



24 May 2019

Official Information Request No 8140004602
(Please quote this in any correspondence)

By email: wendzgray@orcon.net.nz

Dear Wendy

Local Government Official Information and Meetings Act 1987

Re: Tree protection register

I refer to your email, which we received on 9 May 2019, requesting information about the tree protection register. For your ease of reference I have included your questions in the response below. The numbering differs from your original email, as there were two questions numbered 7 in your email.

“1. When was this Register was closed”

The Schedule of Notable Trees (Schedule 10) forms part of the Auckland Unitary Plan (AUP). The Schedule was subject to the process that the entire AUP went through, leading up to it becoming Operative in Part in November 2016.

The Schedule was not “closed” *per se*. It formed part of the whole process of the development of the AUP (the history, timeline and process of the development and final decision about the AUP can be viewed here: <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/history-unitary-plan/Pages/default.aspx>)

The public had the ability to make submissions on any aspect of the draft AUP and these submissions were considered as part of the Hearings process that was run by the Independent Hearings Panel (IHP). There were submissions in relation to trees on the Schedule and these can be viewed as part of the documents included in the link above.

When the AUP was made Operative in Part (November 2016), it reflected the recommendations of the Independent Hearings Panel (after listening to all submitters and considering all the matters before it) and the subsequent decisions of the Auckland Council Governing Body to accept/reject the recommendations of the IHP.

The Council report that outlines its acceptance/rejection of the IHP’s recommendations is located here:

<https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/history-unitary-plan/decisions-report-and-plan/Pages/decisions-report.aspx>

Following this, the AUP was made Operative (in Part) in November 2016 and was then subject to an Appeal period.

“2. Why was this Register closed?”

The Schedule of Notable Trees, as part of the AUP, was subject to the overall Hearings process and final AUP, which was notified in November 2016.

It was not “closed” *per se*, it was part of the process that led to an operative Auckland Unitary Plan and the final Schedule of Notable Trees (Schedule 10) which is now operative and in force, having been through a full process (which has now ended).

The Schedule has developed from all of the previous (legacy) councils’ heritage/notable trees schedules, brought together into one schedule, containing almost 3,000 entries representing approximately 6,000-7,000 trees across the region.

“3. Who and/or what committee or department or person made the decision to close this Register?”

The Auckland Council Governing Body resolved to make the AUP operative. As discussed above, the Schedule forms part of the AUP and so was included in the overall decision to make the AUP operative in November 2016.

“4. Could I please have a copy of the decision?”

The Governing Body’s decision is available on the link above. There were a limited number of Appeals on the AUP relating to trees and these have been resolved, so Schedule 10 of the AUP has been Operative (i.e. fully in force) for over two years now. The full list of Appeals can be viewed here <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/auckland-unitary-plan-appeals/Pages/default.aspx>

“5. When does Council propose to open the register?”

There is currently no plan to undertake a full review of the Schedule of Notable Trees. The Planning Committee (April 2019) recently passed the following resolution:

Resolution number PLA/2019/36

MOVED by Cr W Walker, seconded by Cr P Hulse:

That the Planning Committee:

- a) **approve the notification of the proposed plan change to the Auckland Unitary Plan (Operative in Part) to re-order and correct technical errors and anomalies in Schedule 10 – Notable Trees included as Attachments B and C of the agenda report;**
- b) **endorse the section 32 evaluation report contained as Attachment A to the agenda report; and**
- c) **delegate to the Chair and Deputy Chair of the Planning Committee and an Independent Māori Statutory Board Member the authority to review and approve the final schedule and make minor amendments to the proposed plan change prior to public notification to incorporate any changes due to feedback from iwi authorities.**
- d) **recommend that the incoming council consider the timing of a full review of Schedule 10 – Notable Trees within the context of Urban Ngahere (forest) work and resourcing considerations.**

CARRIED

The full minutes and associated staff report is available at this link:

http://infocouncil.aucklandcouncil.govt.nz/Open/2019/04/PLA_20190402_MIN_6743_WEB.htm

“6. Please give details of Council's current procedure to list a tree as protected on the register?”

Anyone is able to nominate a tree or trees for inclusion in Schedule 10 by filling out the nomination form available on the council's website. This is then sent to the Heritage team's database, where nominations are held until such time as a plan change is initiated to undertake a full review of the Schedule. As above, there is currently no timeframe to start that work as of yet. All those who nominate a tree/trees will be acknowledged via a letter from the Heritage team.

“7. What is the procedure for removing a tree from the Protected tree register? Council tells people who ring up that there is a simple procedure to de-list them.”

Removing or altering a tree or trees, which are listed in Schedule 10, requires a resource consent. It is not a 'simple' or 'automatic' procedure to remove a tree from the Schedule. A consent application must be made and this is assessed under the rules relating to Scheduled Trees (Chapter D13 – Notable Trees Overlay). Some minor trimming or removal of deadwood is permitted provided this is done in accordance with the permitted 'standards,' but any other trimming, removing or works within the dripline requires a consent.

To formally “de-list” a tree requires a plan change, either through a public or a private plan change process. As discussed below, the council has no plan to start a public plan change process to 'open up' Schedule 10 for additions or deletions.

Some additional detail about the process and fees for lodging a private plan change can be found here:

<https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/auckland-unitary-plan-modifications/Pages/fees-and-charges-for-private-plan-change-requests.aspx>

“8. What is the status of the trees which are protected under the Unitary Plan because they are located on land zoned Open Space and are over 4 metres and over 400 mm in girth? Do these trees obtain the same status as trees which are protected by being listed on the Protected tree register?”

Trees over 4m in height and 400mm in girth, which are located in Open Space zone have the same 'status' in that their removal and more than minor trimming requires a consent. The same applies to trees in road reserves. There are also multiple other rules throughout the AUP relating to trees/bush in that a consent is required to remove these. For example, in Significant Ecological Areas (SEAs).

“9. What are Council's plans to tighten and expand the protection of Auckland's valuable mature trees in the future ?”

The central strategy which brings together the initiatives and plans in terms of Auckland's trees is the Urban Forest Strategy which was adopted by the council earlier this year. It outlines most of the current major initiatives in place to grow, manage and protect Auckland's trees. The strategy and supporting documents can be found on the council's website at this link: <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports->

[bylaws/our-plans-strategies/topic-based-plans-strategies/environmental-plans-strategies/Pages/urban-ngahere-forest-strategy.aspx](https://www.aucklandcouncil.govt.nz/bylaws/our-plans-strategies/topic-based-plans-strategies/environmental-plans-strategies/Pages/urban-ngahere-forest-strategy.aspx)

In terms of regulation, the AUP contains objectives, policies and rules to protect certain trees and groups of trees across the region. Some of these have been outlined above. There are also groves of covenanted bush areas that are protected under separate legislation across the region. One of the principles in the Urban Forest Strategy is to use both regulatory and non-regulatory mechanisms to protect trees. The regulatory mechanisms in place are principally under the AUP, which contains the rules to protect certain areas of vegetation and individual trees. There are also other mechanisms to protect trees, like legal covenants, but these are mostly outside the jurisdiction of the council. Non-regulatory mechanisms include increasing people's awareness of the benefits trees provide. It is hoped that more awareness will increase the protection and value people give to trees.

"10. Does Council currently have any plans to tighten the protection of Auckland's valuable mature tree assets?"

Please refer to the answer to the previous question.

"11. I understand that, contrary to what Council employees tell us, under the Unitary Plan, Council does have the right to protect significant trees that are located on private land. Is this right being affected by the fact that the Protected tree register has been closed by Council?"

You are correct in that the council has the ability to protect trees on private land.

The Schedule of Notable Trees, as explained in previous answers, is part of the AUP and forms one of a number of sets of rules in the Plan that protects trees across the region, both on public and private land. To alter or add any rule in the AUP requires a Plan Change process, including a review of the Schedule to add/remove/re-evaluate any of the listings included in it. There is currently no proposal to alter or amend any of the rules currently in place which protect trees across the region. Consent is not required to do a plan change, but it is a public process, open to submissions and with the potential to appeal any decision of Council to the Environment Court.

Section 76 of the RMA deals with rules regarding tree protection.

<http://www.legislation.govt.nz/act/public/1991/0069/232.0/DLM233685.html>

Three are protected in the Unitary Plan – see Chapter D13 and Schedule 10 of the Unitary Plan which deals with notable trees.

<http://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20D%20Overlays/2.%20Natural%20Heritage/D13%20Notable%20Trees%20Overlay.pdf>

*"12. When is Council going to bring in a plan to **actually implement** its find words of intention to increase Auckland's urban forest canopy to 30% by 2030 set out in its Strategy for Auckland's Urban Ngahere passed in February 2018 and finally published 27 March 2019. This Report Council's own Departments, like Community Facilities which is responsible for Council's green assets, is so far failing to implement."*

Auckland's Urban Ngahere (Forest) Strategy includes an implementation framework that consists of 18 high level actions that are central to achieving the knowing, growing and protecting outcomes identified in the strategy. In addition to the high-level actions, collaboration, funding and partnerships and area specific implementation are all fundamental to the strategy's success.

Staff are currently working with 14 of Auckland's 21 local boards to produce detailed reports on urban forest in each local board area. This will provide a better understanding of the trends and status of urban forest in each local board area and support an area specific approach to implementation. This work supports the implementation of a number of the strategy's high-level actions and will support evidence-based decision making and a strategic approach to urban forest planning. This increased understanding at a local board level will help direct planting efforts to where the most value can be realised.

Implementation of the strategy requires coordination and collaboration across numerous council teams including those in Parks Services, Community Facilities, Environmental Services and the Auckland Design Office and with Council Controlled Organisations including Auckland Transport and Panuku. Auckland Council has a dedicated Senior Advisor, Urban Forest who is leading this coordination and collaboration to ensure the successful implementation of the strategy.

To confirm, the objective stated in the strategy is to "increase the average canopy cover to 30 per cent across Auckland's urban area with no local board area having less than 15 per cent canopy cover." The strategy does not include the wording "to increase Auckland's urban forest canopy to 30% by 2030".

Should you believe Auckland Council has not responded appropriately to your request, you have the right by way of complaint, under section 27(3) of the LGOIMA, to apply to the Ombudsman to seek an investigation and review of the decision.

If you have any further queries please contact me on 09 301 0101 quoting Official Information Request No 8140004602.

Yours sincerely



Samantha Sinclair
Privacy & LGOIMA Business Partner
Democracy Services