

Protection of trees – what can you cut?

The rules on what trees on private property may be trimmed or felled differ from council to council.

Wellington City

Wellington City Council views trees on private property as private property. Owners may trim or fell trees without running foul of council bylaws.

In some circumstances, the council may require owners to trim trees back where public footpaths or roads are obstructed by overgrown shrubs and overhanging branches.

The only exception to this rule is where a tree is listed as a “notable” or “heritage” tree.

The Heritage List can be accessed on the council’s website. The list is specific and detailed. Owners will be able to immediately identify any listed tree by the address and species of the tree.

Hutt City

In the Hutt, the district plan acknowledges the importance of trees for “providing visual amenity, contributing to health and wellbeing, softening the built environment and acting as buffers to noise and weather”.

Hutt City Council protects certain trees in its “notable tree list”.



LEGAL MATTERS

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This is accessible through the council website. The council also lists areas where remnant nikau palms are protected.

If a tree in the Hutt falls into one of those two “protected” categories, any activity or site development that adversely affects the tree will require resource consent.

Maintenance pruning of notable trees must be carried out by council officers or experts. Property owners can contact the council to arrange this.

Removal of listed notable trees or remnant nikau palms is permitted if the tree threatens the safety of people or property. The owner may then remove the tree, but must notify the council first, especially if the tree is a notable tree.

Porirua

Maintenance of trees on private land is the owner’s responsibility. The council will take action only if it thinks an owner’s plants create

a public nuisance or safety risk.

The Porirua council tries to avoid unnecessary removal of native vegetation in public spaces.

For example, its policies support cluster housing to avoid urban encroachment on areas of native vegetation.

The council also protects certain areas by deeming them “landscape protection areas”.

These areas are subject to particular policies and rules and are mapped out on the council’s website.

Porirua residents should be aware that the current rules are under review and may change shortly.

Kapiti Coast

On the Kapiti Coast, gardeners need to be aware of extra rules contained in the Operative District Plan.

In general, “the disturbance, removal, damage or destruction” of naturally occurring indigenous vegetation is a permitted activity.

Removal is permitted if a tree is less than four metres in height and has a trunk circumference of less than 95cm.

Trunk circumference is measured at a point no higher than 1.4 metres above the ground.

Trimming or felling is not permitted if the vegetation:

■ Forms a contiguous area of more than 100 square metres.

■ Is within 20 metres of a waterbody (including within the waterbody itself) or the coastal marine area.

■ Is nationally or regionally rare or threatened.

There are further rules for vegetation and trees listed in the council’s Heritage Register and for modification of more than 2 hectares’ worth of native plants.

The Proposed District Plan contains further rules for ecological sites.

Since the 2009 change to The Resource Management Act, a district plan 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”.

Current rules relate either to listed trees or to trees within defined areas.

How this new law relates to council plans for tree protection already in place is yet to be tested.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have a legal inquiry, email Alan on aknowsley@raineycollins.co.nz.