issues identified with the current provisions, and to enhance those provisions that already function well. A number of areas of the existing chapter have been removed to aid the readability of the Plan by keeping the provisions at a minimum, whilst still retaining adequate protection for the resource.

By simplifying the objectives, policies and rules (the provisions), the subject matter becomes easier to understand for users of the Plan both as applicant and administrator (processing planner). Removal of technical or confusing words and phrases also encourages correct use and interpretation. With easier understanding, the provisions create a more efficient consent process by reducing the number of consents required and by expediting the processing of those consents.

The confirmation of minor trimming and the ability to trim or modify damaged or diseased trees where applicable will introduce efficiencies that are more appropriate than the operative District Plan provisions. In addition, the provisions will be effective at ensuring the District's stock of valued trees is retained.

In the context of the removal of the general tree protection rules for the ARHMZ, the identified protected trees, Arrowtown Character Trees and the protection of trees in streets and public places will ensure this valued resource is effectively protected.

## **11. The risk of not acting**

Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is not considered that there is uncertain or insufficient information about the subject matter of the provisions.

The issues identified and options taken forward are the most appropriate way to achieve the purpose of the RMA. If these changes were not made there is a risk the District Plan would fall short of fulfilling its functions.

## **References**

1. QLDC plan change on heritage items:  
[http://www.qldc.govt.nz/assets/OldImages/Files/District\\_Plan\\_Changes/Plan\\_Change\\_3\\_downloads/Council\\_Decision/PC\\_3\\_Decision\\_May\\_07.pdf](http://www.qldc.govt.nz/assets/OldImages/Files/District_Plan_Changes/Plan_Change_3_downloads/Council_Decision/PC_3_Decision_May_07.pdf)
2. Tree protection in urban environments. Ministry for the Environment 2013. Publication Number INFO704 - [link](#)