

**Tasman Resource Management Plan
Efficiency and Effectiveness Evaluation**

**Chapter 10:
Significant Natural Values and Historic
Heritage**

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Acronyms

DOC	Department of Conservation
GIS	Geographic Information System
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
LiDAR	Light Detection and Ranging - technology that provides detailed contour data
MagiQ-BI/NCS	Two related Council information systems - used to manage data, including for resource consents and service requests, including complaints.
NES-PF	National Environmental Standards for Plantation Forestry, 2018
NZCPS	New Zealand Coastal Policy Statement
NPS-FWM	National Policy Statement on Freshwater Management 2014
NPS-IB	National Policy Statement for Indigenous Biodiversity
RMA	Resource Management Act
SNA	Significant Natural Area
TRMP	Tasman Resource Management Plan
TRPS	Tasman Regional Policy Statement
WCO	Water Conservation Order

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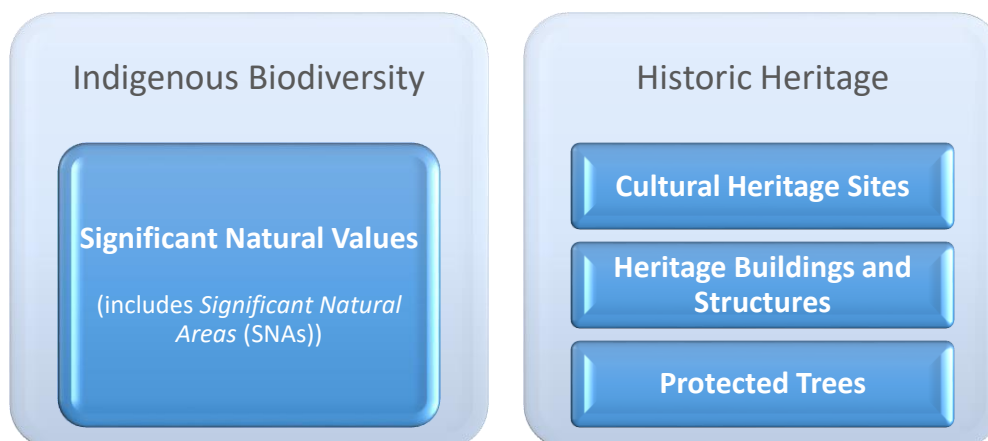
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Executive Summary

The focus of this evaluation is on the effectiveness and efficiency of the TRMP in achieving the objectives of Chapter 10.

Chapter 10 addresses a number of four topic areas in the two broad themes of indigenous biodiversity ('significant natural values') and historic heritage, as detailed in the diagram below.

Table 1: Topic areas evaluated in Chapter 10



The key conclusions with respect to the efficiency and effectiveness of the provisions relating to these topics are summarised below.

Significant Natural Values

This section implements particular requirements in the Resource Management Act relating to biodiversity, including to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c)), to have particular regard to the intrinsic value of ecosystems (s7(d)) and to control effects of the use, development or protection of land for the purpose of the maintenance of indigenous biological diversity (s31(1)(b)(iii)).

A key objective of this plan chapter is the protection and enhancement of indigenous biological diversity and the integrity of terrestrial, freshwater and coastal ecosystems, communities and species. There are a number of other objectives relating to indigenous biodiversity scattered throughout the plan. It is concluded in this report that these biodiversity provisions are no longer fit for purpose and it is recommended that they be re-developed in response to new proposed strategic and legislative documents, including the final National Policy Statement for Indigenous Biodiversity (NPS-IB), National Biodiversity Strategy and Tasman Biodiversity Strategy (Honey, 2019, p.3)¹.

Under the umbrella of the Significant Natural Values section are provisions directed more specifically at recognition of and provision for areas of significant indigenous vegetation and significant habitats of indigenous fauna (*Significant Natural Areas* – or SNAs). These are areas of indigenous biodiversity assessed under ecological criteria included in the plan and – if they meet the threshold of ‘significant’ – scheduled and mapped as SNAs. A number of specific recommendations are made

¹ The work of policy planner Mary Honey (2019) in evaluating the efficiency and effectiveness of the biodiversity provisions of the Tasman Regional Policy Statement and Resource Management Plan (TRPS and TRMP) has been relied on in evaluating Chapters 10.1 and 10.3 in this report.

with regard to the boundaries, extent and evaluation of SNAs, along with managing activities on adjacent properties where required.

Cultural Heritage Sites

The Plan has been effective where cultural heritage sites are included in Schedule 16.13C. There is a high level of internal consistency between objectives, policies and rules for these Scheduled sites. However, because the rules only apply to scheduled sites, in instances where there are high cultural values present but the site is not in the schedule, protection is poor. Mapping information is out-of-date and consequently there is a risk that activities have occurred that have adversely affected cultural heritage sites.

The provisions for cultural heritage sites have not been updated to account for information obtained through the Settlement Legislation for Te Tau Ihu iwi; or from relevant iwi environmental management plans. These documents will need to inform the Plan Review.

The Plan review will also need to take into account any relevant planning document recognised by an iwi authority. The Plan review should also seek to identify other ways that sites and values of significance to the iwi of Te Tau Ihu can be recognised within this Chapter (and the wider Plan).

It is also recommended that in the Plan review alignment is sought between the objectives for cultural heritage sites and the land disturbance provisions. Unregulated earthworks are a significant threat to the protection of these sites.

Heritage Buildings and Structures

There is strong consistency between the objectives, policies and rules for heritage buildings and structures. Generally the rules that implement these provisions are effective, although the policy set is very small and outcomes are jointly influenced by provisions of the Heritage New Zealand Pouhere Taonga Act.

Improvements to the current system for identifying and recording heritage buildings and structures would increase plan effectiveness. Rules are also needed in the regional coastal plan to protect historic buildings and structures located within the Coastal Marine Area.

Protected Trees

There is a large list of protected trees across the District, representing the community interest in the amenity and historic value that these trees can provide. The evaluation of the Plan showed strong consistency between the objective and single policy for protected trees. Generally, the rules that implement these provisions are partially effective where trees have been listed on the Significant Tree Schedule. Semi-regular updates to the Schedule has occurred since the Plan was notified, adding or deleting significant trees.

Aspects of the policy have not been effective where rules for pruning and works around the base of the tree are unclear and where off-site activities are not adequately controlled. Specific recommendations are made below to increase the effectiveness of the protected tree provisions.

Recommendations

The following recommendations provide a summarised assessment of the effectiveness and efficiency of the significant natural values and heritage provisions. It considers if there is a need for change with the objective and policy framework and are intended to inform the review of the TRMP. Refer to the body of this report for full analysis and detailed information from which these recommendations are drawn.

Table 2: Section 10.1 Biodiversity and Indigenous Ecosystems

Objective Set	Recommendations
General Recommendations for Indigenous Biodiversity	
	<ol style="list-style-type: none"> 1. Align wording of objectives and policies with s6 and s7 of the RMA, recent case law, and national direction including the New Zealand Coastal Policy Statement the forthcoming National Policy Statement on Indigenous Biodiversity, the National Environmental Standards for Plantation Forestry. 2. Take into account any relevant planning document recognised by an iwi authority. 3. Where significant natural areas or historic heritage are subject to management under other legislation (for example, the Conservation Act 1997 or the Heritage New Zealand Pouhere Taonga Act 2014), consider whether/where it is efficient to reduce layers of regulation.
Significant Natural Areas	
General	<ol style="list-style-type: none"> 1. Ensure the extent of existing SNA boundaries are accurate. 2. Identify all other areas within the District that warrant protection as SNAs. 3. Ensure that SNAs have a complete pathway (e.g., ecological corridors and stepping stones) for the ongoing viability of those areas. 4. Consider for controls on above-ground activities (for example mowing or vehicle use) that may affect the root zone of trees. 5. Consider management of off-site activities that can adversely affect SNAs. For example, reduced water supply or flooding within the wider catchment; or increased number of domestic cats through intensified residential development. 6. Ensure that setback provisions for land use activities and/or subdivision on adjacent land provide adequate separation distance and apply in all zones.
Objective 10.1.2 – protect and enhance indigenous biological diversity	Retain intent, review location and wording of provision to provide for biodiversity protection as a core function and

Objective Set	Recommendations
	connecting provisions that serve biodiversity across the three domains. ²
Policy 10.1.3.2 – safeguard the life-supporting capacity of indigenous ecosystems	As above.
Policy 10.1.3.3 – foster community responsibility for the protection of indigenous habitat values	Delete – intent remains valid but consider if this is a policy or more appropriate as a method for delivering on the policy above.
Policy 10.1.3.4 – encourage long term protection of indigenous ecosystems by assisting in provision of information on land management practices	Delete – intent remains valid but consider if this is a policy or more appropriate as a method for delivering on policy 10.1.3.2 above.
Objective 10.3.2 – protect the relationship of a heritage resource or significant habitat with adjacent land	Retain intent, consider zone rules relating to setbacks from SNAs. Note there is very limited relationship with the policies under this objective (policies focus more strongly on historic heritage)
Schedule 10C – Criteria for assessment of SNAs	Review. The criteria were developed in 1999 and are out of date. ³

Table 3: Section 10.2 Historic Heritage

Objective Set	Recommendations
General Recommendations for Historic Heritage	
	<ol style="list-style-type: none"> 1. Align wording of objectives and policies with s6 and s7 of the RMA, recent case law, and national direction including the New Zealand Coastal Policy Statement and other national directions. 2. Take into account any relevant planning document recognised by an iwi authority. 3. Where historic heritage are subject to management under other legislation (for example, the Conservation Act 1997 or the Heritage New Zealand Pouhere Taonga Act 2014), consider whether/where it is efficient to reduce layers of regulation.
Cultural Heritage Sites	
Objective 10.2.2 – appropriate protection, management and enhancement of cultural heritage sites.	Review – retain intent with updates to reflect legislative changes and iwi environmental management plans. Subject to general recommendation 1 above. Review alignment with land disturbance provisions.
Policy 10.3.3.3 –control the subdivision of land to ensure that there is no	Review – retain intent. As for 10 above.

² Honey, 2018, p. 28.

³ Ibid.

Objective Set	Recommendations
damage or unreasonable separation of cultural heritage sites.	
Policy 10.2.3.2 – reduce adverse effects on cultural heritage sites arising from subdivision, use and development.	Review – retain intent. As for 10 above
Policy 10.2.3.3 – encourage obtaining HNZPT Authority where required.	Delete. This policy repeats a legislative requirement of the Heritage New Zealand Pouhere Taonga Act.
Policy 10.2.3.2 –ensure that where an activity that requires a resource consent will have an adverse effect on the wairua or other cultural or spiritual values associated with a wāhi tapu, that activity has been approved by manawhenua as an affected party.	Review. This policy is not reflected in the rule. Consider rewording rule to require notification. Review earthworks rules to give effect to this policy. The intent may be better provided by way of a notification statement attached to relevant rule/s.
Policy 10.2.3.8 – be responsive and collaborative in sharing cultural heritage information.	Delete. This policy relates to good practice. It is not an environmental effects policy. Policy intent to be retained through other Council policies (e.g. any future manawhakahono or memorandums)
Policy 10.2.3.9 – work with manawhenua iwi in sharing and management of information about Māori cultural heritage sites.	As for policy 10.2.3.9 above.
Policy 10.2.3.10 – take into account uncertainties associated with cultural heritage site information.	Retain. This policy provides scope for managing uncertainty, but is not well reflected in rules.
Policy 10.2.3.11 – design and implement appropriate methods for verifying and listing cultural heritage sites.	Delete. This is a process-oriented policy, not RMA effects based. The intent of the policy should be retained and applied via Methods, or reworded policy.
Policy 10.2.3.12 – cultural heritage site information to be publicly accessible.	Delete. This is a process-oriented policy, not RMA effects based. Any listed sites in the TRMP will be public information. Undertake work with iwi to determine scope of cultural heritage site information in TRMP.
Policy 10.2.3.13 – raise community awareness about the values associated with cultural heritage sites and potential effects of activities on them.	Delete. This is a process-oriented policy, not RMA effects based. The intent of the policy should be retained and applied as a method for implementation via non-regulatory means.
Policy 10.2.3.14 – facilitate effective communication between landowners, iwi, HNZPT and NZAA.	As for 20 above.
Policy 10.2.3.15 – acknowledge manawhenua iwi as kaitiaki in relation to their cultural heritage sites.	Review in collaboration with iwi.
Policy 10.2.3.16 – encourage maintenance and repair of listed cultural heritage sites.	Retain intent – review as per the General recommendation (1).

Objective Set	Recommendations
Policy 10.2.3.17 – support landowners in management of accidental discoveries through the HNZPT authority process.	Delete. This is a process-oriented policy, not RMA effects based. The intent of the policy should be retained and applied as a method for implementation via non-regulatory means.
Policy 10.2.3.18 – identify cultural heritage precincts where there is high incidence of cultural heritage sites.	Retain. The use of Cultural precincts provides a broad planning mechanism to raise awareness, address uncertainty with site locations and regulate activities.
Policy 10.2.3.19 – ensure highly significant sites are maintained, protected or enhanced.	Retain.
Policy 10.2.3.20 – recognise and protect sites included in the HNZPT List.	Review. This system duplicates site information in the TRMP planning maps. Inaccuracies in information and mapping creates risks to sites. Consider alternative system for recognising and protecting sites.
Heritage Buildings and Structures	
General recommendations	Review identification and recording systems to ensure all heritage buildings and structures that warrant protection are scheduled in the plan.
Objective 10.2.2 – appropriate protection, management and enhancement of ... heritage buildings and structures	Retain.
Policy 10.2.3.1 – recognise and protect heritage buildings and structures assessed as meeting the criteria in schedule 10A.	Retain intent of policy. Consider broadening scope of policies as they provide limited range of considerations. Schedule 10A and Criteria to be updated.
Policy 10.2.3.5– encourage alternative use of heritage buildings and structures where it assists in their preservation and maintenance.	Retain.
Protected Trees	
General recommendations	<ol style="list-style-type: none"> 1. Clarify rules and terminology for pruning, trimming, works in the root zone of trees and the extent of ‘minor’ works. 2. Consider further controls on above-ground activities (for example mowing or vehicle use) that may affect the root zone of trees or seedling regeneration. 3. Consider ways to recognise that off-site activities in the wider catchment can adversely affect protected trees – for example, reduced water supply. 4. Ensure that setback provisions for activities on adjacent land: (1) apply in all zones, and (2) provide adequate separation distance to control matters such as shading, trimming, earthworks, root zone works, dangerous cones/branches dropping and the like. 5. Consider a buffer area requirement when adjacent land is subdivided.

Objective Set	Recommendations
	<p>6. Consider adding guidance as to when protected trees should be removed from the Plan (e.g. if dead, dying, removed or unsafe).</p> <p>7. Consider non-regulatory policy relating to Council support for listed heritage tree owners.</p>
Objective 10.2.2 – appropriate protection, management and enhancement of ... protected trees.	Retain intent.
Policy 10.2.3.1 – identification and protection of significant trees.	Retain but move from indigenous biodiversity provision set to heritage protection provision set and review criteria for listing protected trees in Schedule 10B. Refer to full report for recommendations on rules under this policy.
Other	
Policy 10.3.3.1 – control the subdivision of land containing listed heritage items to prevent loss of land closely associated with the heritage values.	Retain intent.
Policy 10.3.3.2 – provide opportunities to create special purpose allotments that secure protection of heritage items, special habitats or biological corridors.	Retain intent and reword to simple language, e.g. “Provide for special purpose subdivision that secures protection...”

1. Purpose Statement

The purpose of this evaluation of the TRMP is to determine the effectiveness and efficiency of the provisions contained within it. It helps us understand if the TRMP provisions are doing what they're meant to do.

This evaluation process is a fundamental step in the policy review cycle and a requirement of the Resource Management Act. It informs good quality plan-making and helps maintain confidence and integrity in the process.

The results of this evaluation will inform the review of the Tasman Resource Management Plan.

What do the terms mean?

Effectiveness: *“assess the contribution ... provisions make towards achieving the objectives and how successful they are likely to be in solving the problem they were designed to address”*

Efficiency: *“measures whether the provisions will be likely to achieve the objectives at the lowest total cost to all members of society, or achieves the highest net benefit to all of the society”*

(Ministry for the Environment s.32 Guidance)

Key Evaluation Questions

What we need to keep in mind:

- ✓ Are we focused on the right issues?
- ✓ Have we done what we said we'd do?
- ✓ Have we achieved what we said we'd achieve?
- ✓ How do we know our actions led to the outcome observed?
- ✓ Have we achieved that outcome at reasonable cost (could we have achieved it more cheaply)? (Enfocus, 2008)

2. Scope

2.1 District Plan Provisions Reviewed

Chapter 10 of the TRMP addresses the following topics:

1. **Significant natural values** – including scheduled ‘significant natural areas’ (SNAs) and general indigenous biodiversity.
2. **Cultural heritage sites** - including European and pre-European sites of archaeological significance, and sites of importance to manawhenua iwi such as wāhi tapu and wāhi tapu areas.
3. **Historic buildings and structures** scheduled in the Plan.
4. **Protected trees** scheduled in the Plan.

Other areas not evaluated in this report include:

- Policies that address a number of matters specific to the Takaka-Eastern Golden Bay. These were incorporated in the plan via Plan Change 8 in 2010 and similar provisions are scattered throughout the plan. For efficiency they have all been evaluated in Chapter 6: Urban Development (subsection 6.11 – Takaka Eastern Golden Bay Settlement).
- Biodiversity provisions in Chapter 8 – Margins of lakes, rivers & wetlands; and Chapter 14 – Reserves and Open Space.
- Parts III, IV, V and VI of the TRMP. This evaluation is limited to district plan provisions in Part II of the TRMP, which cover Council territory landward of the coastal marine area. Biodiversity and heritage provisions seaward of the coastal marine area and biodiversity provisions relating to freshwater management are evaluated in a separate report on the regional and regional coastal plans.

The specific provisions evaluated in/excluded from this report are:

Table 4: Objectives and Policies Evaluated

Chapter 10: Significant Natural Values and Historic Heritage			
Chapter	Objective	Policies	Comment
Chapter 10.1 Biodiversity and Indigenous Ecosystems	10.1.2	10.1.3.1 - 10.1.3.5	Evaluated: • Policies 10.1.3.1-4 Exclusions: • Policy 10.1.3.5 – Takaka-Eastern Golden Bay area (evaluated in Chapter 6)
Chapter 10.2	10.2.2	10.2.3.1 - 10.2.3.20	Evaluated: • Policies 10.2.3.1-10.2.3.6 & 10.2.3.8-10.2.3.20 Exclusions: • Policy 10.2.3.7 – Takaka-Eastern Golden Bay area (evaluated in Chapter 6)
Chapter 10.3 Adverse Effects from Adjoining Activities	10.3.2	10.3.3.1 - 10.3.3.3	All provisions evaluated.

2.2 Timeframe of Evaluation

April –November 2019

2.3 Summary of Methodology

Broadly, the methodology of this evaluation follows the Plan Outcomes Evaluation process. Plan Outcome Evaluation involves:

1. An examination of the outcomes being sought – what are the objectives trying to achieve?
2. Tracking how the plan has been designed to affect the outcomes – do the intentions in the objectives get carried through to the rules and methods? Are the provisions efficient?
3. Assessing if the provisions have been implemented – what evidence is there that the provisions are being applied to relevant activities?
4. Assessing relevant environmental trends and ‘on the ground’ data to conclude if the Plan has been successful in achieving its intentions. This includes consideration of the external factor influences such as legislative changes, national policy statements, case law, significant economic changes, demographics etc.

Throughout the evaluation, there is an emphasis on attributing the activities enabled or controlled by the TRMP on observed outcomes. However, attributing outcomes to the TRMP must always be viewed in the wider context of changes. These are noted where known, but it is beyond the scope of this evaluation to capture all of the changes and influences that affect outcomes in our communities and environment.

Limitations with the Plan outcome evaluation approach also arise where environmental outcome data is poor, or where there a multiple factors driving outcomes. Time, resourcing and quality of data also affects the comprehensiveness of the evaluation.

To address some of these limitations, the evaluation process has included a ‘rapid assessment’ technique. The technique draws on the combined knowledge and expertise of local TDC staff, residents, community leaders, and topic experts to create an understanding of plan implementation, efficiency and outcomes. The rapid assessment outputs are supplemented with:

- Environmental data or expert reports where available.
- Council data (e.g. property and asset information, consenting and compliance database information, models).
- Mapping and imagery (e.g. GIS, aerial imagery, LiDAR).
- Information or reports prepared during plan change processes (e.g. s.32 Reports, Issues and Options papers, technical reports, submissions, community meetings).

The evaluation may also draw on the results of the TRMP Use-ability Survey (TDC, 2013), where relevant.

The table below sets out the data sources used to evaluate Chapter 10.

Table 5: Assumptions and Data Used

Data source/s:	Details and Notes
Tasman GIS	<ul style="list-style-type: none"> • TRMP zones • Cultural heritage; significant natural area; heritage building; protected trees; and coastal environment area layers • Aerial photography
Rapid Assessment	<ul style="list-style-type: none"> • Session 6 November with policy, resource consents and compliance staff.
Iwi input	Environmental Policy Iwi Working Group Hui 17 October – cultural heritage and TRPS
External reports (commissioned by Council)	<ul style="list-style-type: none"> • Tasman Resource Management Plan Policy Mapping (Leusink-Sladen, 2019) • Stage 1 of TRPS Efficiency and Effectiveness Review: Integrated Management (Mason, 2019) • Legal Report for Section 35 TRMP Review (Tasman Law, 2019)
Council records (MagiQ-BI/NCS/databases)	<ul style="list-style-type: none"> • MagiQ-BI – Resource consents data • NCS – Resource consents data

2.4.1 Tasman District Councillors

A workshop with elected Councillors was held on 18 March 2020 discussing key issues and recommendations identified for this chapter. No additional issues were raised by Councillors at this workshop. Councillors provided feedback on the identified issues and these comments have been incorporated into the relevant sections of this report, where appropriate.

2.4.2 Tasman Environmental Policy Iwi Working Group

The iwi of Te Tau Ihu, as tāngata whenua, have a unique relationship with Tasman District Council. There are a number of legislative requirements which oblige us to engage more collaboratively with iwi and Māori - including provisions in the Resource Management Act, Local Government Act and Treaty of Waitangi settlement legislation. To support this a separate section 35 report with a focus on iwi/Māori provisions has been prepared. Please refer to that chapter for a record of consultation undertaken.

3. Effectiveness and Efficiency Evaluation

3.1 Context

The relevant legislation and national guidance are set out below, grouped into the four topic areas evaluated in this report.

Tasman Law's Legal Report for Section 35 TRMP Review sets out the chronology of RMA changes as they relate to plan making since the Plan was notified in 1996 (Tasman Law 2019, p. 2).

3.1.1 Legislation

Significant Natural Values

Resource Management Act 1991

This Act is the main driver for protection of significant natural values in the Plan. The protection of areas of significant vegetation and significant habitats of indigenous fauna must be recognized as a matter of national importance (s6(c)). In addition, all decisions must have particular regard, amongst other things, to the intrinsic values of ecosystems (s7(d)), the quality of the environment (s7(f)), and any finite characteristics of natural and physical resources (s7(g)).

Section 31(1)(b)(iii) of the RMA also specifically requires the control of any actual or potential effects of the use, development or protection of land for the purpose of "the maintenance of indigenous biological diversity".

Conservation Act 1987

Many of the district's natural areas are located within public conservation land held under the Conservation Act. The Department of Conservation manages this land for conservation⁴ purposes, which affords a high level of protection for areas with significant natural values (s6(a)).

Forests Act 1949

Part 3A of the Forests Act 1949 provides for the management and some protection of indigenous forest.

Cultural Heritage Sites and Heritage Buildings & Structures

Resource Management Act 1991

This Act is the main driver for the cultural heritage site provisions in the Plan. 'Historic heritage' is defined in s2 of the RMA as:

- (a) those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*
- i. archaeological*
 - ii. architectural*
 - iii. cultural*
 - iv. historic*

⁴ 'Conservation' means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations (s2 Conservation Act 1987).

- v. *scientific*
- vi. *technological and*

(b) *includes-*

- i. *historic sites, structures, places, and areas; and*
- ii. *archeological sites; and*
- iii. *sites of significance to Maori, including wahi tapu; and*
- iv. *surroundings associated with the natural and physical resources.*

The RMA was substantively amended in 2003 to insert historic heritage as a matter in section 6 of the RMA. Two aspects within the 'cultural heritage sites' topic area evaluated in this report must be recognized as matters of national importance:

- the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (s6(e)) and
- the protection of historic heritage⁵ from inappropriate subdivision, use and development (s6(f))

Particular regard must be had to kaitiakitanga (s7(a)); the ethic of stewardship (s7(aa)); the maintenance and enhancement of amenity values (s7(c)); and any finite characteristics of natural and physical resources (s7(g)).

[Heritage New Zealand Pouhere Taonga Act 2014](#)

The purpose of this Act is to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand (s3). The modification or destruction of an archeological site is prohibited unless an authority is obtained under the HNZPTA (s5(e)). The HNZPTA also provides for the New Zealand Heritage List/Rārangī Kōrero, comprising historic places, historic areas, wāhi tapu, and wāhi tapu areas (s5(g)).

[Conservation Act 1987](#)

Many of the district's cultural heritage sites are located within public conservation land held under the Conservation Act. The Department of Conservation manages this land for conservation⁶ purposes, which affords a high level of protection for historic resources (s6(a)).

[Treaty settlement legislation](#)

Treaty settlement legislation includes statutory acknowledgements by the Crown of statements of association by relevant iwi of their particular cultural, spiritual, historical and traditional associations with statutory areas; and statements of coastal values made by relevant iwi and their particular values relating to coastal statutory areas.

These statements are very important to identification of cultural heritage sites for protection.

Four pieces of Treaty settlement legislation relate to the nine iwi within Tasman District:

- Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014

⁵ 'Historic Heritage' means those natural and physical resources that contribute to an understanding and appreciation of the New Zealand's history and cultures, deriving from any of the following qualities: archaeological; architectural; cultural; historic; scientific and technological. Historic heritage includes: historic sites, structures, places and areas; archaeological sites; sites of significance to Māori including wāhi tapu; and surroundings associated with the natural and physical resources (s2 Resource Management Act 1991).

⁶ 'Conservation' means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations (s2 Conservation Act 1987).

- Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014
- Ngati Toa Rangitira Claims Settlement Act 2014
- Ngāi Tahu Claims Settlement Act 1998

There are also relevant historic heritage-related provisions in the Reserves Act 1977, the Building Act 2004 and the Marine and Coastal Area (Takutai Moana) Act 2011).

Protected Trees

Resource Management Act 1991

This Act is the main driver for the heritage tree provisions in the Plan. Particular regard must be had to the maintenance and enhancement of amenity values (s7(c)) and the quality of the environment (s7(f)); and any finite characteristics of natural and physical resources (s7(g)). The RMA provides for district plan rules that prohibit or restrict the felling, trimming, damaging or removal of a tree in the urban environment, as long as they are scheduled in the Plan (s76).

3.1.2 National Policy Statements

Significant Natural Values

New Zealand Coastal Policy Statement 2010

Objective 1 of the NZCPS seeks to safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by (among other things) “protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand’s indigenous coastal flora and fauna”. NZCPS Policy 11 contains specific measures to implement Objective 1.

Other national directions

Central government is currently working on a proposed *National Policy Statement for Indigenous Biodiversity* (NPS-IB). As this NPS is not yet in force it has not affected the efficiency or effectiveness of the Plan provisions relating to significant natural values.

The *New Zealand National Policy Statement for Freshwater Management 2014* (NPS-FWM, currently under review) and water conservation orders provide, indirectly, for indigenous biodiversity in the freshwater domain. Plan provisions in relation to freshwater management will be considered in the regional plan effectiveness and efficiency evaluation.

The *National Environmental Standards for Plantation Forestry 2017* provide a nationally consistent set of standards for core plantation forestry activities within the context of the NZCPS and NPS-FWM. The relationship between the standards and any NPS-IB is still to be determined.

Cultural Heritage Sites

New Zealand Coastal Policy Statement 2010

Objective 3 of the NZCPS requires the principles of the Treaty of Waitangi to be taken into account, the role of tangata whenua as kaitiaki to be provided for, and for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;

- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

NZCPS Policy 2 contains specific measures that implement Objective 3.

NZCPS Policy 17 seeks to protect historic heritage in the coastal environment from inappropriate subdivision, use, and development through (among other things):

- identification, assessment and recording of historic heritage, including archaeological sites;
- providing for the integrated management of such sites in collaboration with relevant councils, heritage agencies, iwi authorities and kaitiaki;
- initiating assessment and management of historic heritage in the context of historic landscapes;
- recognising that heritage to be protected may need conservation;
- facilitating and integrating management of historic heritage that spans the line of mean high water springs;
- including policies, rules and other methods relating to (a) to (e) above in regional policy statements, and plans;

Heritage Buildings & Structures and Protected Trees

There are no national policy statements directly relevant to heritage buildings and structures or protected trees.

3.1.3 National Environmental Standards

Significant Natural Values

National Environmental Standards – Plantation Forestry (NES-PF)

The *National Environmental Standards – Plantation Forestry* (NES-PF) are regulations made under the RMA. The NES-PF came into force on 1 May 2018. It sets out technical standards, methods or requirements relating to plantation forestry⁷ and contains rules that apply across the country for certain specified activities. The objectives of the NES-PF are to:

- maintain or improve the environmental outcomes associated with plantation forestry activities;
- increase the efficiency and certainty of managing plantation forestry activities.

The NES-PF contains regulations relating to afforestation (planting new forests) pruning and thinning to waste (selective felling of trees where the felled trees remain on site, earthworks, river crossings, forest quarrying (extraction of rock, sand or gravel from within the plantation forest for the formation of forestry roads and infrastructure), harvesting, mechanical land preparation and replanting.

⁷ The regulations apply to any forest of at least one hectare that has been planted specifically for commercial purposes and will be harvested.

National environmental standard rules generally prevail over district or regional plan rules, except where more stringent plan rules are specifically allowed. Section 6 of the NES-PF contains the following exceptions where plan rules may be more stringent than the regulations:

- If the rule gives effect to (among others) policies 11 (indigenous biodiversity) or 13 (natural character) of the New Zealand Coastal Policy Statement 2010, or
- If the rule recognizes and provides for the protection of significant natural areas (Regulation 6(2)(b)).

Heritage Buildings & Structures and Protected Trees

There are no national environmental standards directly relevant to heritage buildings and structures or protected trees.

3.1.4 Iwi Management Plans

Iwi management plans are lodged with Council by iwi authorities under the RMA. It is a requirement of the Act that regional policy statements and plans must take into account any relevant planning document recognized by an iwi authority.

Iwi Management Plans can be wide reaching in scope, for example an iwi management plan may document iwi worldview and aspirations for the management of resources, or a plan may focus on a single issue or resource. The following iwi management plans have been lodged with Council:

- Ngati Koata Trust Iwi Management Plan 2002
- Ngati Tama Environmental Management Plan 2018
- Ngati Kuia Pakohe Management Plan 2015

The Ngati Koata Trust and Ngati Tama plans contain provisions that seek to protect their cultural sites and values with respect to landscapes. The Ngati Kuia plan focuses specifically on the management of pakohe (argillite). These plans were not lodged with Council at the time the Plan was developed.

However, in developing Part IV of the Plan, regard was had to two eel management plans which had been prepared at that time: Te Waka a Maui me ona Toka Mahi Runa (South Island Eel Management Plan and Te Tau Ihu Mahi Tuna (Nelson Marlborough Eel Management Plan).

3.1.5 Water Conservation Orders

Water conservation orders (WCOs) may be applied over rivers, lakes, streams, ponds, wetlands or aquifers. A water conservation order may provide for the protection of (among other things):

- habitat for terrestrial or aquatic organisms
- wild, scenic or other natural characteristics
- scientific and ecological values
- recreational, historical, spiritual or cultural purposes
- characteristics considered to be of outstanding significance in accordance with tikanga Māori.

A WCO can prohibit or restrict a regional council issuing new water and discharge permits, although it cannot affect existing permits. Regional policy statements, regional plans and district plans cannot be inconsistent with the provisions of a WCO.

There are two WCOs in Tasman District and the outstanding wild and scenic characteristics of both of these water bodies are recognized in the WCOs:

- Buller River⁸ and listed tributaries.
- Motueka River⁹ and listed tributaries.

There is one current water conservation order application relating to protection of the Te Waikoropupū Springs and the Arthur Marble Aquifer. This application was made in 2015. The hearing for the application closed in August 2018 and at the time of writing the Special Tribunal were drafting their report to the Minister for the Environment.

3.1.6 Relevant Plan Changes

The TRMP has had a constant program of rolling reviews (variations and plan changes) since it was first notified. The changes have been introduced to address unintended outcomes, new issues, new priorities and legislative requirements. The plan changes relevant to this topic are outlined in the table below.

Where a plan change has been recently introduced (i.e. <3 years) its impact will be difficult to determine with any accuracy as:

- there may have been limited uptake of the plan provisions (i.e. not many activities undertaken that trigger the new rule set) and/or
- the impact of existing use rights and previously consented activities continue
- the impacts may not be highly visible until there is a cumulative uptake of the provision.

For those reasons, the implementation of plan changes less than 3 years old (from operative date) have not been fully assessed for effectiveness or efficiency.

In addition to the plan changes noted below, there have been a number of changes to historic heritage schedules (heritage buildings & structures, protected trees and cultural heritage sites) carried out under Schedule 1, Clause 20A of the RMA ('minor corrections'). For example, protected tree entries have been removed where trees are dead or dying, and heritage buildings have been removed because they have been demolished.

Table 6: Summary of Plan Changes or Variations affecting Chapter 10

Plan Change or Variation	Description of Change and Key Matters
<p>Variation 1 Notified 1 February 1997 Operative 2007</p>	<p>Variation 1 covered a number of Plan areas. It was prepared in response to public concerns regarding inadequate consultation prior to the public notification of the proposed Plan on 25 May 1996. Key matters relevant to the topics in Chapter 10 of the Plan were:</p> <ul style="list-style-type: none"> • Deletion of 'natural heritage areas' previously in Chapter 10 and replacement with 'Significant Natural Areas' (SNAs), but only for those sites where the overlay was supported by individual landowners. This resulted in a reduction in the area of land with high natural values having a protective overlay in the Plan. • Modification of rules affecting indigenous forest removal.

⁸ Water Conservation (Buller River) Order 2001, <http://www.legislation.govt.nz/regulation/public>

⁹ Water Conservation (Motueka River) Order 2004, *ibid*.

	<ul style="list-style-type: none"> Deletion of the Cultural Heritage Area and rules previously in Section 18.2 while further investigation, consultation and review was carried out. Protection of cultural heritage sites relied was solely on (then) Historic Places Act authority process in that interim period.
	<p>Consent order and memorandum of understanding signed 2007 – indigenous biodiversity</p> <p>Consent order and memorandum of understanding signed between appeal parties in relation to the management of indigenous biodiversity and ecological values of natural areas on private owned land in the district. Collaborative process of investigation into ecological values of remnant areas described, along with assessment of their significance and development of priorities and methods for protection of SNAs to achieve plan method 10.1.20.</p>
<p>Variation 28 – Heritage Buildings Notified September 2002</p>	Update Schedule 18.1A - Heritage building and structures. Two buildings added, one removed and other minor corrections.
<p>Variation 42 – Protected Trees Notified 29 January 2005</p>	Updates to Schedule 18.1B – Protected Trees. Definition of ‘pruning’ amended to clarify that it includes cutting in the root zone.
<p>Variation 57 – Tākaka-Eastern Golden Bay Settlement Policies Notified 28 July 2007</p>	Objectives and policies articulating future settlement growth vision for the Tākaka-Eastern Golden Bay area. Focus on strategic growth planning for residential settlement. Included additional policies particular to Tākaka-Eastern Golden Bay in Chapters 9 (landscapes) and 10 (SNAs and cultural heritage).
<p>Variation 58 – Land Use Amendments Notified 28 July 2007</p>	Addition of one new building to heritage schedule 18.1A.
<p>Plan Change 16 – Cultural Heritage Sites Management Notified 26 September 2009 Operative August 2012</p>	<p>New provisions introduced to Chapter 16 protect and manage cultural heritage sites in the Tasman District and to meet Council obligations under Section 6 (e) & (f) and Section 8 of the Resource Management Act 1991 (the RMA). These matters include the recognition and provision for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga, and the protection of historic heritage from inappropriate subdivision, use, and development.</p> <p>The proposed Plan Change:</p> <ul style="list-style-type: none"> enhanced integration with the Historic Places Act requirements; included a new schedule in section 16.13 recording all of the known cultural heritage sites to be afforded protection through Plan provisions; established a new section for cultural heritage provisions (16.13); moved heritage building, protected tree and SNA provisions that were previously in Chapter 18 to Chapter 16.
<p>Plan Change 41 – Update of Heritage Schedule</p>	Amended heritage schedule 16.13A – heritage buildings and structures. Two buildings added and one removed.

Notified 1 December 2012	
Plan Change 53 – Update of Heritage and Protected Trees Schedule Notified 31 January 2015	Amended heritage schedule 16.13A – heritage buildings and structures. One structure added. Amended protected tree schedule 16.13B. Three trees added.
Plan Change 64 – Update of Protected Trees Schedule Notified 24 September 2016	Amended protected tree schedule 16.13B. Ten trees removed due to storm damage or poor condition.
Plan Change 68 – Omnibus Amendments	Included: <ul style="list-style-type: none"> • update to protected tree schedule 16.13B; • inclusion of effects on a site of cultural significance to Māori in matters of control for building construction and alteration in the Coastal Environment Area

3.1.7 Relevant Case Law

The Tasman Law report sets out some of the key legal themes and cases involving Tasman District Council since the TRMP was notified.

Case law particularly relevant to biodiversity and heritage includes:

- *Royal Forest and Bird Protection Society of New Zealand Inc. v New Plymouth District Council, 2015, NZEnvC219*

This case addressed the issue of the methods provided for the protection of SNAs (under RMA s6(c) and 31(1)(b)(iii)) in the NPDC district plan. The Court concluded that viewed in their entirety, the range of methods, which included rules in the plan, provided the protection of SNAs required by s 6(c) of the RMA. However, reliance primarily on QEII Covenants and associated methods (community attitudes) to protect SNAs on private land did not provide the protection required by s 6(c) of the RMA.
- *Nelson Transport Holdings v Waimea County Council, 1979*

NTH lost its appeal against the County restriction on indigenous vegetation removal on a site of significance.
- *Tasman District Council v G Baigent ENV-2017-WLG-000111*

Council requested and the court granted enforcement orders for the restoration and ongoing protection of two wetlands that were being damaged by the clearance of vegetation and construction of drains.

See Appendix 2 of the Tasman Law Report for further details on these cases.

3.1.8 Department of Conservation's Statutory Plans

The vast majority of Tasman District's natural areas, and a number of cultural heritage sites, are held in public conservation land (mostly national parks) and administered by the Department of Conservation (DOC). Conservation legislation affords a high level of protection for natural and historic resources.

The Conservation Act creates a hierarchy of statutory documents that guide DOC in managing New Zealand's natural and physical resources are:

1. The Conservation Act¹⁰
2. Conservation General Policy
3. Conservation management strategies, national park management plans and conservation management plans.

Conservation management strategies implement the national direction in the General Policy for Conservation and establish objectives for the integrated management of natural and historic resources, and for recreation, tourism and any other conservation purposes, on a regional level.

National park management plans are developed under the National Parks Act 1980. They are 10-year documents. National parks are required to be preserved in perpetuity for their intrinsic worth and for the benefit, use and enjoyment of the public.

Conservation management plans are 10-year plans used to give iwi, as Treaty partners, a greater role in the management of public conservation land or to provide greater detail where there is a high level of use or complexity.

DOC's statutory plans in Tasman District are:¹¹

- *Nelson/Marlborough Conservation Management Strategy 1996.*
- *Kahurangi National Park Management Plan 2001-2011*
- *Nelson Lakes National Park Management Plan 2003-2009*
- *Abel Tasman Foreshore Scenic Reserve Conservation management Plan 2012*
- *Farewell Spit Nature Reserve/Pūponga Recreation Reserve Conservation Management Plan 1990*
- *Te Waikoropupū Springs Conservation Management Plan 2009*

3.2 Topic One – Significant Natural Values

3.2.1 Introduction

The recent work of policy planner, Mary Honey in evaluating the efficiency and effectiveness of the biodiversity provisions of the Tasman Regional Policy Statement and Resource Management Plan (TRPS and TRMP) has been relied on in this report (Honey, 2019).

3.2.2 Internal Consistency of Provisions

Objective 10.1.2 seeks the protection and enhancement of indigenous biological diversity and integrity of terrestrial, freshwater and coastal ecosystems, communities and species.

The broad wording of objective takes in Council's terrestrial, regional and regional coastal responsibilities, even though this objective is located within the terrestrial (land) management part of the Plan. The objective as worded also covers biodiversity matters which are also addressed in

¹⁰ And enactments specified in Schedule 1 including the National Parks Act 1980 and Reserves Act 1977.

¹¹ Information retrieved from <https://www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-planning-status-report/> on 29 October 2019.

Chapter 8 – Margins of rivers, lakes & the coast, as well as Parts III (Coastal Marine Area), IV (Rivers & Lakes) and V (Water) of the Plan.

There is strong connection to Policy 10.1.3.3, which seeks the recognition and protection of SNAs and listed trees and the rules that implement it in Chapters 16.13 and 18.1. However, there is weakness in the internal consistency of the larger goal of protecting and enhancing indigenous biological diversity (Leusink Sladen 2018, p.17)).

Objective 10.3.2 relates to the relationship between adjacent land and SNAs. There is strong connection through accompanying policies to protection through mechanisms specific to subdivision. However, the subdivision rules themselves do not contain any requirements in relation to SNAs, apart from as (non-regulatory) assessment criteria (Leusink Sladen 2018, p.17).

Overall, it is considered that internal consistency between the objectives and accompanying policies:

- in relation to SNAs and protection is **strong**.
- in relation to protection and enhancement of indigenous biological diversity is **weak**.

3.2.3 Evidence of Implementation

Indigenous Biological Diversity – General

Honey notes that Tasman State of the Environment (SOE) “reporting presents a mixed and incomplete picture ... [but] it is likely that in line with the national trend, biodiversity is in decline in the region” (2019, p. 2).

Honey’s report also notes that there are a number of Council initiatives that contribute or have the potential to contribute to the implementation of the biodiversity objectives in Chapter 12, including:

- *Council’s State of Environment Monitoring and Reporting programme is providing Council with information to manage the effects of activities on the environment appropriately and to maintain or enhance biodiversity.*
- *The Flood Protection and River Control and the Riparian Land Management programmes assist landowners to protect and enhance the natural character of the margins of lakes, rivers, wetland and the coast.*
- *The newly established Catchment Enhancement programme is expected to improve the potential of the above programmes to contribute to ecosystem health.*
- *Increased monitoring of forestry practices is expected to assist to maintain and enhance biodiversity.*
- *Council participates in national, regional and sector initiatives that contribute to biodiversity, such as:*
 - *Kotahitanga mō te Taiao Alliance. The Alliance is supported by 10 Iwi, the five Top of the South Councils and the West Coast Regional Council. Currently it is developing a strategy for enhancing biodiversity across the Top of South*
 - *A national system of ecosystem classification and zonation (“Singers and Rogers’ system) that is expected to reduce costs (of reinventing the wheel); contribute to a nationally consistent programme and assist with prioritisation of initiatives that maintain or enhance biodiversity at national and regional levels.*
- *The development of a community based biostrategy for Tasman is expected to establish clear objectives for, link and prioritise existing and future initiatives that contribute to biodiversity and*

biosecurity. It is also expected to attract funding for Council and other regional and community based biodiversity initiatives.

- Council's parks and reserves are managed in ways that protect and enhance biodiversity.
- The Waimea Inlet management strategy and action plan supports a community led initiative to protect and enhance the nationally significant ecological values of the Waimea Inlet.
- The 2018 Infrastructure Strategy and new Nelson Tasman Land Development Manual provisions that focus on improving stormwater, wastewater and transport networks to better protect and enhance natural values reflect the changing social attitudes to maintaining and enhancing natural ecosystems and values. Lower Borck Creek stream enhancement provides a positive Council led example. Due to their scale, the potential impact of these programmes is significant. (Honey, 2019, pp. 3-4).

However, to date these projects have not been linked under a core biodiversity function, or 'umbrella' (ibid, p.5). Overall, this reflects the scattered nature of biodiversity provisions throughout the Plan and the need to redevelop Plan provisions to align with and implement legislation, case law and national directions.

Significant Natural Areas (SNAs)

Under the umbrella of the *Significant Natural Values* section of this chapter are provisions relating to specific 'significant natural areas' (SNAs). An SNA is defined in Chapter 2 of the Plan as "an area of indigenous vegetation or indigenous fauna habitat that has been assessed as significant according to the ecological criteria in Schedule 10C, and listed in Schedule 18.1A". There are 24 SNAs scheduled and mapping in the Plan (refer Schedule 18.1A).

Schedule 18.1A records vegetation types (e.g., totara forest, coastal forest, limestone karst vegetation, wetland, forest remnant etcetera), but there is no further detail on the particular values or attributes of each SNA.

Two of the SNAs are partially within public conservation land. All the other SNAs are on private land.

Ten of the SNAs are also subject to QEII Covenants. The boundaries of most of the QEII covenants are not consistent with/do not fully cover the SNAs.

Rules that implement SNA provisions seek to:

- allow modification of SNAs as a permitted activity if it is in accordance with a QEII Covenant, the Reserves Act 1977 or the Conservation Act 1987; or is limited to the removal of dead standing timber for the owners own use;
- require resource consent as a discretionary activity for any other modification of an SNA.

Between 1996 and the present, Council records¹² show that no resource consents have been sought for non-compliance with the permitted activity standards relating to SNAs.

Council has not undertaken any monitoring of the permitted activity standards for SNAs.¹³

¹² Search of resource consent databases; rapid assessment with consents staff.

¹³ Rapid assessment with compliance staff.

3.2.4 Effectiveness

Table 7: Effectiveness – Indigenous biodiversity objectives

Objective	Analysis	Rating of Achievement
Objective 10.1.2 Protection & enhancement of indigenous biological diversity and integrity of terrestrial ... ecosystems, communities and species	Where SNAs are scheduled in the Plan this objective has generally been effective. Where areas of significant natural value are not scheduled in the Plan protection has been less effective. Objective needs to be re-developed to implement higher order planning documents and legislation. There has been a high level of protection of the District’s natural features and landscapes where they are held in public conservation land. However, this is due to DOC management rather than the Plan itself.	Partial achievement
Objective 10.3.2 Protection of the relationship a ... significant habitat may have with adjacent land.	As above.	Partial achievement

3.2.5 Evaluation Summary – Significant Natural Values

Overall, it is concluded that:

- 1) The SNA provisions are generally effective. However, there are a number of matters which require further assessment – including
 - a) Ensuring the extent of existing SNA boundaries are accurate.
 - b) Identification of all other areas within the District that warrant protection as SNAs.
 - c) Ensuring that SNAs have a complete pathway (e.g., ecological corridors and stepping stones) for the ongoing viability of those areas.
 - d) Consideration for controls on above-ground activities (for example mowing or vehicle use) that may affect the root zone of trees.
 - e) Consideration of off-site activities that can adversely affect SNAs. For example, reduced water supply or flooding within the wider catchment; or increased number of domestic cats through intensified residential development.
 - f) Ensuring that setback provisions for land use activities and/or subdivision on adjacent land provide adequate separation distance and apply in all zones.
- 2) The other biodiversity provisions are no longer fit for purpose and it is recommended that they be re-developed in response to new proposed strategic and legislative documents, including the final National Policy Statement for Indigenous Biodiversity (NPS-IB), National Biodiversity Strategy and Tasman Biodiversity Strategy (Honey, 2019, p.3)¹⁴.

¹⁴ The work of policy planner Mary Honey (2019) in evaluating the efficiency and effectiveness of the biodiversity provisions of the Tasman Regional Policy Statement and Resource Management Plan (TRPS and TRMP) has been relied on in evaluating Chapters 10.1 and 10.3 in this report.

It is also noted that in the forthcoming review the Plan will be restructured to comply with the National Planning Standards and this will result in significant change to the location and grouping of provisions for ecosystems and indigenous biodiversity.

3.3 Topic Two – Cultural Heritage Sites

3.3.1 Introduction

Cultural heritage sites include European and pre-European sites of archaeological significance, and sites of importance to manawhenua iwi such as wāhi tapu.

Section 2 of the TRMP defines ‘cultural heritage sites’ as archaeological sites or wāhi tapu as per the Heritage New Zealand Pouhere Taonga Act 2014. A ‘cultural heritage precinct’ is defined in the Plan as “an area of land containing a high incidence of individually recorded cultural heritage sites which may overlap, and a high likelihood of previously undiscovered material being encountered ...”.

Cultural heritage sites and precincts are listed in Schedule 16.13C of the TRMP. The majority of the listings (68%) relate to sites of interest to Māori. These include wāhi tapu, middens, pits, terraces, caves, rockshelters, working areas, horticulture areas, urupā and artefact findspots.

The rest of the listings (32%) are post-European and include gold mining, transport-communication, industrial, burial-cemetery, defensive-military areas, cement-lime works, educational, forestry, chromite mining and commercial areas and historic-domestic sites.

There are 25 precincts in Schedule 16.13C, which together contain 281 (37%) of the cultural heritage sites. Twenty one of the precincts contain sites of significance to Māori and four are predominantly post-European sites.

A number of Tasman District’s cultural heritage sites are on public conservation land (mostly national parks in the Golden Bay/Northwest Coast area) and administered by the Department of Conservation (DOC). Conservation legislation affords a high level of protection for historic resources.

Some cultural heritage sites have the following further classifications:

1. Highly Significant Sites – this is a classification given to sites that meet the criteria for assessment significance in Schedule 16.13D of the TRMP. Forty six (6%) of scheduled cultural heritage sites have this classification.
2. ‘Listing’ – this means a site on the NZ Heritage List/Rārangi Kōrero of wāhi tapu for Tasman District. Twenty two (3%) of scheduled cultural heritage sites have this classification.

3.3.2 Internal Consistency of Provisions

Objective 10.2.2 seeks appropriate protection, management and enhancement of cultural heritage sites for their contribution to the ‘character, identity, wairua and visual amenity of the district’.

Overall, the consistency between this objective and accompanying policies and rules with respect to cultural heritage sites is **strong-moderate** (Leusink Sladen, p. 17). Where cultural heritage sites are included in Schedule 16.13C, there is a high level of internal consistency between objectives, policies and rules (Leusink Sladen, p.16). However, because the rules only apply to scheduled sites, in instances where there are high cultural values present but the site is not in the schedule, protection is poor (Ibid).

3.3.3 Evidence of Implementation

The plan objective in relation to cultural heritage sites have generally been implemented via Cultural Heritage Site land use rules in Section 16.13.6 of the TRMP. These rules only relate to ‘cultural heritage sites’ and ‘cultural heritage precincts’ which are listed in Schedule 16.13C of the Plan.

The restricted activity land use rule for buildings in the Coastal Environment Area (Rule 18.11.3.2) includes “effects on a site of cultural significance to Maori” as a matter of discretion, though there is no reference to cultural heritage matters in any of the antecedent rules.

Chapter 16.13.6 of the Plan contains rules for Cultural Heritage Sites. The rule cascade is described in the table below.

Table 8: Cultural Heritage Site Rules

Rule	Description
16.13.6.1 Permitted Land Use Activities	<p>For cultural heritage sites:</p> <ul style="list-style-type: none"> Activities related to the maintenance and repair of the cultural heritage site are permitted. Activities that will not modify, damage or destroy the cultural heritage site are permitted. <p>For cultural heritage sites and cultural heritage precincts:</p> <ul style="list-style-type: none"> Activities that may modify, damage or destroy a cultural heritage site [or precinct] are permitted if an authority from Heritage New Zealand Pouhere Taonga has been obtained.¹⁵ <p>Activities that could modify, damage or destroy a highly significant site or a wāhi tapu site are not permitted.</p>
16.13.6.2 Controlled Land Use Activities	<p>Activities are controlled if they comply with the following conditions:</p> <ol style="list-style-type: none"> an authority has been obtained from HNZPT (for highly significant sites); and manawhenua iwi have given their written approval to the activity as an affected party.
16.13.6.3 Restricted Discretionary Land Use Activities	<p>All activities (that are not otherwise permitted or controlled) are a restricted discretionary activity.</p>

Analysis of Cultural Heritage Site Resource Consents 2009 to mid-2019

A search of Council’s database (MagiQ-BI) for consents granted between 2009 (when the cultural heritage site rules were introduced into the Plan) and mid 2019 returned only eight resource consents with the words ‘cultural heritage site’ or ‘cultural heritage precinct’ in the consent description.

Details on the eight resource consents are in the table below. All were granted under delegated authority. One consent was limited notified, though not for reasons relating to cultural heritage. All the rest were processed on a non-notified basis.

¹⁵ Pursuant to the Heritage New Zealand Pouhere Taonga Act 2014

Table 9: Land use consents for cultural heritage sites 2009-2018

	Consent type	Year	Zone	Applicable rule ¹⁶	Activity status ¹⁷	Conditions imposed? ¹⁸
3	Land use – earthworks	2010	Residential	16.13.6.2	Controlled	Yes ^a
4	Land use – building	2011	Residential	16.13.6.1	Permitted	No
5	Land use – building	2012	Recreation	16.13.6.3	Restricted discretionary	No
6	Land use – building	2013	Conservation	16.13.6.2	Controlled	No
7	Land use – earthworks	2013	Residential	16.13.6.1	Permitted	No
8	Land use – building	2016	Rural 1	16.13.6.2	Restricted discretionary	Yes ^b
9	Land use – building	2017	Tourist Services	16.13.6.1	Permitted	Yes ^c
10	Land use – bore	2019	Rural Residential	16.13.6.2	Restricted discretionary	Yes ^b

^a Authority required from HNZPT

^b Accidental discovery protocol condition

^c Iwi monitor required

This information shows that only five activities triggered the need for resource consent under the cultural heritage rules between 2009 and mid-2019.

There are likely to be a significant number of activities that have taken place on scheduled cultural heritage sites but which have complied with Permitted Activity Rule 16.13.6.1.¹⁹ However, as we do not currently collect data on permitted activities, it is difficult to gauge the extent to which this rule is implemented.

Data obtained from Heritage New Zealand Pouhere Taonga shows that between 2009 and 2019, 135 Authorities were granted for works that may modify or destroy an archaeological site within Tasman District.

¹⁶ Under the cultural heritage rules in section 16.13.6 of the Plan. Nine consents also triggered other rules in the Plan.

¹⁷ This is the activity status under cultural heritage site rules. Some consents were permitted under Rule 16.13.6.1 but still required resource consent under other rules in the Plan.

¹⁸ Refers to cultural heritage conditions only.

¹⁹ Rule 16.13.6.1 permits activities on cultural heritage sites where either (a) they will not modify, damage or destroy the site, or (b) an archaeological authority has been obtained from HNZPT.

3.3.4 Effectiveness

Table 10: Effectiveness – Cultural heritage site objective

Objective	Analysis	Rating of Achievement
<p>10.2.2.2 Appropriate protection, management and enhancement of ... cultural heritage sites ... for their contribution to the character, identity, wairua, and visual amenity of the District.</p>	<p>There is a high level of consistency between this objective and the policies and rules that implement it.</p> <p>However, the Plan only protects cultural heritage sites which are listed in TRMP Schedule 16.13C.</p> <p>In addition, the scheduled ‘cultural heritage sites’ are only those areas defined as archaeological sites or wāhi tapu under the HNZPT Act 2014.</p> <p>As such, no protection is provided for sites that are (a) not scheduled and (b) not listed with HNZPT.</p> <p>For this reason a rating of ‘partial achievement’ has been given.</p>	<p>Partial achievement</p>

3.3.5 Evaluation Summary – Cultural Heritage Sites

Where cultural heritage sites are included in Schedule 16.13C there is a high level of internal consistency between objectives, policies and rules. However, because the rules only apply to scheduled sites, in instances where there are high cultural values present but the site is not in the schedule, protection is poor.

Protection of Māori heritage is improved where sites are subject to a Precinct overlay, rather than a scheduled site. This is because works on any part of the site are subject to the cultural heritage site rules in Chapter 16.

Some of the policies are process-oriented or reflect good practice rather than management of environmental effects. The intent of these policies remains valid, but they may be better suited as methods for implementing other policies.

The provisions for cultural heritage sites have not been updated to account for information obtained through the Settlement Legislation for Te Tau Ihu iwi; or from relevant iwi environmental management plans. These documents will need to inform the Plan Review.

The Plan review will also need to take into account any relevant planning document recognised by an iwi authority. The Plan review should also seek to identify other ways that sites and values of significance to the iwi of Te Tau Ihu can be recognised within this Chapter (and the wider Plan).

It is also recommended that in the Plan review alignment is sought between the objectives for cultural heritage sites and the land disturbance provisions. Unregulated earthworks are a significant threat to the protection of these sites.

3.4 Topic Three – Heritage Buildings and Structures

3.4.1 Introduction

Heritage buildings are listed in Schedule 16.13A of the TRMP. There are a total of 127 buildings scheduled, of which 12 are Category I and 115 are Category II buildings. Approximately three

quarters of the buildings and structures scheduled in the Plan are also listed on the Heritage New Zealand List/Rārangī Kōrero.²⁰ The remaining quarter have a Council but not HNZPT listing.

3.4.2 Internal Consistency of Provisions

Objective 10.2.2 seeks appropriate protection, management and enhancement of heritage buildings and structures for their contribution to the ‘character, identity, wairua and visual amenity of the district’.

Overall, the consistency between this objective and accompanying policies and rules with respect to heritage buildings and structures is **strong** (Leusink Sladen, 2018, p.17).²¹

3.4.3 Evidence of Implementation

The plan objective in relation to heritage buildings and structures has largely been implemented via land use rules in sections 16.13.2 and 16.13.3 of the TRMP. These rules only apply to heritage buildings and structures which are listed in Schedule 16.13A.

The rule cascade is described in the table below.

Table 11: Rules for heritage sites and structures

Rule	Description
Minor Repairs	
16.13.2.1 Permitted Land Use Activities	Minor repairs of a scheduled heritage building or structure are permitted subject to conditions that relate to protecting heritage values and features.
16.13.2.2 Restricted Discretionary Land Use Activities	All activities (that are not otherwise permitted or controlled) are a restricted discretionary activity.
Demolition or Removal	
16.13.3.1 Restricted Discretionary Land Use Activities	Destruction or removal of a Category II heritage building or structure is a restricted discretionary activity.
16.13.3.2 Non-complying Land Use Activities	Destruction or removal of a Category I heritage building or structure is a non-complying activity.

²⁰ Information retrieved from <https://www.heritage.org.nz/the-list> on 2 Oct 2019.

²¹ Leusink-Sladen (2018, p. 16) notes that where heritage buildings or structures are included in Schedule 16.13A, there is a high level of internal consistency between objectives, policies and rules. However, overall she ranks the internal consistency of these provisions strong-moderate because the rules only apply to scheduled buildings or structures, so in instances where there are high heritage values and/or features present but the building or structure is not listed in the schedule, protection is poor (ibid). However, listing heritage buildings and structures does provide certainty as to the planning requirements for owners, and there is provision for listing additional heritage buildings and structures where they meet the criteria in Schedule 10A. For this reason, it is considered that rule cover for non-listed heritage buildings would not be efficient for landowners.

Analysis of Heritage Building and Structure Resource Consents 2009 to mid-2019

A search of Council's database (MagiQ-BI) for consents granted since the Plan was notified and up to 2019 returned 15 resource consents.

All were land use consents and were granted under delegated authority and on a non-notified basis.

The distribution of consent numbers per year is shown in the graph below.

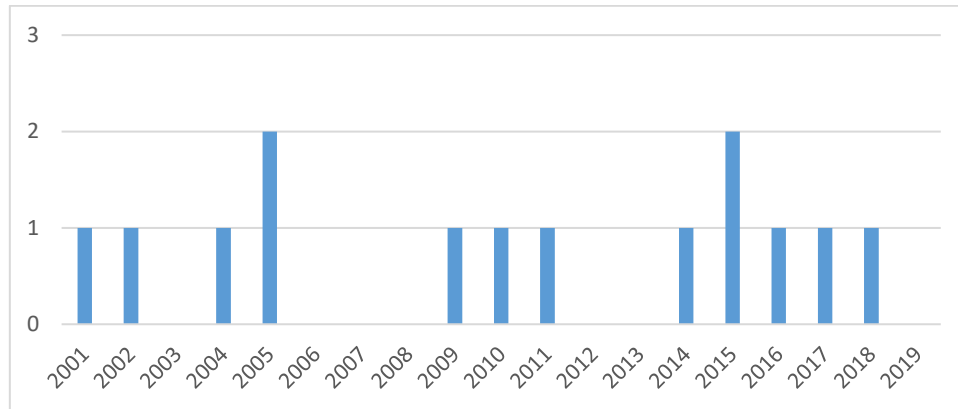


Figure 1: Heritage Buildings and Structures – Resource Consents granted 2001 - 2019

Most (10 of 15) resource consents were processed as restricted discretionary activities. The remaining five were discretionary due to non-compliance with other rules in the Plan.

Consent, monitoring & enforcement, policy and reserves staff raised the following issues with implementation of the rules:

- a) Some listed cultural heritage sites, buildings and structures are in the coastal marine area (for example some middens, wharves and quays, the Motueka Saltwater Baths). There are no rules in the regional coastal plan relating to historic heritage, though section 12(1)(g) of the RMA does restrict any person from destroying or damaging any foreshore or seabed in a manner that may adversely affect historic heritage unless expressly allowed by a resource consent.
- b) There are some important sites that may warrant protection but which are not currently listed in the Plan – for example the Motueka Quay, Waitapu Wharf, the Motueka Saltwater Baths, early settler cemeteries.
- c) There is an ongoing issue with access to information about protected sites – there is no central place to do a quick check for information.
- d) The current system of identifying and recording archaeological sites does not provide complete coverage of sites within Tasman.
- e) A better description of what is protected could be provided at times – for example, is there a curtilage around historic buildings? Are the integral values of the building to be protected? Or what is viewed from the street?
- f) It can be a time consuming process for staff carrying out the planning checks during the PIM/TAN process under the Building Act to ascertain whether activities are permitted. This often involves seeking written advice from Heritage New Zealand Pouhere Taonga.

3.4.4 Effectiveness

Table 12: Heritage building & structure objective

Objective 10.2.2	Analysis	Rating of Achievement
Appropriate protection, management and enhancement of ... heritage buildings and structures ... for their contribution to the character, identity, wairua and visual amenity of the District.	There is a high level of consistency between this objective and the policies and rules that implement it. However, the Plan only protects heritage buildings and structures which are listed in TRMP Schedule 16.13A. For this reason a rating of 'partial achievement' has been given. It is also noted that the terms 'protect', 'manage' and 'enhance' do not provide strong guidance as to the level of control sought by this Objective.	Partial achievement

3.4.5 Evaluation Summary – Heritage Buildings and Structures

There is strong consistency between the objectives, policies and rules for heritage buildings and structures. Generally the rules that implement these provisions are effective where heritage buildings and structures and scheduled in the plan and located on land.

Improvements to the current system of identifying and recording heritage buildings and structures would increase the protection of historic heritage from inappropriate development.

Rules are required in the regional coastal plan to protect historic buildings and structures located within the Coastal Marine Area.

3.5 Topic Four – Protected Trees

3.5.1 Introduction

Protected trees are listed in Schedule 16.13B of the TRMP. There are 575 entries in the schedule, though some single entries cover multiple trees and/or stands and the schedule is regularly modified via Schedule 1 RMA processes including correction of minor errors (Clause 20A) and plan change processes (e.g. PC69 – Omnibus).

Protected trees are in three categories; A, B and C. The graph below shows the number of trees in each category.

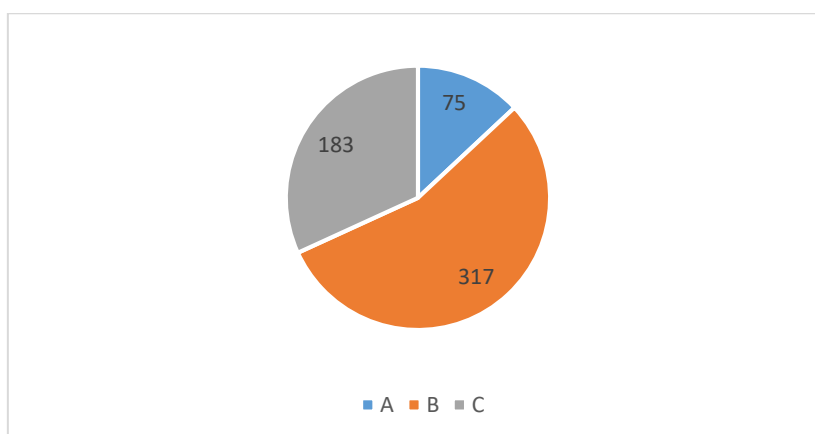


Figure 2: Protected Trees by Category

3.5.2 Internal Consistency of Provisions

Objective 10.2.2 seeks appropriate protection, management and enhancement of protected trees for their contribution to the ‘character, identity, wairua and visual amenity of the district’.

It is noted that the policy that implements Objective 10.2.2 with respect to protected trees (Policy 10.1.3.1), is located under Objective 10.1.2, which relates to indigenous biodiversity.

Notwithstanding this, overall, the consistency between this objective and accompanying policies and rules with respect to protected trees is **strong** (Leusink-Sladen, p. 17).

Where protected trees are included in Schedule 16.13B, there is a high level of internal consistency between objectives, policies and rules (Leusink-Sladen, p.16).²²

3.5.3 Evidence of Implementation

The protected trees provisions in the Plan have been amended a number of times to add trees that warrant protection and delete trees that are dead, dying or have been removed. At times this has been done via Plan Change (refer section 3.1.6) and other times as a minor correction under Schedule 1, Clause 20A of the RMA.

A total of 59 trees are noted in Schedule 16.13B as being removed. These entries show that 3 trees were removed without resource consent. Many of the trees that were removed died, were destroyed in storms or were unsafe / causing nuisance.

There is no actual guidance in the Plan as to when a listed tree should be removed from the schedule. Policy staff have taken a pragmatic approach in removing trees where they (a) no longer exist, or (b) are damaged to such an extent that they will not survive (based on arboricultural advice).

Section 341(2)(a) of the RMA allows actions or events which are necessary for saving or protecting life or health, or preventing serious damage to property, as a defence from prosecution under s341(1) of the Act.

Implementation of Protected Tree Rules – Land Use Rules 16.13.4.1 to 16.13.5.2

The plan objective in relation to protected trees has largely been implemented via land use rules in sections 16.13.4 and 16.13.5 of the TRMP. These rules only apply to protected trees which are listed in Schedule 16.13B.

Only scheduled trees are subject to the rules, which could result in individual trees with significant value being destroyed or removed. On the other hand, as regulation only applies to scheduled trees certainty is provided for landowners.

Resource consents staff report that drafting errors and inconsistencies in the rules for protected trees significantly frustrate the effective and efficient implementation of the outcomes sought with respect to protected trees.

²² Leusink-Sladen (2018, p. 16) notes that where protected trees are listed in Schedule 16.13B, there is a high level of internal consistency between objectives, policies and rules. However, overall she ranks the internal consistency of these provisions strong-moderate because the rules only apply to scheduled trees, so in instances where there are high values present but the tree is not listed in the schedule, protection is po

The rule cascade is described in the table below.

Table 13: Rules for protected trees

Rule	Description
Trimming or Pruning of Protected Trees	
16.13.4.1 Permitted Land Use Activities	Minor trimming or maintenance of a scheduled protected tree is a permitted activity if it is undertaken in accordance with accepted arboricultural tree care standards.
16.13.4.2 Controlled Land Use Activities	Pruning and trimming of a scheduled protected tree is a controlled activity if it: <ul style="list-style-type: none"> • it is undertaken in accordance with accepted arboricultural tree care standards, • does not result in the destruction or removal of the tree, and • the pruning work is not in the root zone of the tree. This rule requires applications to be decided without public or limited notification.
Destruction or Removal of Protected Trees	
16.13.5.1 Restricted Discretionary Land Use Activities	Destruction or removal of a Category B or C protected tree is a restricted discretionary activity.
16.13.5.2 Non-complying Land Use Activities	Destruction or removal of a Category A protected tree is a non-complying activity.

The aspects of these rules that hinder their efficient and effective implementation include:

- The reference to ‘minor’ trimming or maintenance is a subjective evaluation and there is no guidance on its extent.
- The controlled activity rule only covers pruning work in the root zone. However, any above or below ground works have potential to affect the health of the tree.
- It is also noted that there is an incomplete rule cascade for activities that do not meet the conditions in Controlled Activity Rule 16.13.4.2. Such activities then become discretionary under Section 87B(1)(b) of the RMA.

Analysis of Protected Trees Resource Consents 2009 to mid-2019

A search of Council’s database (MagiQ-BI) for consents granted between 2009 (when the current protected tree rules were introduced into the Plan) and mid 2019 returned 28 resource consents.

All were granted under delegated authority and on a non-notified basis. All but two were land use consents. The two exceptions were consent notice variations to allow the removal of a protected tree.

Nineteen of the consents were for the destruction or removal of a protected tree. The remaining nine consents were for trimming or pruning of protected trees.

The distribution of consent numbers per year is shown in the graph below.

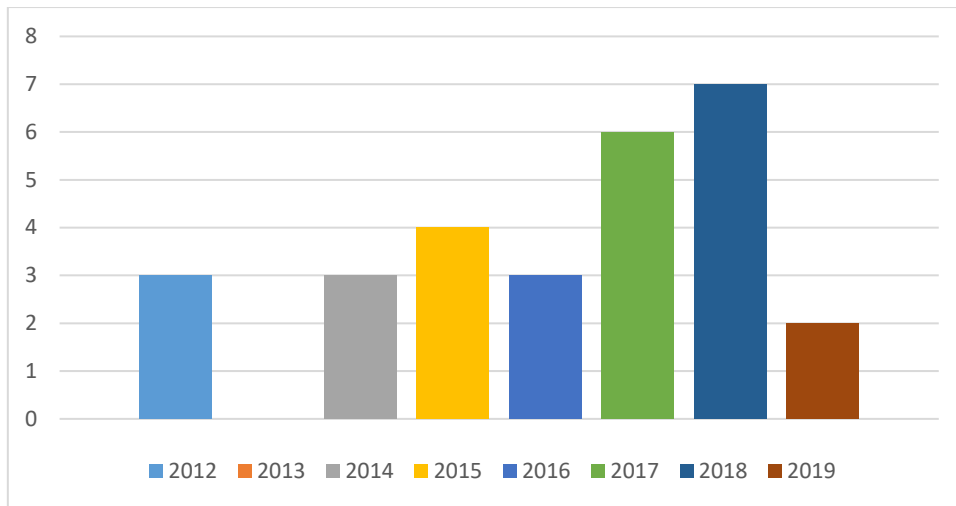


Figure 3: Number of Protected Tree Consents 2009-2019

The activity status of the consents is shown below.

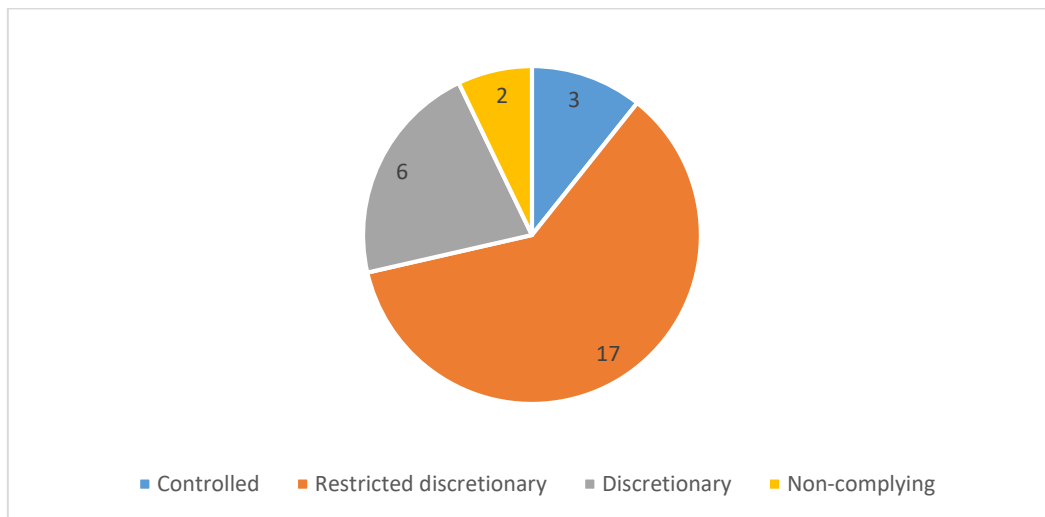


Figure 4: Activity Status of Protected Tree Consents 2009-2019

The reason that there are six discretionary consents, even though there is no discretionary activity rule in the protected trees section of the Plan, is because Controlled Activity Rule 16.13.14.2 (Pruning of Protected Trees) does not have a complete rule cascade. Because of this, any activities that do not comply with Rule 16.13.14.2 are assessed as a discretionary activity under section 87B(1)(b) of the RMA.²³

Consent, monitoring & enforcement, policy and reserves staff raised the following issues with implementation of the rules:

- a) The terminology used in the rules is not always clear and consistent. Problem works include 'pruning', 'trimming', 'works in the root zone of trees' and the extent of 'minor' works.
- b) Above-ground activities (for example mowing, earthworks or vehicle use) can adversely affect the root zone of trees and/or seedling regeneration.

²³ Section 87B(1)(b) of the RMA states that if a plan requires a resource consent to be obtained but does not classify its activity status, then it must be processed as a discretionary activity.

- c) Off-site activities in the wider catchment can threaten the health of protected trees – for example, reduced water supply.
- d) Set provisions for activities on adjacent land do not apply in all zones
- e) Setback provisions do not always provide adequate separation distance to control matters such as shading, trimming, earthworks, root zone works, dangerous cones/branches dropping and the like.
- f) When adjacent land is subdivided it can create issues for tree health if new boundaries are too close to protected trees – for example, if it results in the tree’s root zone being under two different properties, or leads to shading on adjacent land.
- g) There is no guidance in the Plan as to when listed trees should be removed from the schedule. Council’ reserves team currently has a program for checking the health of each tree (at Council’s expense). Maintenance costs and/or advice are provided at varying levels depending on the tree’s category.
- h) It is expensive for landowners to have listed heritage trees on their property. Inconsistent interpretation of ‘minor trimming’ in the permitted activity rule can exacerbate this.

3.5.4 Effectiveness

Table 14: Effectiveness: Objective for protected trees

Objective 10.2.2	Analysis	Rating of Achievement
Appropriate protection, management and enhancement of ... protected trees ... for their contribution to the character, identity, wairua, and visual amenity of the District.	<p>There is strong consistency between the objectives, policies and rules for protected trees. However, the following hinder the effective and efficient achievement of the outcomes sought:</p> <ul style="list-style-type: none"> • The permitted activity rule refers to ‘minor’ trimming but the extent of this is not clear. • The controlled activity rule does not cover all works that affect the root zone of protected trees. • The main policy for recognising and protecting significant trees sits under an Objective relating to indigenous vegetation, though many of the scheduled protected trees are exotic. 	Partial achievement

3.5.5 Evaluation Summary – Protected Trees

There is strong consistency between the objectives and policies for protected trees. Generally, the rules that implement these provisions are partially effective where trees have been listed on the Significant Tree Schedule. Semi-regular updates to the Schedule has occurred since the Plan was notified, adding or deleting significant trees.

Recommendations for consideration in the Plan review include:

- 1) Clarification of rules and terminology for pruning, trimming, works in the root zone of trees and the extent of ‘minor’ works.
- 2) Consideration of controls on above-ground activities (for example mowing or vehicle use) that may affect the root zone of trees or seedling regeneration.

- 3) Consideration ways to recognise that off-site activities in the wider catchment can adversely affect protected trees – for example, reduced water supply.
- 4) Ensuring that setback provisions for activities on adjacent land (a) apply in all zones, and (b) provide adequate separation distance to control matters such as shading, trimming, earthworks, root zone works, dangerous cones/branches dropping and the like. .
- 5) Consideration of a buffer area requirement when adjacent land is subdivided.
- 6) Review of the criteria for listing protected trees in Schedule 10B.
- 7) Consider adding guidance as to when protected trees should be removed from the Plan (e.g. if dead, dying, removed or unsafe).
- 8) Consider non-regulatory policy relating to Council support for listed heritage tree owners.

Appendix A: References

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